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Enzo Moavero Milanesi

Foreword by the Chairperson-in-Office

Italy has started its 2018 Chairmanship of the Organization for Security and Co-operation in Europe (OSCE) at a critical time for European security, when conflicts in the OSCE area and crises unfolding around the Mediterranean region were deemed the most urgent challenges.

During our tenure, we have always kept in mind our goal to strengthen the OSCE as a platform for dialogue and co-operation among its 57 members.

We deeply believe that the real "added value" of the Organization is in its ability to promote a positive agenda based on consensus among its members and partners, rather than only focussing on crisis management.

During our Chairmanship, we have worked to put the Mediterranean dimension at the heart of our action in order to contribute to the global management of migrations.

We have built on the success of the Palermo Conference, organized by Italy in 2017 as Chair of the Mediterranean Contact Group. The 25th Ministerial Council in Milan reinforced the OSCE commitment towards contributing to security in the Mediterranean, a principle enshrined in the Helsinki Final Act. I personally addressed the Permanent Council in August 2018, echoing the words of the founding fathers of the OSCE and calling on the Organization to step up its engagement with its Mediterranean Partners for Co-operation as a way to stem emergencies and security threats that originate in that region. The declaration on security and co-operation in the Mediterranean adopted in Milan mandates the OSCE to adopt a strategic approach in dealing with Mediterranean-related issues, including by mainstreaming a Mediterranean perspective throughout its work.

Beyond the Mediterranean, our Chairmanship also focused highly on conflict management. The crisis in and around Ukraine and protracted conflicts in the OSCE area – Nagorno-Karabakh, Transdniestria, Georgia – have been on top of our agenda. In all regions affected by armed fighting, the humanitarian situation remained our main concern. Particularly so in eastern Ukraine, where more than four years after the signing of the Minsk agreements hundreds of thousands of civilians still have limited access to basic goods and services. We have extended our political support to the Special Monitoring Mission to Ukraine, also through the tireless work of the Chairmanship's Special Representative. We have established frequent and effective channels of consultation with the Trilateral Contact Group mediators, also and above all to confirm our political support to a complex exercise, which sees no alternatives for now. Likewise, we have intensified our efforts to promote a solution to

protracted conflicts in the OSCE area, reaffirming our commitment to a negotiated solution to both the conflict in Nagorno-Karabakh and the conflict in Georgia.

With regard to the Transdniestrian settlement process, we have worked together with the parties to sign the Rome Protocol in the 5+2 format in May 2018. Thanks to the work of our Special Representative, we reached a breakthrough on international road traffic through the establishment of the first Joint Vehicle Registration Offices in Ribnita and Tiraspol. We were particularly glad to see much positive progress in the Transdniestrian settlement process in 2018. The opening of the Joint Vehicle Registration Offices can be considered a milestone achievement for civilians: The inhabitants on the left bank of the Nistru River will now have the opportunity to register their vehicles and travel on international roads.

We also focussed our efforts on the human dimension of the OSCE, succeeding in adopting the first new commitments in the human dimension since 2014 in Milan, therefore signalling the determination of all participating States to continue mutual engagement even in these difficult years.

Guided by the principles of transparency and collective ownership, we have strived to restore mutual trust in military matters. Within the framework of the Structured Dialogue on current and future challenges and risks to security in the OSCE (established in 2016 under the German Chairmanship and activated in 2017 by the Austrian Chairmanship), Italy has brought together senior officials from capitals, and ambassadors of the Organization's 57 participating States in the format of an informal working group. The Structured Dialogue enabled discussions on the challenges in the wider politico-military sphere, explored possibilities for overcoming divergences and reversing the negative developments that have marked European security in recent years.

Other political developments in the OSCE region reminded us that new crises could unexpectedly and abruptly emerge at any moment. Our experience shows that we need the OSCE. Its consensus-based decision-making, broad membership and flexibility make it uniquely suited to intervene in different scenarios and de-escalate crises, including of a military nature, to seek their resolution through peaceful means. Its in-house expertise in field operations and autonomous institutions render the Organization one of the most advanced and reliable tools at our disposal to effectively address the conflict cycle.

We need this Organization today more than ever. We need to build on the common ground that unites all participating States, as the founding fathers of this Organization did in 1975, when they signed the Helsinki Final Act.

During our Chairmanship, we consistently sought this common ground among all our countries, in all three dimensions. We found broad support in our attempt to reinforce our response to new security threats, as no country is equipped to tackle them alone. This is particularly the case for terrorism or cyber warfare and cybercrime. We also found a common ground in the desire to break the link between various forms of illicit trafficking and terrorism or

organized crime, activities that fuel corruption and money laundering and thus undermine trust in our institutions. We need genuine partnerships and co-operation to tackle them in the most effective way.

Strengthening the OSCE and our collective security, however, also requires rediscovering the concept of "comprehensive security", the common ground and basis for the creation of the CSCE in 1975.

I remain convinced that shared challenges require a collective effort based on joint responsibility and solidarity. This is the true spirit of Helsinki and the true added value of OSCE multilateral efforts, which we must continue to spread in the OSCE area and beyond.

Ursel Schlichting

Preface

On a trip through the Western Balkans, the President of the European Commission, Jean-Claude Juncker, stated in an interview with *Deutsche Welle* in January 2018: "Not too long ago, the region saw a fierce war. If we take away the western Balkans' accession perspective, that could soon repeat itself."[1] In the same breath, he admitted: "Clearly, people in the EU are tired of enlargement."[2] In the OSCE Yearbook 2015, Jenny Nordman already pointed out that many politicians and observers warned that "if the pace of EU integration is not increased, this may contribute to a revival of nationalist sentiments in the region, radicalization and, consequently, the resurfacing of ethnic conflicts".[3] The impression that people in South-Eastern Europe are disappointed, that they increasingly feel abandoned and neglected is also confirmed by talks with representatives of the Western Balkan countries in the OSCE. What would be the consequences of such neglect? How great is the danger of a renewed flare-up of bloody wars and conflicts in the Balkans? How seriously should the warnings of security risks resulting from a slowdown in the EU integration process be taken? Are references to a link between the EU's "enlargement fatigue" and the increase in ethnic tensions in some Western Balkan countries correct? These questions, which must be taken seriously for the stability not only of the region, but also for security and co-operation in Europe as a whole, have led us to make the Western Balkans – and thus also the state of EU integration of the countries in the region – the thematic focus of the OSCE Yearbook 2018.[4]

A brief review: After the end of the Cold War, the disintegration of the multi-ethnic state of Yugoslavia took its course with the aspirations of the constituent republics or certain provinces and regions for independence. The 1990s in the successor states of Yugoslavia were shaped by a series of serious armed conflicts – the ten-day war in Slovenia (1991), the wars in Croatia (1991-1995) and Bosnia and Herzegovina (1992-1995), the Kosovo War (1998-1999), and the uprising of Albanian separatists in Macedonia (2001) – all of which involved wars of independence, ethnic conflicts, and insurgencies to varying extents,

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1   EU expansion: Juncker stresses real progress on western Balkans trip, Interview by Lars Scholtyssyk with Jean-Claude Juncker, 28 February 2018, *DW*, at: https://www.dw.com/en/eu-expansion-juncker-stresses-real-progress-on-western-balkans-trip/a-42776178.
2   Ibid.
3   Jenny Nordman, Nationalism, EU Integration, and Stability in the Western Balkans, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 151-163, here: p. 154.
4   Countries belonging to the "Western Balkans" include Albania and the successor states to Yugoslavia, excluding those that have already joined the European Union, i.e. Slovenia and Croatia. Cf., for example, Federal Ministry of Education and Research/International Bureau, at: https://www.internationales-buero.de/en/western_balkan_countries.php.

and were often accompanied by brutal "ethnic cleansing". As the last former constituent republic, Montenegro declared independence in 2006 and left the State Union of Serbia and Montenegro (1992-2003: Federal Republic of Yugoslavia) peacefully. Yugoslavia has finally disintegrated into the now internationally recognized states of (from north to south) Slovenia, Croatia, Serbia, Bosnia and Herzegovina, Montenegro, and Macedonia; the status of Kosovo under international law is still controversial. Sustainable peace, however, did not materialize; (inter-ethnic) tensions continued with varying intensity or threatened to erupt again.

OSCE field missions were established in all the successor states of Yugoslavia (with the exception of Slovenia) and Kosovo in the 1990s:[5] in 1992, the CSCE/OSCE Spillover Monitor Mission to Skopje (renamed Mission to Skopje in 2010), whose initial task was to prevent the war in Bosnia and Herzegovina from spreading to Macedonia; in 1994, the OSCE Mission to Bosnia and Herzegovina; in 1996, the OSCE Mission to Croatia (replaced in 2007 by the OSCE Office in Zagreb, which closed in December 2011); the OSCE Presence in Albania in 1997; in July 1999, the OSCE Mission in Kosovo (OMIK), which formed a distinct component within the UN Interim Administration Mission in Kosovo (UNMIK) and was to support the implementation of UN Security Council Resolution (UNSCR) 1244, the adoption of which had ended the Kosovo War; and finally, in 2001, the OSCE Mission to the Federal Republic of Yugoslavia (since 2003, Mission to Serbia and Montenegro, renamed the OSCE Mission to Serbia in 2006, with unchanged mandate; the OSCE Mission to Montenegro was re-established at the same time).

The Western Balkans (including Croatia at that time) thus represented one of the geographical focuses of OSCE field operations, the OSCE's most important post-conflict peace-building instruments, into which a large part of the Organization's resources flowed. The main focus of the Missions' mandates initially was on democratization, including building democratic institutions and monitoring of their functioning; the protection of human rights, including the rights of persons belonging to national minorities; the return of refugees and internally displaced persons, including related property questions; and the organization and monitoring of elections. At the same time, however, many political actors both in Western Europe and in the countries concerned only expected a real stabilization of the Central and Eastern European (CEE) states and a lasting peace to be achieved by integrating into the European Union as quickly as possible. At a summit meeting of the EU and the Western Balkan states in Thessaloniki in June 2003, the EU formally opened the prospect of accession to the EU to the latter: The Heads of State or Government of the member states of the EU, the acceding and candidate states, and the potential candidates Albania, Bosnia and Herzegovina, Croatia, the

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5   Cf. OSCE, The Secretariat, Conflict Prevention Centre, Survey of OSCE Field Operations, SEC.GAL/110/18, 25 June 2018 (excluding predecessor missions such as fact-finding and rapporteur missions).

former Yugoslav Republic of Macedonia, and Serbia and Montenegro agreed that: "The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead. […] The speed of movement ahead lies in the hands of the countries of the region."[6] The EU had thus assumed the leading role in the stabilization efforts for the Western Balkans region and, in the long-term, was working towards integrating these countries into the Union or at least enabling them to co-operate closely. The Stabilisation and Association Agreements (SAAs), negotiated or even implemented by all countries in the region, addressed a much broader range of issues than the OSCE could ever cover. This left the OSCE with only a supporting role in the Western Balkans.[7]

However, the OSCE Missions and the EU worked hand in hand in this process. One example is Croatia, which signed the SAA with the EU on 29 October 2001, applied for membership on 21 February 2003, and was recognized as a candidate country by the European Council in June 2004. Put simply and to summarize, one could say that the OSCE Mission "called the shots", the EU translated the given agenda into accession conditions and provided the incentives, in short: The Mission did the groundwork, the EU ensured the results.[8] The OSCE prioritized formulating reform goals related to democracy and the rule of law as well as to human rights and the rights of persons belonging to national minorities. These goals ultimately found their way into the SAA and dominated the EU Commission's discussions as it prepared to draw up its recommendation for the opening of accession negotiations. The prospect of EU accession, in turn, had a highly favourable effect on the Mission's work

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6   European Commission, Press Release, EU-Western Balkans Summit, Thessaloniki, 21 June 2003, at: http://europa.eu/rapid/press-release_PRES-03-163_en.htm. The Treaty of Athens mentioned in the text is the Treaty of Accession to the EU signed on 16 April 2003 between the EU and the ten countries Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, the Czech Republic, Hungary, and the Republic of Cyprus. Slovenia's accession was sealed with this treaty.

7   Cf. Wolfgang Zellner, Asymmetrical Security in Europe and the Tasks of the OSCE, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 61-73, here: p. 67.

8   Cf. Solveig Richter, The OSCE Mission to Croatia – Springboard to Europe, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 93-106, here pp. 98-103. This form of co-operation between the OSCE and the EU had already proved its worth in the early 1990s. For example, the HCNM and the OSCE Missions to Estonia and Latvia worked closely together to reduce tensions between ethnic Estonians and Latvians and the large Russian-speaking minorities. The success of their efforts, however, was largely due to the fact that the Missions and the HCNM were supported by the European Commission and both states were motivated to meet the 1993 Copenhagen criteria for accession to the EU, including respect for and protection of minorities. Cf. Zellner, cited above (Note 7), pp. 66-67.

and proved to be the most powerful incentive for conflict resolution and reform in Croatia; without it, the available diplomatic and security-policy instruments would most likely have remained ineffective.[9]

Nevertheless, Croatia had to wait ten years, until July 2013, before it became a member of the EU as the second successor state of Yugoslavia after Slovenia. Following years of optimism, the integration process has now stalled; the situation 15 years after the "Thessaloniki promise" is sobering. Of the six Western Balkan aspirants for EU membership, four have "candidate country" status: Macedonia (since 2005; application for EU membership: 2004), Montenegro (since 2010; application for EU membership: 2008), Serbia (since 2012; application for EU membership: 2012), and Albania (since 2014; application for EU membership: 2009). However, accession negotiations have so far only begun with two of them: Montenegro (2012) and Serbia (2013). Bosnia and Herzegovina (application for EU membership: 2016) and Kosovo (the only candidate not to have applied for membership yet) are so far only "potential accession candidates" (Bosnia and Herzegovina since 2003, Kosovo since 2008).[10]

On 15 July 2014, Jean-Claude Juncker finally declared categorically: "In the next five years, no new members will be joining us in the European Union. As things now stand, it is inconceivable that any of the candidate countries with whom we are now negotiating will be able to meet all the membership criteria down to every detail by 2019."[11]

The candidate countries interpreted this declaration as an expression of the EU's "enlargement fatigue" and reacted with disappointment. At the same time, the pace of reforms slowed and existing external and internal problems worsened, with resurging bilateral disputes, persistent interethnic tensions, domestic political crises, delays and setbacks in the consolidation of the rule of law, unabated corruption and organized crime, and increasing autocratic tendencies – all worrying developments and conflicts with considerable potential for escalation. In addition, new challenges arose in 2015 with the Western Balkans becoming a major transit route for refugees and migrants on their way to other European countries.

These not entirely expected developments not only represent a step backwards for South-Eastern Europe itself, but could also have destabilizing effects

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9   Cf. Richter, cited above (Note 8), pp. 93 and 100.
10   Cf. European Commission, European Neighbourhood Policy and Enlargement Negotiations, Current Status, at: https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en. Since the Feira European Council (June 2000), all the countries of the Western Balkans at that time have been considered potential candidates; cf. Santa Maria da Feira European Council, 19 and 20 June 2000, Conclusions of the Presidency, at: http://www.europarl.europa.eu/summits/fei1_en.htm. Kosovo was granted status as a potential candidate for accession in 2008; cf. European Union, EU Enlargement – State of play, Kosovo, at: https://europa.eu/newsroom/highlights/special-coverage/enlargement_en.
11   European Commission, Jean-Claude Juncker, Candidate for President of the European Commission, A new start for Europe, Opening statement in the European Parliament plenary session, Strasbourg, 15 July 2014, at: http://europa.eu/rapid/press-release_SPEECH-14-567_en.htm.

on other regions of Europe. In view of this, Commission President Juncker, in his speech on the state of the Union in 2017, commented once again on the question of accession and stated: "*If we want more stability in our neighborhood, then we must also maintain a credible enlargement perspective for the Western Balkans.*"[12] He reaffirmed that there would be no further EU enlargement during his term of office, but he promised an increase in the number of members for the "following years" – a promise that, on closer inspection, does not represent a decisive change in position compared to 2014, nor is it necessarily likely to dispel doubts and raise hopes in the Western Balkan countries.[13]

What are the realistic chances for the Western Balkan states to join the EU? What obstacles need to be overcome? What measures could speed up the process? Given the many unresolved problems, is rapid accession desirable, at all? These and many other questions are answered by the authors of this year's thematic focus.

To start with, for Albania, with whom accession negotiations could begin in 2019, "EU accession means a higher standard of living, credible prospects for a better future, functioning democratic institutions, a reliable rule of law, and guaranteed economic and personal freedoms". This in turn exerts strong pressure for reform on Albanian politicians, as Julia Wanninger and Knut Fleckenstein note in their contribution, at the end of which the question arises as to whether the new generation of Albanian political class will manage to "convince both its own population and its European partners, especially the EU member state governments, that the reforms it has begun and announced will genuinely transform Albania into a modern European state". In his multifaceted contribution on Serbia, which, due to its size and status, is critical for the successful transformation of the whole region into a place of stability, Axel Jaenicke analyses Serbia's relationships with neighbouring EU member states as well as with Albania and the former Yugoslav republics, among others those with Croatia and Bosnia and Herzegovina, which still are highly strained. The author also discusses domestic developments and the problem of increasing autocratic tendencies within the country as well as possible solutions to the Kosovo question, which, for Belgrade, Brussels, and Washington, remains a key problem of the Western Balkans. He concludes that, in view of the problems the countries in the Western Balkans are facing, one can indeed ask the question "whether the EU actually has to offer Serbia and the other states in the Western Balkans full membership immediately", or whether it would be

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12   European Commission, President Jean-Claude Juncker's State of the Union Address 2017, Brussels, 13 September 2017, at: http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm (emphasis in the original).

13   In his speech from 15 July 2014, Juncker had already added: "However, the negotiations will be continued and other European nations and European countries need a *credible and honest European perspective*. This applies especially to the Western Balkans." European Commission, Jean-Claude Juncker, A new start for Europe, cited above (Note 11) (emphasis by the author).

advisable to first offer a kind of common privileged partnership. In her contribution "A Diplomatic Fairytale or Geopolitics as Usual", Biljana Vankovska conducts a courageous critical analysis, *inter alia* from the perspective of international law, of the highly controversial Prespa Agreement of June 2018, in which Athens and Skopje agreed on the future state name "Republic of Northern Macedonia" for the former constituent republic of Yugoslavia. Since its declaration of independence in 2008, Kosovo has been recognized as a sovereign state by a majority of UN member states – five EU members are not among them: Spain, Greece, Cyprus, Romania, and Slovakia. In her contribution, Engjellushe Morina not only examines the consequences of the contested statehood of Kosovo, but also places the dialogue between Belgrade and Pristina at the centre of her considerations. Croatia has been a member of the EU since 2013 and thus, like Slovenia, no longer belongs to the "Western Balkan states". However, it shares a long history with the other successor states of the former Yugoslavia. Goran Bandov and Domagoj Hajduković describe the reintegration of the de facto Republic of Serbian Krajina after the war in Croatia and in particular deal with the role of the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Syrmium, UNTAES.

The complex of topics on the integration of the Western Balkan states into the EU is rounded off by Natasha Wunsch's highly noteworthy contribution on the EU's engagement in the Western Balkans, in which she concludes that 2018 represents a missed opportunity to critically reflect on the failure of the EU's approach to the Western Balkans to date and to develop a more comprehensive and locally anchored enlargement strategy for the region.

Beyond the thematic focus of this volume, renowned international authors from academia and practice deal with current issues, background information, and innovative ideas for resolving conflicts and problems, or present selected areas of the OSCE, its main fields of work, and current projects.

The Yearbook 2018 starts with four contributions on current developments in European security in the shadow of the crisis in and around Ukraine. First, Christian Nünlist discusses the "radically divergent historical narratives regarding the evolution of European security" that have emerged since the end of the Cold War and could in part explain the extremely strained relations between Russia and the West today. P. Terrence Hopmann's contribution, simply titled "Trump, Putin, and the OSCE", reflects the author's personal analysis of how the relationship between the powerful leaders of Russia and the US impact the OSCE and multilateral institutions in general. Wolfgang Zellner presents his ideas for a potential long-term and fundamental OSCE reform, suggesting, among other things, a revival of the OSCE's politico-military dimension of security and pointing to the current "Structured Dialogue", which covers topics such as threat perceptions, military doctrines, challenges to a norms-based European security order, and the existing military power relations. Finally,

Florian Raunig, head of the task force of the 2017 Austrian OSCE Chairmanship, and Julie Peer, senior adviser in the task force, take a look back at the challenges, priorities, experiences, and lessons learned from the 2017 Austrian OSCE Chairmanship.

In the section on conflict prevention and dispute settlement, Lukasz Mackiewicz describes the work of the Human Dimension Unit of the Special Monitoring Mission (SMM) to Ukraine. Serious violations of human rights and international humanitarian law still affect the people in the areas concerned. While emphasizing important achievements, the author also frankly discusses the problems and obstacles that have so far prevented the Unit form reaching its full potential. Former Head of the OSCE Mission to Moldova, William H. Hill, looks at efforts to advance the Transdniestria conflict settlement process and especially welcomes the fact that, despite the ongoing conflict in Ukraine, the US, the EU, Russia, Ukraine, and the OSCE have been able to co-operate harmoniously and effectively in the 5+2 negotiation format.

Further contributions in this section deal with innovative ways to prevent and peacefully resolve or mitigate violent conflicts by mediation and negotiation: While international or track-I mediation requires outsider-neutral mediators who have an emotional distance to a given conflict, in many conflict contexts, local people would rather confide in local actors who, to some extent, are part of the conflict, whose lives are directly affected by the conflict, and who therefore have a stake in it. In their contribution, Mir Mubashir, Engjellushe Morina, and Luxshi Vimalarajah discuss reasons and opportunities for the OSCE to engage in "insider mediation" and also present OSCE projects encompassing elements of this kind of mediation efforts, such as the "Peace Messengers" project in Kyrgyzstan. Similarly, in his contribution, Kaan Sahin discusses the status-neutral approach as a new impetus to addressing protracted or frozen conflicts in which one side is an internationally recognized state that does not recognize the secessionist de facto regime on the other side, such as in the conflicts in Eastern Ukraine and Transdniestria. In such cases, for example, CSBMs could be negotiated and implemented before the status question is solved or even discussed.

Under the heading "Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges", Claudio Formisano and Valiant Richey describe the work of the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings against the backdrop of human trafficking that often overlaps with migration. According to the authors, nearly half of all documented trafficked persons are foreign migrants, predominantly ending up in situations of prostitution and forced labour, with women, children, and young adults being particularly vulnerable. Also in the context of migration, Stefano Volpicelli explores a successful model for the integration of refugees in Italy: In the Italian town of Trieste, a local NGO developed and has been implementing a model for hosting and, in particular, integrating refugees, which is based on decentralized accommodation instead of overcrowded

refugee camps and has significantly influenced the Italian system for the protection of asylum seekers and refugees. Subsequently, Arne C. Seifert, who has been a renowned Central Asia expert virtually for decades, examines the context-specific approaches required in the civil prevention of religious radicalization and violent extremism in the region. A further contribution by Thorsten Stodiek looks at community policing as a key element in combating crime, with a special focus on introducing the community policing approach to the fight against organized crime, as well as – most recently – to countering violent extremism and radicalization that lead to terrorism.

Finally, in the section on the organizational aspects relating to the OSCE, Juraj Nosal discusses ways in which the OSCE can build the capacities of state or non-state actors to counter transnational threats and challenges, exemplified by means of an extra-budgetary project on "Capacity building for criminal justice practitioners combating cybercrime and cyber-enabled crime in South-Eastern Europe".

We are especially grateful to the OSCE Chairperson-in-Office in 2018, Italian Minister of Foreign Affairs, Enzo Moavero Milanesi, for contributing this year's foreword.

Finally, we would like to thank all our authors for their enthusiasm, their commitment, and their enlightening contributions.

I.

States of Affairs – Affairs of State

The OSCE and European Security

Christian Nünlist

Diversity as a Strength: Historical Narratives and Principles of the OSCE

Introduction

The Russian annexation of Crimea and the outbreak of war in eastern Ukraine in the spring of 2014 were a strategic shock for the international community. Immediately before the fatal shots on Maidan Square in Kyiv, a Track II report completed in January 2014 on threat perceptions in the OSCE space had concluded that neither the United States nor Western European states, nor Ukraine had expected military conflict with Russia. In early 2014, barely five and a half years after the Russian-Georgian war (2008), Russia only posed a direct threat to Poland and Georgia.[1]

However, the Ukraine crisis, unlike the five-day war in Georgia, did not just lead to a temporary resentment between Russia and the West, but rather to a sustained conflict with no prospect of a return to "business as usual" or a further "reset" of relations between them. In retaliation for the Russian annexation of Crimea – the first military land grab in Europe since 1945, which marked a break with the European security order maintained since the end of the Second World War – the United States responded by temporarily suspending the NATO-Russia Council, expelling Russia from the G8 (which then reverted to being the G7) and offering politico-military reinsurance to the European NATO allies on the eastern flank. Barack Obama's government, however, left the diplomatic management of the crisis to the EU and Germany in particular.[2] Under the leadership of Chancellor Angela Merkel and in the aftermath of the MH17 tragedy, the EU imposed economic sanctions on Russia. The transatlantic co-ordination during the Ukraine crisis must have surprised Putin as much as NATO's rapid return to the old image of Russia as enemy and the territorial defence in accordance with Article 5 of the North Atlantic Treaty. In the aftermath of the Russian-Georgian war, NATO had reacted to the prophets of doom in Warsaw and adapted its contingency plans accordingly.[3]

Five years on from February 2014, it is time to take stock of the consequences of the outbreak of the Ukraine crisis – a caesura for the OSCE as

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1   Cf. Wolfgang Zellner (co-ordinator) et al., Threat Perceptions in the OSCE Area, Vienna 2014, pp. 22-28.
2   Cf. Deborah Welch Larson, Outsourced Diplomacy. The Obama Administration and the Ukraine Crisis, in: Vicki L. Birchfield/Alasdair R. Young (eds), *Triangular Diplomacy among the United States, the European Union, and the Russian Federation*, London 2018, pp. 55-76.
3   Cf. Mark Kramer, Russia, the Baltic Region, and the Challenge for NATO, *PONARS Eurasia Policy Memo* No. 267, July 2013.

well as for the European security order. In 2014, the OSCE reacted relatively swiftly to the Ukraine crisis and activated its entire toolbox for crisis management.[4] Swiss diplomacy was praised for its engaged and courageous OSCE Chairmanship, but one should strongly warn against an overly positive appraisal: A few weeks after the outbreak of the crisis the then Swiss Ambassador to the OSCE (and current OSCE Secretary General) Thomas Greminger summed up the situation aptly when he described it as both a "blessing and a curse" for the OSCE.[5]

The Swiss Federal Department of Foreign Affairs recognized early on that Russia's action in Ukraine marked a real turning point in international relations, similar to the jihadi terrorist attacks of 11 September 2001. In autumn 2014, the Swiss Foreign Minister Didier Burkhalter, in his capacity as OSCE Chairperson-in-Office, therefore launched a reflection group of "wise men" (the *Panel of Eminent Persons*, PEP) under the leadership of Wolfgang Ischinger, to gain preliminary insights into what the Ukraine crisis meant for the OSCE, and the European security order.

Swiss crisis management and the tireless search for a return to dialogue and trust were continued from 2015 to 2018 by Serbia, Germany, Austria, and Italy, and the consequences of "2014" will also shape Slovakia's 2019 Chairmanship. Switzerland had originally hoped that the Ukraine conflict could be resolved politically by the end of 2015, and that Ischinger's final report would be timely in presenting new ideas for a more stable European security system in the future. This proved to be illusory, and instead, according to the UN, the Ukraine conflict has led to over 10,000 deaths (including more than 2,700 civilians) and 1.6 million displaced persons in five years, and is still going on. This is the highest death toll in a war in Europe since the Yugoslav Wars in the 1990s and the largest number of displaced persons of any conflict in Europe since the Second World War.[6] Regrettably, the conflict in eastern Ukraine must therefore be considered another unresolved ("protracted") conflict in the OSCE region, whose end remains out of sight – and which, as of 2019, will have been waging longer than the First World War.

In this essay, the focus will be on two related topics. First, we will discuss whether any progress has been made five years on from the outbreak of the

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4   Cf. Christian Nünlist, Testfall Ukraine-Krise. Das Konfliktmanagement der OSZE unter Schweizer Vorsitz [The Ukraine crisis as test case. OSCE crisis management under the Swiss Chairmanship], Bulletin zur schweizerischen Sicherheitspolitik, March 2014, pp. 35-61.

5   "Die Präsidentschaft ist Fluch und Segen zugleich", ["The presidency is both a blessing and a curse"], Interview with Thomas Greminger, *Tages-Anzeiger*, 14 March 2014, at: https://bazonline.ch/ausland/europa/Die-Praesidentschaft-ist-Fluch-und-Segen-zugleich/story/13204340.

6   Cf. United Nations, Security Council, As Civilians Bear Brunt of Four-year-old Conflict in Ukraine, Continued Ceasefire Violations Test Credibility of Global Community, Officials Warn Security Council, SC/13357, 29 May 2018, at: https://www.un.org/press/en/2018/sc13357.doc.htm.

Ukraine crisis in explaining *why* it happened. At the end of 2015, the PEP report "Back to Diplomacy" identified the radically divergent historical narratives regarding the evolution of European security after 1990 as a central problem of the current relations between Russia and the West.[7] Do we now know more about when and how the optimistic spirit of the CSCE Charter of Paris of November 1990 led to the "cold peace" between the West and Russia and the "hot war" in eastern Ukraine? Track II projects in the framework of the OSCE and new historical studies have indeed shed some light on these issues and the findings allow us to take a new, more nuanced view of the concrete steps leading from the co-operation between Moscow and Washington to their current collision course.[8]

It is not only the historical narratives that divide Russia and the West. From 1994, the convergence in the interpretation of the fundamental principles of international relations, as codified in the CSCE Helsinki Final Act in 1975, that had occurred in the early 1990s, began to fall apart again. In particular, Principle VI of the Helsinki Final Act – the non-intervention principle – was interpreted with increasing inconsistency in the aftermath (as a result of the 1999 Kosovo War). The diverging interpretations continue to lead to misunderstandings and accusations on both sides.[9]

What does this mean for the present and the future? What can be done to find a way out of the confrontation and the current zero-sum-game logic? Could the positive historical experience of the Helsinki process in the Cold War perhaps provide a model for a way to again overcome the new East-West conflict today and define new rules of play for peaceful co-existence? Is the OSCE the appropriate "bad weather" forum for dialogue for this, as was the CSCE in the Cold War? This essay will argue that a multilateral process (analogue and complementary to the dynamic "Structured Dialogue" on threat perceptions launched in the OSCE in 2016/2017) could in fact provide a way out of the negative spiral of wars of words over historical narratives and OSCE

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7   Cf. Back to Diplomacy, Final Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project, November 2015, p. 2, available at: https://www.osce.org/networks/205846; cf. also Thomas Frear/Lukasz Kulesa (eds.), Competing Western and Russian narratives on the European order: Is there common ground? European Leadership Network/RIAC – Russian International Affairs Council, Conference Report, London, April 2016, at: https://www.europeanleadershipnetwork.org/wp-content/uploads/2017/10/ELN-Competing-Narratives-Report.pdf.

8   Cf. Christian Nünlist/Juhana Aunesluoma/Benno Zogg, The Road to the Charter of Paris. Historical Narratives and Lessons for the OSCE Today, Vienna 2017; William H. Hill, No Place for Russia. European Security Institutions Since 1989, New York 2018; Samuel Charap/Timothy J. Colton, Everyone Loses. The Ukraine Crisis and the Ruinous Contest for Post-Soviet Eurasia, London 2016.

9   Cf. Christian Nünlist, Shifting Interpretations of the Non-Intervention Principle in the OSCE, conference paper presented at a workshop of the European Leadership Network (ELN), Vienna, 19-20 June 2017; Denitsa Raynova, Towards a Common Understanding of the Non-Intervention Principle, European Leadership Network, Post-Workshop Report, London, October 2017, at: https://www.europeanleadershipnetwork.org/wp-content/uploads/2017/10/170929-ELN-Workshop-Report-Non-Intervention.pdf.

principles. If it was possible to hold a dialogue on differing interests and norms during the Cold War, then it should also still be possible today.

Historical Narratives: From Co-operation to Confrontation, 1990-2014

Diverging narratives about the recent past are a key obstacle on the difficult path from conflict and confrontation to rapprochement, reconciliation, and peace.[10] The Ukraine crisis made it clear in 2014 that starkly diverging historical perspectives on the evolution of the European security architecture have developed in the West and in Russia. In hindsight, it is surprising that it has taken so long for the West to become aware of how strongly the Russian narrative diverged from that in the West – and not only since 2014.[11]

The Ukraine crisis is by no means the direct cause of the re-escalation of the confrontation between Russia and the West in 2014, but rather a symptom. If one reviews the development of European security since the end of the Cold War, one stumbles across signs of Russia's increasing estrangement from the European security system right from the beginning. This did not occur in a linear fashion, but rather relations between the West and Russia went through several cycles of antagonism and partnership between 1990 and 2014. However, a genuine strategic partnership was never achieved.[12]

In the PEP final report "Back to Diplomacy" at the end of 2015, Wolfgang Ischinger suggested to the OSCE and its participating States that a project should be launched to research the various contrasting narratives with the aim of analysing how and why these diverging views of the recent past had come about.[13]

In the framework of the "OSCE Network of Think Tanks and Academic Institutions", a group of contemporary historians from East and West took up this idea and held an international conference with eyewitnesses in Paris in September 2017, aiming to critically examine the transition from the Cold War to the 1990s again. Using "critical oral history", the diplomats who had negotiated the 1990 CSCE Charter of Paris were confronted with more recent historical research findings. Subsequently, the new insights were published at the end of 2017 in the study "The Road to the Charter of Paris", and presented and discussed at the OSCE Ministerial Council in 2017 in Vienna, and in November 2018 at seminars and workshops in St Petersburg and Moscow.[14]

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10   Cf. Charles A. Kupchan, How Enemies Become Friends. The Sources of Stable Peace, Princeton 2010, pp. 50-52.
11   Cf. Gernot Erler, "Renewing Dialogue – Rebuilding Trust – Restoring Security": Germany's 2016 OSCE Chairmanship – A Personal Retrospective and a Vision for the OSCE in 2025, in: Institute for Peace Research and Security Policy at the University of Hamburg/ IFSH (ed.), *OSCE Yearbook 2017*, Baden-Baden 2018, pp. 23-34, here pp. 32-33.
12   Cf. Angela Stent, The Limits of Partnership. US-Russian Relations in the Twenty-First Century, 4th edition, Princeton 2015.
13   Cf. Back to Diplomacy, cited above (Note 7), p. 2.
14   The following sections are based on Nünlist/Aunesluoma/Zogg, cited above (Note 8).

The year 1989/1990 was a turning point, an *annus mirabilis*, which, until recently, had almost exclusively positive connotations in the West. The Berlin Wall came down, Germany was reunited and the Cold War came to a peaceful end. Francis Fukuyama even declared the "end of history". However, his optimistic slogan soon proved to be just as premature and misleading as the shared vision sketched out by the Soviet Union, the United States, and 33 European states in the Charter of Paris in November 1990 for a new, undivided, inclusive Europe based on Western values such as democracy, the rule of law, and human rights.[15]

From today's point of view, it is clear that even though the West believed it had constructed a fair and stable new security order for Europe, the Russian perspective is completely different. Interestingly, US historians are also increasingly arguing that the current confrontation between Russia and the West is at least partly a result of the ultimately unfinished settlement of the Cold War in 1990. Mistakes were made on both sides and some of the fatal longer-term consequences certainly also rested on unintended side effects of crucial decisions that made sense for one side at the time, such as the West's desire to extend liberal democracy and free market economy to the East in order to increase international stability.[16] When a dangerous power vacuum opened up in Central and Eastern Europe after 1991 following the disintegration of the Soviet Union and the Warsaw Pact, the West felt obliged to help the states in this area to navigate a delicate transitional period by offering NATO and EU membership. This approach prevailed, especially as doubts began to surface in the West in 1993 regarding whether Russia under President Boris Yeltsin could really be transformed into a democratic market economy integrated into the West during the chaotic years following the collapse of the Soviet Union at the end of 1991.

Archive material which has recently been declassified also makes clear that in 1989/1990, the United States under President George H.W. Bush was unable to resist the temptation to perpetuate Western security institutions such as NATO and the EC, rather than replacing these Cold War institutions with a new, pan-European institution on the basis of the CSCE or Mikhail Gorbachev's "Common European Home". Indeed, the Bush administration used pan-European rhetoric in 1989/90. In May 1990, US Secretary of State James Baker promised Soviet Foreign Minister Eduard Shevardnadze that German reunification would not lead to winners and losers. "Instead, it would produce a new legitimate European structure – one that would be inclusive, not exclusive." In the same month, Baker assured Soviet leader Gorbachev "that our policies are not aimed at separating Eastern Europe from the Soviet Union. We had that policy before. But today we are interested in building a stable Europe, and

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15   Cf. Charter of Paris for a New Europe, Paris, 21 December 1990, p. 3, available at: https://www.osce.org/mc/39516.

16   Cf. Christian Nünlist, Contested History: Rebuilding Trust in European Security, in: Center for Security Studies, *Strategic Trends 2017*, Zurich 2017, pp. 11-34, here: pp. 18-19. Cf. also Hill, cited above (Note 8), p. 10 and p. 386.

doing it together with you." President Bush also personally assured Gorbachev of a new co-operative spirit. In Washington, on 31 May 1990, Bush said: "And of course, we have no intention, even in our thoughts, to harm the Soviet Union in any fashion." In a telephone conversation on 17 July 1990, Bush also promised Gorbachev: "We conveyed the idea of an expanded, stronger CSCE with new institutions in which the USSR can share and be part of the new Europe."[17]

Historical studies have, however, recently proven that in internal debates as early as the spring of 1989, the Bush administration had already decided that US policy towards Europe after the end of the Cold War should be based on a close partnership with Germany. The United States should also rely on NATO to maintain its military presence and thereby continue US dominance in Europe.[18]

Despite all the co-operative rhetoric, the security order that was emerging in Europe thereby ultimately failed to envisage an equal role for the Soviet Union. Instead, it was based on exclusive Western clubs: NATO and the EC. Quotes from intra-Western conversations (particularly between Bush and West German Chancellor Helmut Kohl in February 1990) and internal documents of the Bush administration make it clear today that, in the final phase of the Cold War in Europe, there was no true spirit of co-operation between the United States and the Soviet Union. The US vision prevailed over alternative visions of an inclusive pan-European security architecture. Baker warned Bush bluntly in 1990 that the "real risk to NATO is CSCE."[19] Already on 18 May 1990, Baker had issued Gorbachev a final rebuff regarding a substantial strengthening of the CSCE: "It's nice to talk about pan-European security structures, the

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17   All quotes from Svetlana Savranskaya/Tom Blanton, NATO Expansion: What Gorbachev Heard, National Security Archive, Briefing Book 613, 12 December 2017, at: https://nsarchive.gwu.edu/briefing-book/russia-programs/2017-12-12/nato-expansion-what-gorbachev-heard-western-leaders-early.

18   Cf. Hal Brands, Making the Unipolar Moment: U.S. Foreign Policy and the Rise of the Post-Cold War Order, Ithaca, 2016, pp. 279-298; Joshua R. Itzkowitz Shifrinson, Deal or No Deal? The End of the Cold War and the U.S. Offer to Limit NATO Expansion, International Security 4/2016, pp. 7-44; Christian F. Ostermann, The United States and German Unification, in: Michael Gehler/Maximilian Graf (eds), Europa und die Deutsche Einheit: Beobachtungen, Entscheidungen und Folgen [Europe and German Unification: Observations, Decisions, and Consequences], Göttingen 2017, pp. 93-117; Jeffrey A. Engel, When the World Seemed New. George H.W. Bush and the End of the Cold War, New York 2017, pp. 86-99; Christian Nünlist, Krieg der Narrative. Das Jahr 1990 und die NATO-Osterweiterung [A war of narratives. The Year 1990 and NATO's Eastern Enlargement], Sirius. Zeitschrift für strategische Studien 4/2018, pp. 389-397; Liviu Horovitz, Guns for Butter. The Political Economy of US Military Primacy, unpublished dissertation, ETH Zürich, 2018. This latest research confirms the early thesis of Mary Sarotte, who stated that the Bush administration perpetuated the exclusively Western Cold War institutions rather than supporting a new pan-European new start. Cf. Mary Elise Sarotte, 1989: The Struggle to Create Post-Cold War Europe, Princeton 2009; Mary Elise Sarotte, Perpetuating U.S. Preeminence. The 1990 Deals to Bribe the Soviets Out and Move NATO in, International Security 1/2010, pp. 110-137.

19   Quoted in Shifrinson, cited above (Note 18), p. 31.

role of the CSCE. It is a wonderful dream, but just a dream. In the meantime, NATO exists […]".[20]

For historian Mary Elise Sarotte, it was already clear in 2010 that, in 1990, Bush had not been interested in integrating the Soviet Union into new or existing pan-European or transatlantic security institutions. "Rather, the goal was to get the Soviets out," according to her.[21] At the end of February 1990, Bush made it clear to Kohl what he thought of a Western compromise regarding the question of German membership of NATO: "To hell with that! We prevailed, they didn't. We can't let the Soviets clutch victory from the jaws of defeat."[22] According to Sarotte, Bush's "new world order" was not based on the idea of partnership with the Soviet Union. In contrast, the Bush administration was already aware in spring 1990 that they were embarking on a collision course with Moscow with their strict maximum demand for NATO membership for a unified Germany.[23] Condoleezza Rice had told Bush that the prospect of NATO membership for a unified Germany was "the Soviet Union's worst nightmare", a situation that would "rip the heart out of the Soviet security system".[24] Soviet leaders warned the United States as early as May 1990 that their strategy was risky. Foreign Minister Shevardnadze told Bush, "If united Germany becomes a member of NATO, it will blow up perestroika. Our people will not forgive us. People will say that we ended up the losers, not the winners."[25] It was a similar early prophecy to Yeltsin's famous "Cold Peace" speech at the CSCE Summit in December 1994 in Budapest.

Western promises of a future spirit of co-operation with the Soviet Union were decisive in gaining Gorbachev's agreement to the reunification of Germany. These promises were, however, very vague and should not be mixed with the historians' debate over a concrete Western promise given to Gorbachev in February 1990 that was supposedly later broken. According to this promise, NATO would never expand even an inch towards the East after the end of the Cold War. Yet, all currently available archival evidence suggests that such a promise was never made.[26]

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20   Quoted in Svetlana Savranskaya/Thomas Blanton (eds), The Last Superpower Summits. Gorbachev, Reagan, and Bush: Conversations that Ended the Cold War, Budapest 2016, p. 635.
21   Sarotte, Perpetuating U.S. Preeminence, cited above (Note 18), p. 135.
22   Ibid., p. 136.
23   "With unification increasingly appearing to be 'wholly on Western terms', this 'places us on a probable collision course with the Soviets'." Security Adviser Brent Scowcroft to Bush, 14 February 1990, quoted in Engel, cited above (Note 18), p. 335.
24   Quoted in: Nünlist/Aunesluoma/Zogg, cited above (Note 8), p. 19, fn. 58. According to historian Liviu Horovitz, the original archival document makes clear that Rice drafted the memorandum that Scowcroft forwarded to Bush.
25   Quoted in: Savranskaya/Blanton, Last Superpower Summits, p. 639.
26   In February 1990, Western promises not to expand the military sovereignty of NATO (NATO jurisdiction) Eastwards were exclusively related to not stationing NATO forces on GDR territory. Cf. Mark Kramer, The Myth of a No-NATO-Enlargement Pledge to Russia, The Washington Quarterly 2/2009, pp. 39-61. For an alternative view, cf. Savranskaya/ Blanton, NATO Expansion: What Gorbachev Heard, cited above (Note 17). In the author's

From today's perspective and with a particular view on the CSCE/OSCE, it is clear that as early as 1989/1990, ideas about what was meant by inclusivity and exclusivity, and the related question regarding the position of the Soviet Union (and later Russia) in the European security architecture were wildly diverging. In the 1990s, the rift between Russia and the West became even starker – especially regarding the question of NATO's Eastern enlargement (from 1993) and the Yugoslav Wars, as well as the "colour revolutions" in Eastern Europe (from 2003). These events sowed seeds of discord, even though Russia and the West temporarily came together again and again and there were still elements of co-operation in relations between them. However, despite the West's noble aims of stability and security in Europe, the logic of advancing NATO and EU Eastern enlargement (first in Central Europe, later in the Balkans, and in 2008 looking to Georgia and Ukraine), still rested upon an intrinsic logical error: Sooner or later, an expanding Western security block which excluded Russia was bound to have a negative impact on relations between Russia and the West, and ultimately on stability and security in Europe.[27]

OSCE Principles: Returning to a Common Interpretation

The Ukraine crisis not only proved that Russia and the West have radically different historical narratives about the evolution of European security since 1990. Perceptions regarding the interpretation of the Helsinki Principles of 1975 are also widely diverging. The Helsinki Principles are the normative foundation of the OSCE and therefore central to stability and peace in Europe. Since the end of the Cold War, the non-intervention principle in particular has led to a fierce verbal exchange of blows between Moscow and the West. Cases in which either the West or Russia have supposedly violated the non-intervention principle play an important role in the diverging historical narratives since 1990.

Non-intervention in internal affairs is one of the ten core principles of the CSCE Helsinki Final Act of 1975.[28] In essence, the Helsinki Final Act represented a great compromise between East and West, also in relation to the negotiated key principles. After three years of complex multilateral East-West negotiations, the final formulations, however, were fairly vague, ambivalent, and to an extent even contradictory. The Helsinki Final Act actually allowed

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opinion, however, their thesis cannot be backed up with archive evidence. Cf. Nünlist, Krieg der Narrative, cited above (Note 18).

27 Cf. James Goldgeier, Promises Made, Promises Broken? What Yeltsin Was Told About NATO in 1993 and Why It Matters, *War on the Rocks*, 12 July 2016, at: https://warontherocks.com/2016/07/promises-made-promises-broken-what-yeltsin-was-told-about-nato-in-1993-and-why-it-matters; James Headley, Russia and the Balkans: Foreign Policy from Yeltsin to Putin, London 2008. For details regarding Russia's estrangement in 1991, cf. Hill, cited above (Note 8), and Stent, cited above (Note 12).

28 The following paragraphs are based on Nünlist, Shifting Interpretations of the Non-Intervention Principle in the OSCE, cited above (Note 9).

each party a completely different interpretation. This reflected the diplomatic compromises made, as the CSCE Final Act was, in the words of a leading OSCE expert "a craftsmanship of diplomatic terminology, where major differences had been carefully covered up by compromise language".[29]

The Soviet Union stressed static elements and particularly supported the principles of non-intervention in internal affairs, sovereignty, territorial integrity, and the inviolability of frontiers, while the West challenged existing borders in Europe with a clause that explicitly made it possible to change frontiers with peaceful means, by mutual agreement, and in accordance with international law.[30] In addition, the West contradicted the non-intervention norm with the principles of promoting respect for individual human rights and the self-determination of peoples. In 1975, Moscow regarded human rights as an internal affair of each CSCE participating State. As the Helsinki Final Act was only a politically binding, rather than a legally binding document, in 1975 the Soviet Union did not plan to take the CSCE's human rights commitments seriously in the future. Soviet concessions in the area of "Basket III" (co-operation in humanitarian and other fields) only came about because Soviet Leader Leonid Brezhnev did not feel obliged to actually implement individual components of the Helsinki Final Act that did not suit him.

Ironically, the Soviet position with regard to the non-intervention principle remained generally inconsistent during the Cold War. Towards the West, Moscow insisted that the non-intervention principle was sacrosanct (to prevent Western intervention in the Soviet sphere of influence), while at the same time, it was always understood to be a matter of course that the Soviet Union could intervene in its sphere of influence – even using military means, such as in Hungary (1956), in Czechoslovakia (1968), or in Afghanistan (1979). In these cases, Moscow preferred intervention over state sovereignty, and the Brezhnev doctrine clearly contradicted the non-intervention norm. Equally, the United States believed it had a right to intervene with its direct neighbours, as demonstrated by its interventions in Guatemala, Cuba, and the Dominican Republic.

As the CSCE Final Act was drawn up in vague language reflecting the differences in opinion and contradictions between East and West, the Helsinki principles were continuously subjected to different interpretations. During the Cold War, Principle VII in particular, dealing with the protection of human rights and fundamental freedoms, came into conflict with Principle VI on non-intervention in internal affairs and traditional principles such as respect for state sovereignty and territorial integrity.

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29   Arie Bloed, OSCE Principles: Which Principles? Security and Human Rights 2/2014, pp. 210-220, here: p. 213.
30   For West Germany, this was a central concern early in the Helsinki process. Cf. Gottfried Niedhart, Peaceful Change of Frontiers as a Crucial Element in the West German Strategy of Transformation, in: Oliver Bange/Gottfried Niedhart (eds), *Helsinki 1975 and the Transformation of Europe*, New York 2008, pp. 39-52.

After 1989, however, Western and Soviet interpretations did converge. In 1991, a new consensus was reached in the CSCE regarding how the controversial non-intervention principle should be interpreted in future. In the preamble to the final document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, the CSCE participating States declared in October 1991 "categorically and irrevocably" that the human rights commitments undertaken within the framework of the CSCE, were "matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".[31]

This substantial and ground-breaking new interpretation and the drastic limit on the non-intervention principle applied not only to the human dimension, but also to the politico-military dimension of the CSCE/OSCE. The "Code of Conduct on Politico-Military Aspects of Security" also confirmed in 1994 that the full respect for all CSCE principles and the implementation of all CSCE commitments were "of fundamental importance for stability and security, and consequently constitute a matter of direct and legitimate concern" to all CSCE participating States.[32]

This "golden era" of converging interpretations of the Helsinki principles remained, however, very short. Already during the war in Bosnia, there was again a battle for sovereignty over interpretation. Russian President Boris Yeltsin denounced NATO air strikes on a Bosnian-Serb command post in April 2014 as "genocide" against the Serbs. The military strikes carried out by NATO against Serbia during the Kosovo War in 1999 without the authorization of the UN Security Council were also seen by Russia as a military aggression and a violation of the Helsinki principles and of international law in general.

Following Kosovo's unilateral declaration of independence, there was a radical turnaround in Russia's traditional position in 2008. While the Western humanitarian intervention in Kosovo in 1999 had been criticized, Russia now made reference to the developing "Responsibility to Protect" principle (R2P) to justify Russian military intervention in Georgia and the occupation and diplomatic recognition of the territories of Abkhazia and South Ossetia, which were seceding from Georgia, despite the violation of the principle of territorial integrity that this meant. In return, the West now suddenly began to emphasize sovereignty, the non-intervention principle, and territorial integrity in order to reject Russia's justification.

Again, just as during the Cold War, there was an ironic contradiction between the Russian narrative, according to which Western interventions represented a violation of the Helsinki Principles and international law, and Russian

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31   Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 3 October 1991, p. 29, available at: https://www.osce.org/odihr/elections/14310.
32   OSCE, Code of Conduct on Politico-Military Aspects of Security, DOC.FSC/1/95, Budapest, 3 December 1994, p. 15, available at: https://www.osce.org/fsc/41355.

self-perception, according to which Russian (military) interventions in "near abroad" countries such as Georgia or Ukraine were of course legitimate.

In 2014, the Ukraine crisis made it clear how radical the differences between the respective preferences for specific Helsinki principles had become. Today, the West advocates territorial integrity, existing borders, and the territorial status quo – and thus also argues for non-intervention in internal affairs. Russia, however, now supports self-determination (such as in Abkhazia, South Ossetia, and Crimea) and change – a drastic renunciation of the traditional support in Moscow for the principles of state sovereignty and territorial inviolability (for example, support for Serbia in the case of Kosovo).

Ukraine, European Security, and Détente in the 21st Century

Five years after the outbreak of the Ukraine crisis, it is clear that 2014 will go down in history as a definitive turning point in the estrangement of Russia from the West. Russia's previous ambivalence as a difficult partner or antagonist has been clarified – by then, Russia had begun to see itself as the antithesis to the West, and the US and NATO again perceive Russia as a threat and enemy.

In the history of the OSCE, 2014 also holds a prominent place. In fact, the Ukraine crisis and the regression into the East-West conflict meant a considerable comeback for the Organization in the short term as a useful instrument for crisis management and a unique inclusive and consensus-based platform for dialogue. However, at the same time, 2014 also marks the definitive end to an era of a shared vision of a security community from Vancouver to Vladivostok, as was always expressed automatically in OSCE jargon from Paris 1990 to Astana 2010.[33]

For the time being, the West is still clinging to the old vision from 1975-1990 and believes there is fundamentally no need to set new rules for peaceful co-existence in Europe purely because Russia has deliberately broken these rules. The Ischinger report used the metaphor of traffic laws, which do not need to be changed even though they are violated every day.[34] However, the basis for such a debate is probably not so simple.

For now, Russia is playing for time in the hope that the world will become increasingly multipolar and the West and the US will further lose their positions of relative clout and power, as well as their normative influence and the proven magnetic effect of democracy and freedom. At the same time, however, it is anything but foreseeable which rising power could replace the United States, for example, with its still impressive "soft power" in the coming years

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33 Cf. Nünlist, Testfall Ukraine-Krise [The Ukraine crisis as test case], cited above (Note 4); Christian Nünlist, Back in Business. The OSCE and conflicts in Europe's neighbourhood, Global Governance Spotlight 1/2016, available at: https://www.sef-bonn.org/en/publications/global-governance-spotlight/12016.html.
34 Cf. Back to Diplomacy, cited above (Note 7), p. 5.

and decades – and neither China nor Russia seem to hold particularly good cards in this regard.[35]

For the OSCE, of course, it is not a good omen if its participating States battle over historical narratives, key principles, and visions for the future and their positions diverge radically. At any rate, it is not a fortunate development for the OSCE, which is perceived as a "fair weather organization", and since 1990, has primarily acted as an agent for apparently universally accepted Western values to the East and exported democracy and human rights in order to expand the security and stability zone eastwards.

Interestingly, however, since 2014, the OSCE has again reinvented itself as a "bad weather organization" like the CSCE had been in the Cold War. The CSCE was not originally a community of values like the EC/EU or NATO, but rather came into being as a dialogue project between two antagonistic blocs in the East-West conflict. It was always an important trademark of the CSCE to overcome differences and to reduce ideological divides with dialogue, the search for consensus, and confidence-building measures. The strength of the OSCE has therefore always been in bringing states with very different values from different cultures and with different historical experiences together around one table to negotiate common rules for peaceful coexistence.

The West is therefore currently facing a dilemma: How can the "sacred" OSCE Documents from 1975, 1990, 1999, and 2010 be adapted to the political realities that have come about since 2014 without renegotiating and watering down the Helsinki Principles? No one in the West wants a "Helsinki II", as the West does not want to abandon the achievements of the Helsinki process lightly. However, a multilateral dialogue about disputed narratives and contentious interpretations of the OSCE principles, i.e. a kind of "Paris II", could represent a golden middle way, avoiding both a "Helsinki II" and a "Yalta II" – a deal between the great powers above the heads of all the other participating States.[36]

Interestingly, Adam Daniel Rotfeld argues in a similar direction. In an 2017 essay, he recognizes the fact that liberal Western values are no longer accepted as the basis of a global order. As today only a third of all 193 UN Member States can be considered liberal democracies, Rotfeld argues, a new code of conduct for international relations must be negotiated. A new co-

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35   Cf. Joseph S. Nye Jr., What China and Russia Don't Get About Soft Power, *Foreign Policy,* 29 April 2013, at: https://foreignpolicy.com/2013/04/29/what-china-and-russia-dont-get-about-soft-power; Joseph S. Nye Jr., How Sharp Power Threatens Soft Power, *Foreign Affairs,* 24 January 2018, at: https://www.foreignaffairs.com/articles/china/2018-01-24/how-sharp-power-threatens-soft-power.

36   Cf. Wolfgang Zellner (principal drafter) et al., European Security – Challenges at the Societal Level, Hamburg 2016, pp. 15-16, 21-23, 25-26; Christian Nünlist, The OSCE and the Future of European Security, CSS Analyses in Security Policy 202/2017; Kari Möttölä, Present-at-the-(re)creation: The US Grand Strategy Shaping the European Security Order at a Crossroads of Fluctuation, Rupture or Transformation, conference paper for ISA annual meeting, Baltimore, MD, 22-25 February 2017, p. 5 and p. 13; Reinhard Krumm, Multipolar oder multilateral? Sicherheitsordnungen 2.0 zur Auswahl; Wiener Kongress, Jalta, Helsinki [Multipolar or multilateral? Selecting Security Orders 2.0: Congress of Vienna, Yalta, Helsinki], Vienna 2018.

operative security system would have to take account of the relatively declining significance of the old (Western) powers and the growing role of states such as Russia, China, and India in the polycentric world order that is on the horizon. As one of the most renowned OCSE doyens, Rotfeld calls upon the West to stop grieving nostalgically for the world of the past (1945-2014) and accept the new realities in world politics. To allow the current situation to continue with no commonly accepted rules is, in his view, more dangerous than setting new rules, even if these new rules are consequently less advantageous for the West than those set after 1945.[37]

To do this, the West must accept a painful relative loss of power and prestige, ultimately acknowledging that the victory march of liberal democracy in the 21st century has, for the moment, come to an abrupt halt. However, no alternative seems convincing either. The West could adopt an ostrich strategy, burying its head in the sand and insisting that Moscow also took part in the negotiations and signed up to the CSCE vision of a commonly agreed European security order in 1975 and 1990 – and that the principles and advantageous, pro-Western interpretation of the 1990s continue to be the best and only way for the OSCE in the future. This strategy would essentially amount to holding out for better times – in particular for the post-Trump and post-Putin era.

The history of the OSCE, however, gives reason to hope that in the 21st century, a new détente could come about. The OSCE should take confidence in its diversity and use it as a strength rather than regretting it as a weakness. In the OSCE, different interests, values, and opinions come together in an endeavour to sustain dialogue and in the hope of finding compromises that are acceptable to all parties. The OSCE's uniqueness and added value lie in the fact that in the OSCE, Russia, Turkey, and Central Asian states also sit at the table and speak as equals. In the world of today, the OSCE offers one of the few spaces where dialogue is possible, even when parties are in disagreement. In the OSCE, each side is forced to hear the other side – which is increasingly rare in today's societies. It may be difficult to create consensus in the OSCE, but once this can be achieved, the inclusive, consensus-based approach of the OSCE holds the promise of more legitimate, more sustainable, and fairer solutions.

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[37] Cf. Adam Daniel Rotfeld, The International Order. In search for new rules, Poznań 2017, pp. 32-34.

P. Terrence Hopmann

Trump, Putin, and the OSCE

Introduction

Since the time of the negotiation of the Helsinki Final Act between 1973 and 1975, the OSCE has largely been an institution where the neutral, non-aligned states and the "middle powers" of Europe play the most active role. These countries played an important role in brokering the text of the Helsinki Final Act, and in developing and expanding the normative foundations of a co-operative security regime in Europe from Vancouver to Vladivostok. This role was especially important in introducing values based on security co-operation into the Cold War rivalry between NATO and the Warsaw Pact, and between the two nuclear superpowers of the United States and the Soviet Union.[1] However, the United States and Russia played a more active role in the CSCE/ OSCE, especially after the end of the Cold War in 1990. Although they still ceded much of the political leadership to the middle powers, including the role of the Chairperson-in-Office and other key posts, the two largest powers contributed significantly to the budget of the OSCE, supplied personnel and resources to some of the largest field missions, and utilized the OSCE institutional structures as a venue for quiet negotiation on many issues of mutual concern. At the same time, as major powers, they have succeeded in preventing the OSCE from engaging in activities that one or both opposed, and in keeping the OSCE's resources and political profile limited in comparison with the United Nations or, in the case of the US, with the NATO alliance. This limited co-operation continued throughout the decade of the 1990's, but it began to fade after the turn of the millennium in the aftermath of the Kosovo conflict and other issues that arose between the US and Russia, and co-operation declined further after the wars in Georgia in 2008 and in Ukraine from 2014. At times during this period, the attitude towards the OSCE was perhaps best characterized as "benign neglect", in which the OSCE was increasingly seen as less relevant to the issues affecting the two larger powers, and in which unilaterally defined national interests superseded the commitment to furthering co-operative security.

By 2018, the OSCE was gradually assuming a less significant role in the foreign policies of either the US or Russia. The growing role of nationalism in the domestic politics of the two major powers, especially as represented by the two unique personalities who lead these two countries, namely Donald Trump and Vladimir Putin, makes co-operative security in multilateral institutions like

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[1]   Cf. P. Terrence Hopmann, From Helsinki I to Helsinki II? The Role of the Neutral and Nonaligned States in the OSCE, in: Heinz Gärtner (ed.), *Engaged Neutrality: An Evolved Approach to the Cold War*, Lanham, MD, 2017, pp. 143-160.

the OSCE appear largely irrelevant. This contribution reflects the author's personal analysis of how the unusual and often bizarre relationship between these two powerful figures impacts the OSCE, and, for that matter, most multilateral institutions engaged in co-operative security. Both major powers are now led by very strong personalities, whose personal impact on the foreign policies of their countries is unmistakable. Their views of international relations have restored the traditional principles of strict realism in US-Russian relations, in which a narrow definition of the "national interest" prevails over any efforts to achieve co-operative outcomes across a wide range of issues, from trade to environmental policy, and especially the area of security policy. In this era, therefore, all multilateral institutions, including the OSCE, are viewed as largely irrelevant to managing the major issues of contemporary international relations.

I begin this essay with some general comments on the foreign policy of the Trump administration in the US, followed by a brief analysis of the Putin government in Russia, leading to an assessment of the ambiguous relationship between the two individuals and as well as between the two states that they lead. I conclude, then, with a brief assessment of the impact of these two leaders on their countries' policies (or lack thereof) towards the OSCE and their likely consequences for the future role of the OSCE.

Donald Trump and US Foreign Policy

The inauguration of US President Donald Trump in January 2017 raised numerous questions about the commitment of his administration to multilateral international institutions, among them the OSCE. Written two years after Trump's election, this article runs the risk of being outdated by events that could occur prior to its publication, especially in the unprecedented and volatile environment that characterizes US politics in 2018, not least the possibility that Trump could be forced from office prior to the completion of his term either due to impeachment by Congress or resignation in the face of the many investigations that surround his election, business dealings, and covert relationships with Russia. Nonetheless, whether he serves out his term or is eventually replaced by Vice President Michael Pence, his administration's "America First" policy represents a significant departure from many of the main lines of US foreign policy since 1945.

President Trump largely defined the framework for his administration's foreign policy in his speech to the UN General Assembly on 25 September 2018:

> […] America will always choose independence and cooperation over global governance, control, and domination.

I honor the right of every nation […] to pursue its own customs, beliefs, and traditions. The United States will not tell you how to live or work or worship.

We only ask that you honor our sovereignty in return. […]

America is governed by Americans. We reject the ideology of globalism, and we embrace the doctrine of patriotism.

Around the world, responsible nations must defend against threats to sovereignty not just from global governance, but also from other, new forms of coercion and domination. […]

Sovereign and independent nations are the only vehicle where freedom has ever survived, democracy has ever endured, or peace has ever prospered. And so we must protect our sovereignty and our cherished independence above all.[2]

Although Donald Trump is hardly the first US president, or the only national leader, to assert the rights of sovereign states, he has articulated his core beliefs in ways that differ from those of his predecessors. His argument maintains that sovereignty is absolute and that none of it may be transferred to international institutions in ways that limit sovereignty in order to enhance co-operation and serve the long-term interests of states that participate in those institutions. Encapsulated in his foreign policy slogan of his presidential campaign, "America First", he has emphasized a view of global politics in which the relations among sovereign states are essentially zero-sum, in which any benefit granted to another state or institution somehow detracts from a state's own self-interest. He made this point most clearly in a political rally in Houston, Texas, during the 2018 mid-term elections campaign:

You know what I am? I'm a nationalist, O.K.? […] I'm a nationalist. It's a word that hasn't been used too much. Some people use it, but [sic] I'm very proud. I think it should be brought back.

Radical Democrats want to turn back the clock [to …the] rule of corrupt, power-hungry globalists […] You know what a globalist is? A globalist is a person who wants the globe to do well, frankly, not caring about our country so much. And you know what? We can't have that.[3]

These and other similar remarks have also led to a political backlash within the US. One prominent retort to Trump's Houston speech came from Michael McFaul, former US Ambassador to Russia under President Barack Obama: "Does Trump know the historical baggage associated with this word, or is he

2   Remarks by President Trump to the 73rd Session of the United Nations General Assembly, New York, NY, 25 September 2018, at: https://www.whitehouse.gov/briefings-statements/remarks-president-trump-73rd-session-united-nations-general-assembly-new-york-ny/.

3   Cited in: Peter Baker, "Use That Word!": Trump Embraces the "Nationalist" Label, *New York Times,* 23 October 2018, at: https://www.nytimes.com/2018/10/23/us/politics/nationalist-president-trump.html.

ignorant?"[4] Indeed, the historical baggage cited by the president's critics often refers to two ways in which terms such as "nationalist" and "America First" have been used in the past. The term "nationalist" has most often been used by white supremacists or "nationalists" to denote the superiority of the white race over peoples of colour, especially in the southern states of the US. "America First" more notably refers to the slogan adopted by the aviator Charles Lindbergh and his followers who advocated isolationism and sympathy with the Nazi movement in Germany in their opposition to US entry into World War II. Indeed, to some, its roots come from the Nazi programme of National Socialism. To his harshest critics, therefore, Trump's references hark back to a history of racism and even fascism. Whatever the ideological origins may be, there can be little doubt that the Trump approach to foreign policy dismisses the role of "globalist" institutions and evokes a call for strict adherence to advancing US interests above those of any other country in an essentially Hobbesian world in which states must compete in all domains and in which "making America great again" not only implies raising US interests, but suppressing the relative role of other global political, military, and economic competitors.

This general attitude has carried over into many of Trump's early foreign policy decisions. After two years in office he has, among other decisions, cancelled the negotiations on the Trans-Pacific Partnership, withdrawn from the Paris Agreement on climate change, withdrawn from the Intermediate-Range Nuclear Forces (INF) Treaty, withdrawn the US from the UN Human Rights Council (UNHRC), denounced the International Criminal Court (ICC), and criticized the European Union while strongly supporting Brexit. He has adamantly refused to criticize Russia's President Putin about any differences, including the well-documented interference in the 2016 election or its role in the annexation of Crimea and its support for the separatist combatants in the Donbas region of Ukraine. He has surrounded himself with advisors who support his nationalist world view, including two "anti-globalist" ideologues in particular, Steve Bannon and Stephen Miller, the latter of whom is reported to have been the primary author of his 2018 UN speech.

Trump's disdain for internationalism is also clearly reflected in his choice of foreign policy advisors. His first National Security advisor, Lt. General Michael Flynn, served only 24 days, resigning after it was revealed that he had lied about unauthorized contacts during the presidential campaign with the Russian Ambassador in Washington on behalf of the Trump candidacy, attempting to undermine the Obama administration's policies on Russia while they were still in office. He was followed by Lt. General Herbert Raymond McMaster, a West Point graduate and a combat veteran of the Persian Gulf and Iraq wars, who tried to keep the administration on an even keel during his 14 months in that office. He was dismissed by Trump in April 2018, in part

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4   Cited in: ibid.

because he had concluded publicly that there was incontrovertible evidence of Russian interference in the 2016 presidential election, which, among other issues, put him in direct opposition to his boss. In April 2018 he was replaced by John Bolton, a well-known foreign policy "hawk". Bolton served as Assistant Secretary of State for International Organization Affairs under President George H.W. Bush. Shortly after resigning from that position, he expressed very strong views about the UN at a 1994 conference of the World Federalist Association: "There is no United Nations. There is an international community that occasionally can be led by the only real power left in the world, and that's the United States, when it suits our interests and when we can get others to go along."[5] He also stated: "The Secretariat building in New York has 38 stories. If you lost ten stories today, it wouldn't make a bit of difference."[6] In spite of these views, he was granted a "recess appointment" as US Ambassador to the UN by President George W. Bush, but faced with strong opposition during confirmation hearings in the US Senate, he eventually withdrew from that position. His views expressed throughout his career thus coincided more closely with Trump's nationalism and contempt for multilateral institutions than had been the case for his predecessor as National Security Advisor to the President.

Over at the State Department, Trump's first Secretary of State Rex Tillerson focused on "down-sizing" the department rather than developing any consistent foreign policy priorities. Having spent his entire career as a business executive, his foreign policy experience was largely limited to negotiating energy contracts for Exxon-Mobile, including numerous negotiations on energy exploration with Russia. As Secretary of State, however, he behaved more like a corporate executive than a diplomat and foreign policy-maker. He proposed cutting the State Department budget, already miniscule when compared to the Department of Defense, by some 31 per cent, while cutting personnel by at least eight per cent. Many senior-level positions in both the department's headquarters in Washington and ambassadors to posts overseas were left unfilled. As a result of the huge personnel gaps at the level immediately below the Secretary of State, policy-making largely fell to a coterie of advisors brought in from the conservative American Heritage Foundation.

This produced a significant decline in the morale of career State Department officials, and many senior officials resigned or retired earlier than planned in open disgust. Former Under Secretary of State and Ambassador to NATO Nicholas Burns and former US Ambassador to Iraq and Afghanistan, Ryan Crocker, summarized the consequences of these actions in the *New York Times:* "This is not about belt tightening. It is a deliberate effort to deconstruct

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5   Cited in: Daniel W. Drezner, John Bolton is right about the United Nations, *FP*, 14 April 2015, at: https://foreignpolicy.com/2005/04/14/john-bolton-is-right-about-the-united-nations/.

6   Cited in: Interview with Secretary Condoleezza Rice on NBC's Meet the Press with Tim Russert, Washington. DC, 13 March 2005, *US Department of State, Archive,* at: https://2001-2009.state.gov/secretary/rm/2005/43345.htm.

the State Department and the Foreign Service. […] We are ringing the village bell of alarm because Mr. Trump's neglect of the State Department will harm our country at an already dangerous time."[7] Tillerson was eventually forced to resign, and he was replaced in April 2018 by Trump's CIA Director, Michael Pompeo, previously a four-term conservative Republican member of Congress from Kansas and a veteran of the US Army. Pompeo has restored some semblance of professionalism in the State Department, although the *Washington Post* reported that seven months after his arrival "nearly half of key posts at State remain empty."[8] He has also pursued a more hardline foreign policy on many issues, especially on relations with Russia and North Korea, which has often seemingly put him at odds with President Trump. In addition, Pompeo has done nothing to reverse the nationalist, ultra-realist framework that guides US foreign policy under President Trump.

While pursuing his "America First" foreign policy, which has considerable support among his base of political supporters, he remains overall an unpopular president for a majority of the US population, and his legitimacy is frequently questioned. Two years after his election, in November 2018 he saw the Republican Party lose 40 seats in the House of Representatives, giving the Democratic opposition a majority in that chamber while the Republicans remained in control in the Senate. According to polls taken at the time of these "midterm" elections, some 52 per cent of the US public disapproved of his performance as president, with only 42 per cent showing approval.[9] Indeed, he is the second president in recent history to assume his office despite losing the popular vote by some three million votes. Trump was elected in 2016 by slim majorities in three states with large numbers of votes in the electoral college, namely Pennsylvania, Michigan, and Wisconsin. The electoral college is itself a product of a compromise at the time that the US Constitution was drafted in 1787. Advocates of strong federalism and states' rights won over those who favoured a stronger central government. In particular, the idea that states should be assigned electors in proportion to their representation in both houses of Congress was advocated by mostly rural southern states that feared the powers of a strong central government to abolish their cherished institution of slavery. In the electoral college, the winner in each state, no matter the size of their victory, receives all of the votes of each state's electors. The electoral

7   Nicholas Burns/Ryan C. Crocker, Dismantling the Foreign Service, *The New York Times,* 27 November 2017, at: https://www.nytimes.com/2017/11/27/opinion/dismantling-foreign-service-budget.html.

8   Jackson Diehl, Mike Pompeo swaggers his way to failure, *The Washington Post*, 9 December 2018, at: https://www.washingtonpost.com/opinions/global-opinions/mike-pompeo-swaggers-his-way-to-failure/2018/12/09/0c7dd626-f977-11e8-8c9a-860ce2a8148f_story.html?utm_term=.05802301166b.

9   Cf. How Popular Is Donald Trump? *FiveThirtyEight*, 29 November – 2 December, accessed on 1 December 2018, at: https://fivethirtyeight.com/politics/. The poll numbers are updated regularly, but these ratios have not changed significantly throughout the first two years of the Trump presidency. All polls previous to the current one can be found at: https://projects.fivethirtyeight.com/trump-approval-ratings/?ex_cid=rrpromo.

college has largely become an anachronism, but it remains the law of the land as the US Constitution is very difficult to amend. Although there is no challenge to the fact of Trump's election on technical legal grounds, there is broad reason to doubt whether he can legitimately claim to have received a mandate to undo virtually all the policies, both domestic and international, of the Obama administration and of its immediate predecessors. This contrasts with his own self-proclaimed mandate to act by executive fiat.

A second, and perhaps more serious obstacle to the legitimacy of Trump's presidency involves the manner in which he was elected, especially the role played in the election by Russian engagement, both directly through contacts with many of his campaign advisers, and indirectly through manipulation of social media. At the time of writing, the alleged ties between the Trump campaign and Russia are the subject of investigation by Special Counsel Robert Mueller, former director of the Federal Bureau of Investigation. Mueller appears to be moving forward aggressively in an investigation of Trump's personal, family, and associates' links to Russian efforts to support Trump's election and, going back even further, to Trump's possible ties to Russian financial interests, both legal and criminal, that may have gained influence over his foreign policy priorities. This may go a long way to explaining his totally uncritical support for Russia's President, Vladimir Putin, and his often-repeated desire to improve relations with Russia while avoiding any overt criticism of Russia's role in Ukraine, Georgia, and Syria or even its alleged violation of relevant arms control agreements.

For the present, it is only necessary to emphasize that the legitimacy of Trump's election and his foreign policy priorities may well be put in greater doubt by the outcome of Mueller's investigation of his engagement with Russian interests. Focus has been placed on the role of his first campaign manager, Paul Manafort, previously political advisor to Ukraine's ousted President Viktor Yanukovych and the Party of Regions, from which he apparently received huge financial remuneration. Other figures in his campaign had close connections with Russia, including members of his family who allegedly met with Russian operatives to try to find "dirt" on Hillary Clinton. The Mueller team has indicted twelve Russian alleged intelligence agents accused of interference in the 2016 US election, although none can be brought to trial unless they enter US territory. However, many close associates of Trump have also been indicted, charged with money laundering and other economic ties that might reveal illegal business activities and unlawful solicitation of Russian assistance in Trump's campaign for the presidency in 2016. Perhaps of even greater concern is the possibility, not yet demonstrated by any direct publicly disclosed evidence, that these activities might have made him vulnerable to blackmail by Russian intelligence services. If the Mueller investigation reveals evidence of such activity, this could readily make Trump susceptible to a charge of "high crimes and misdemeanors" as defined in the US Constitution, which constitutes grounds for impeachment. It is necessary to emphasize that

much of this has not been proven at the time of writing, but it is certainly within the range of possibility that the outcome of the Mueller investigation could reach conclusions that might justify impeachment or push Trump to resign before the 2020 presidential election. All of the investigations surrounding the Trump administration, therefore, carry significant implications regardless of their eventual outcome. Even though Trump governs with a swagger that might seem to suggest his great confidence in his leadership, it is at least plausible that his self-promotion may be a convenient cover for the uncertainty that affects his legitimacy and possible longevity in office.

Trump, Putin, and US-Russian Relations in 2018

Throughout the presidential campaign in 2016, candidate Trump advocated improved relations with Russia, without suggesting any details of how this might be achieved. During the campaign, he made several references to ending sanctions imposed on Russia for its policy in Ukraine, without asking for any *quid pro quo* from Russia. Curiously, this occurred at a time when he was negotiating with senior Russian officials about the possibility of constructing a "Trump Tower" in Moscow, which included an offer of a penthouse apartment for President Putin valued at some 50 million US dollars. He frequently offered praise of President Putin as a strong leader, and he seemed to focus his efforts for improved relationships on the personal relationship between the two leaders. This no doubt reflected his business experience in which transactional deals between two individuals constituted his modus operandi. At the same time, he was clearly naïve about the difficulty of translating a personal relationship between two leaders of powerful states into actual policy changes. He largely disregarded the reality that most foreign policy and military professionals in the US opposed removing these sanctions in the absence of a resolution of the Ukraine conflict. In Congress, ironically, his position forced many leading Democratic senators and representatives, who normally would have favoured improved relations with Russia on issues such as arms control and combating climate change, to be highly critical of Putin and Russia, not only on substantive grounds, but in part for domestic political reasons in order to attack Trump.

The two presidents have held several meetings, both on the margins of larger conferences and in bilateral sessions. The most prominent of these was a bilateral summit in Helsinki in July 2018, in which the two presidents reported positive results in general terms and spoke positively about one another, with Trump emphasizing that Putin was a strong leader, a style he greatly admires. However, Trump failed to prepare for this meeting by familiarizing himself with the complex issues in the relationship between the two countries, and he was accompanied in the meeting only by a translator, without any expert who could take notes. As a result, months after the meeting there is no evidence

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that any of the issues discussed were followed up in any serious way (a pattern also evidenced in his meeting with North Korea's President Kim Jong-un on the issue of denuclearization of the Korean peninsula). Trump appears to approach all of these meetings as transactions rather than as complex issues to be negotiated. He demonstrates a "black and white" view of foreign relations, in which other states are either "friends" or "enemies." He is incapable of distinguishing between common interests shared by the US and Russia on issues such as arms control and environmental policy and issues about which serious differences exist such as Russian policy in its "near abroad", especially in Ukraine, and its apparent intervention in democratic elections in the US and several Western and Central European states, generally in support of right-wing political parties. Increasingly, however, there has been a growing disconnect between Trump's personal admiration for Putin and refusal to offer any criticism of Russian behaviour in international affairs, and the attitudes of high-level officials in Trump's administration, many of whom have been long-term critics of Russian policy and of President Putin. As a result, there is little, if any, evidence that this apparently warm relationship between the two leaders has had any significant impact on the basic policies of either country towards the other. Indeed, many critics, including some within the Trump administration, apparently fear that Trump has been manipulated by Putin, believing that he has taken advantage of the US President's naivety in conducting important international negotiations on complex issues on a purely interpersonal basis.

A major factor in President Trump's relationship with Vladimir Putin is his admiration for the latter's authoritarian tendencies reflected in the Russian leader's approach to "managed democracy". In various ways, Putin has assured his longevity as the country's leader far into the foreseeable future. Having advanced his roles as president and alternately as prime minister since 1999, he has managed to change the Russian Constitution to extend the president's term in office to six years, allowing him to be re-elected in 2018 and thereby remain in power at least until 2024. He has presented himself as a leader who has "made Russia great again," having in many ways reversed the decline of the first post-Soviet decade by improving the economy (largely based on the energy sector) and strengthening internal security, while granting political access to oligarchs who are loyal to him and marginalizing his political opponents. He has also wrapped his identity in the traditions of Russian Orthodox Christianity, symbolized by the statute constructed outside the Kremlin of the Viking ruler of medieval Kievan Rus', Volodymyr, who adopted Orthodox Christianity from Constantinople in 988, and whose son, Yaroslav, brought Christianity to Russia at the beginning of the eleventh century. In Moscow, the name appears in its contemporary Russian version as Vladimir, allowing Putin to claim that history has come full circle after the debacle of communism and of Boris Yeltsin's post-Soviet Russia to a restoration of its greatness under the guidance of the contemporary leader named Vladimir. In his address to the

Duma after resuming the Russian presidency in 2012, Putin literally laid personal claim to the heritage of Vladimir as the fulfilment of a millennial cycle.[10] In so doing, Putin also gave Russia a spiritual and transcendent place in world history that lay claim to a civilization without borders that unites all lands of Slavic Christianity under Russian leadership. However, such civilizational arguments, founded on nationalism and patriotism above all else, inevitably pose an oppositional relationship to other civilizations.

In this light, it appears that Presidents Trump and Putin share an essentially similar view of international relations based upon a highly competitive international system and an ideology that values both "America First" and "Russia First" in the implementation of their foreign policies. Thus, their similar world views can incorporate both a basis for positive relations within a world in which the national interests of the great powers must take priority over international co-operation to improve security or to advance shared values, while they still compete to protect and extend their "spheres of influence" in a contemporary game of *realpolitik*.

Furthermore, Putin has made no secret of his support for the presidency of Donald Trump in the US. At a session of Valdai Club in Sochi in 2018, Putin suggested that Trump's re-election in 2020 would free him to normalize relations with Russia and end US sanctions and other hostile behaviours, which motivates him to try to maintain contact with the US President, even if it fails to produce meaningful results in the short term. As Dmitri Trenin of the Moscow Carnegie Center writes: "To Putin, Trump represents a new departure in U.S. foreign policy. What Putin considers positive for Russia is the disruption Trump is creating for the global system that the United States has underwritten since the end of the Cold War. Trump is replacing universalism with a version of great-power politics that is not focused in promoting U.S.-favored values. To be sure, it is a policy of strength, but it is clearly preferable to the policy of values, since it rests on a transactional approach to international affairs and allows for compromise."[11] In short, Putin supports Trump precisely for his role in undermining international institutions and traditional alliance relationships that have been at the foundation of US foreign policy since 1945.

Implications for the OSCE

The analysis above suggests some rather dismal implications for the OSCE. No one would suggest that the OSCE has been a primary institutional framework for the conduct of foreign policy for either the United States or the Russian Federation since the end of the Cold War. In the case of the US, until

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10   Cf. Timothy Snyder, The Road to Unfreedom: Russia, Europe, America, New York 2018, pp. 63-66.

11   Dmitri Trenin, Why Putin Isn't Sweating the Midterms, *Politico Magazine*, 6 November 2018, at: https://www.politico.com/magazine/story/2018/11/06/why-putin-isnt-sweating-the-midterms-222224.

recently the primary emphasis was placed on NATO, but even support for NATO has declined since the arrival of the Trump administration in Washington. Similarly, over the past three decades, Russia has focused primarily on the recovery of its own economic and military strength, as well as establishing its influence in the lost republics from the Soviet period, that is in its "near abroad". It has also sought to build its relative strength by weakening its historic rivals in the West, sowing chaos and disorder and undermining confidence in democratic institutions, in part to compensate for its own loss of empire.

Throughout most of the post-Cold War period, the United States has maintained a low profile in the OSCE while contributing resources and some of its best diplomatic personnel, especially to the OSCE field operations. At the same time, it has consistently sought to keep the operating budget of the OSCE low, to limit the power of the Secretary General, and to avoid granting the OSCE any significant legal personality. It has consistently privileged its commitments to NATO and even to the UN over the OSCE. Under previous administrations, this was characterized by passive support without active initiation of new proposals. However, under the Trump administration, the OSCE has been marginalized even further, and it is unlikely that senior administration officials pay any serious attention to the activities in Vienna; it is doubtful that Trump would even know what the Organization is if asked about it. The Trump administration has also significantly diminished support for human rights and the rights of persons belonging to minorities as a fundamental principle of US foreign policy, thereby also implying reduced support for an important component of the OSCE *acquis* that focuses on these issues, as well as OSCE institutions such as the High Commissioner on National Minorities, the Office of Democratic Institutions and Human Rights, and the Representative on Freedom of the Media.

For the first time ever, the US has not sent an ambassador-level representative to the OSCE. Since August 2017, the US has been represented in Vienna by Harry Kamian, a 24-year veteran of the US Foreign Service. As a career diplomat, he fortunately represents a professional rather than political role in the US Mission to the OSCE. However, in contrast to ambassadors who are appointed by the president and confirmed by the Senate, his primary point of reference is to the mid-level bureaus in the State Department. Unlike politically appointed ambassadors, who often have personal connections to the President, his access to higher levels of decision-making in Washington, especially to the White House, is likely very limited. Furthermore, as a career diplomat, he has served in posts in multiple world regions, but the only OSCE participating State in which he has served in his career was Turkey. Therefore, he inevitably comes to this post with limited exposure to the history and traditions of the OSCE, and little deep knowledge of the many issues involving security co-operation in Europe. On one level, this may enable the OSCE to

escape some of the scorn directed by White House officials to other institutions, including the UN, NATO, and the EU, because the OSCE is far less visible to senior officials in Washington, especially to those in the White House. This enables the US Mission to conduct low-level "business as usual" in Vienna, but in the event of a crisis such as the one that occurred in Ukraine in early 2014, it is unlikely that Washington policy-makers would look to the OSCE to play a major role in managing the situation, or that the US Mission to the OSCE would be able to exert much influence on a US response.

Similarly, although Russia has not prevented the OSCE Special Monitoring Mission to Ukraine from operating in the country, it has shown little support for the role of the OSCE, including the effort to enforce the cease-fire provisions of the Minsk Agreements and to move towards a resolution of the conflict in the Donbas region of Ukraine. Nor have Russian officials expressed much interest in expanding OSCE-based arms control and confidence-building measures, especially in the regions where NATO and Russian forces confront one another directly in the Baltic and Black Sea regions. Just as Russia bypassed the OSCE by taking unilateral action in Crimea in 2014, so it is unlikely to make use of the OSCE mechanisms for conflict management in any future crises. Very much like the US, Russia asserts the supremacy of its sovereign right to act in its own security interests as it unilaterally defines them. Its nationalism, as promoted by its powerful leader, eschews dependence on supranational institutions to serve its security and foreign policy goals. Like the US under Trump, Putin's Russia also has little interest in advancing the OSCE agenda on human rights, freedom of the media, and the rights of persons belonging to minorities.

In conclusion, the CSCE/OSCE was founded largely as a normative institution designed to promote co-operative security, even among competing states, and after the end of the Cold War its institutional structures were strengthened to enable it to carry out these value-based functions more effectively in a more benign environment. Without sidelining national sovereignty altogether, the foundations of the OSCE, like all similar international institutions, require states to relinquish a little sovereignty in order to gain the security and prosperity that international co-operation can provide. By 2018, however, these values have largely disappeared in the ideas that dominate foreign policy decision-making in the United States and the Russian Federation. They have been replaced by a transactional set of relationships that seek agreements based on narrowly defined national interests. They see diplomacy as an activity between powerful heads of state, only minimally limited by their own policy-making elites and largely unconstrained by the complex networks of multilateral institutions that embody both collective values and shared expertise.

As a result, the OSCE likely faces some serious challenges over at least the next few years, and probably further into the future. It can no longer depend on the active support and co-operation of the two most powerful states that

participate in the OSCE, the US and Russia, as catalysts for new initiatives or even to maintain traditional co-operative policies. At times, both states may even become disruptors rather than supporters of a co-operative security order. As a result, the OSCE is likely to have to focus on maintaining "business as usual", trying to operate "below the radar screen" of the opponents of multi-lateralism and globalism in Washington and Moscow, as well as in an increasing number of European states. As in its early years, the OSCE is likely to have to depend on many smaller states, many of them formally neutral, that have long supported the CSCE/OSCE, such as Switzerland, Finland, Austria, reinforced by more powerful European states such as Germany and France, in order to survive through this period of renewed nationalism and hyper-realism. In the final analysis, the institution is very much worth preserving, and we can only hope that the OSCE region rediscovers the norms and values that inspired the Helsinki process before it is too late.

Wolfgang Zellner

Adapting to a Changed World: The CSCE/OSCE in 1990 and Today

The OSCE reform debates over the last twenty years have taken place mostly under the heading "*Strengthening the Effectiveness of the OSCE*". There were good reasons for this focus, since the organizational strength of the OSCE could never keep up with the challenges it faced. However, the debate has never got to the heart of the need for reform: changing political realities. As it was neither desirable nor possible to tackle the political conflicts, the debate was limited to organizational matters.

The political culture, focus and remit of international organizations (IOs) can only be understood in the context of their political environment and its fluctuations. The structure of an organization is shaped significantly in its formation phase. Such structures harden over time and may make any necessary adaptations more difficult. This is as true of the OSCE as any other IO.

This article is based on the observation that the OSCE was largely formed by the political situation at the start of the 1990s, but that today's political climate is fundamentally different. This produces a tension between the orientation of the Organization as it has developed historically, and the current challenges the Organization faces. The following will examine certain aspects of this tension.

The CSCE/OSCE as a Product of the Early 1990s

The CSCE/OSCE[1] was, to a large extent, shaped by the transformation phase in the Central and Eastern European states of the late 1980s and the early 1990s. At this time, the Euro-Atlantic space was still regarded as the centre of the world, the global supremacy of the USA had not yet been called into question, and commentators spoke of a "unipolar moment". With the Charter of Paris, all participating States recognized democracy, the rule of law, and the market economy as binding principles for coexistence and wanted to cooperate with one another and with the rest of the world on this basis:

> Therefore, we issue a call from Paris today to all the nations of the world. We stand ready to join with any and all States in common efforts to protect and advance the community of fundamental human values."[2]

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1   For the sake of simplicity, the following refers to the OSCE throughout.
2   Charter of Paris for a New Europe, Paris 1990, pp. 6-7, available at: https://www.osce.org/-mc/39516.

The prevailing mood at the time cannot be summed up better: the West uniting with the rest of the world on the basis of shared values. This included the general expectation that the democratic transformation in the post-Soviet space would quickly lead to sustainable success.

Unlike interest-based organizations, the OSCE has always been very norms-based. Building on the Helsinki Process, its normative *acquis* was developed within a few years, largely between 1990 and 1992, and then later differentiated, but barely expanded substantially. The normative *acquis* of the OSCE in terms of human rights, democracy, and the rule of law, but also a catalogue of minority rights – which has since never been surpassed – was already included in the Copenhagen Document of June 1990 and was thereby also adopted by the Soviet Union. The 1990 Charter of Paris and the Helsinki Summit Declaration of July 1992 raised these commitments to the highest political level, but not much new was added. After 1992, numerous new individual fields of responsibility were opened, including combating human trafficking, and tolerance and non-discrimination, but the core normative commitments were only slightly expanded as a result. One exception was the "Code of Conduct on Politico-Military Aspects of Security", which formulated and summarized the basic features of co-operative security policy on an international and domestic level at the end of 1994.[3]

A comparable development can be seen in the formation of the organizational structures of the OSCE. Initial approaches to this were already contained in the Charter of Paris, with a total of nine new permanent posts plus technical staff for the Secretariat, the Conflict Prevention Centre, and the Office for Free Elections, the predecessor of the Office for Democratic Institutions and Human Rights (ODIHR). A breakthrough in the development of the Organization's structure was achieved at the 1992 Helsinki Summit. Almost all of the structures that make up the Organization today – its field operations, the High Commissioner on National Minorities (HCNM), the ODIHR – were agreed there. However, the follow-up Summit in Budapest in 1994 brought hardly any innovations. While the Conference on Security and Co-operation in Europe was renamed the Organization for Security and Co-operation in Europe, this was done with the revealing note:

> 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."[4]

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3   OSCE, Forum for Security Co-operation, Code of Conduct on Politico-Military Aspects of Security, DOC.FSC/1/95, 3 December 1994/21 December 1994, available at: https:// www.osce.org/fsc/41355.
4   CSCE, Budapest Document 1994, Towards a Genuine Partnership in a New Era, corrected version of 21 December 1994, Budapest Decisions, p. 4, point 29.

After Budapest, the Organization continued to grow only in a qualitative sense, but not in a structural sense. The number of field operations rose to just under 20; the OSCE budget reached a high of some 200 million euros in 1998/1999 with the *Kosovo Verification Mission,* before it was reduced by means of a zero nominal growth policy to its current level of around 150 million euros, albeit with an additional 100 million euros annually from 2014 for the Special Monitoring Mission to Ukraine. This went hand in hand with a genuine inflation of the OSCE's areas of responsibility, with the consequence that the Secretariat has only one or two experts on certain issues.

The Persistence of Informality

For an international organization of its size – a small to medium-sized IO, albeit with an inclusive membership and comprehensive agenda – the OSCE continues, to a remarkable extent, to adhere to informal structures and working methods. In this respect, the "Organization" still retains many of the structural features and ways of working of the "Conference". The reason for this is essentially that some member states, which are called participating States in the OSCE, but in particular the USA, have so far refused to grant the OSCE the status of an entity possessing international legal personality, and the diplomatic immunities and privileges for its staff that go with this. Superficially, this was justified by stating that the OSCE must remain "flexible and dynamic". The real reason, however, was to prevent the OSCE from developing into a competitor for NATO in the early 1990s. Although this option became obsolete years ago, the USA has never deviated from its position, even though the lack of diplomatic immunities creates substantial additional work for the OSCE. For every field operation, a new *Memorandum of Understanding* must be negotiated with the host state for the protection of staff amongst other things, and this often takes months.

The dominance of informality is also evident in the shape of the executive structures of the OSCE, including the Secretary General and the Secretariat as well as the OSCE Chairperson-in-Office. First, the executive structures are weak overall – the legal and political position of the Secretary General is in no way comparable to that of other Secretary Generals such as those of NATO or the UN. In addition, the Secretariat only employs sufficient staff to cover the minimum requirements, and sometimes not even this. Furthermore, there are often weak Chairmanships with limited possibilities, either resulting from the constrained capacities of a small state, or the weak interests of a larger state. Truly strong Chairmanships such as Switzerland in 2014 or Germany in 2016 are a rarity.

In addition to this, the fields of competency of the Chairperson-in-Office and the Secretary General overlap. The Secretary General is still defined as "chief administrative officer", but in practice has for a long time taken on political tasks. In general, the post-holder travels more extensively around the

participating States than the Chairperson-in-Office and speaks with foreign ministers and presidents. In addition, the Secretary General holds their own informal discourse forum in the form of the so-called "Security Days" – high-level discussion events, attended by a few hundred participants from capital cities and from the OSCE in Vienna.

Conversely, it is not only weak Chairmanship that rely on the Secretariat to perform a large part of the work involved. This includes the organization of events and travel, drawing up all kinds of documents, writing speeches, and much more besides. This corresponds with the size of the staff: While the Secretariat has just under 400 staff, the Chairmanship Team (capital plus Vienna) seldom has more than 45-50 people. It was therefore indeed remarkable that the Swiss Chairmanship itself composed around a hundred press statements around the Ukraine conflict in 2014. Overlapping competencies and the differing ambitions of various Chairmanship states mean that the question of "who does what" has to be newly negotiated from year to year, which is of no benefit to the continuing effectiveness of the executive structures.

Looked at rationally, the position of the Secretary General should be strengthened. Many participating States, however, guard their influence jealously. For some, a weaker OSCE is more convenient than a stronger one.

Political Changes in the OSCE Area and Beyond

In the just under 30 years since 1990, the political environment globally and in Europe has developed to a degree and in directions which no one would have predicted back then. The states in the post-Soviet region, led by authoritarian leaders, have consolidated. In addition, a strong populist and to some extent also authoritarian trend can be observed in the "West", which itself is becoming increasingly difficult to determine, as a political concept and field of action. Finally, all of these trends are embedded in a rapid process of global hegemonic change. All this leads to instabilities of all kinds and serious deficits in global governance.

Consolidation of Authoritarian States

The expectation that the post-communist states would democratize quickly and sustainably proved completely erroneous, just like many other things that were predicted by a US-dominated political science – which was largely copied here too. On the contrary, the authoritarian regimes in the "East" of the continent remain firmly in the saddle, and it is impossible to predict whether they will undergo a democratic transformation. However, it must not be ignored that these regimes are very varied in the way they manifest, their methods of rule, and succession regulations. On this issue too, political scientists' predictions

were incorrect in many cases, for example, regarding the expectation that regulating succession in Central Asia would present a large, if not unsolvable problem. The cases of Turkmenistan and Uzbekistan reveal otherwise.

Common to these states as a group is that, contrary to the aims of the Moscow Document of 1991, they have successfully rejected interference in their internal affairs, and in addition, have brought the OSCE decision-making within the human dimension to a standstill and seriously impacted the OSCE's activities in these countries. In short, the authoritarian regimes in the OSCE area feel relatively secure.

This allows them to inquire about certain elements of the rule of law, and this is precisely what can be observed. Recently, government authorities from states such as Kazakhstan, Uzbekistan, and Belarus have been approaching the OSCE and asking for expertise in the field of the rule of law to such an extent that they occasionally exceed the advisory capacity of the relevant OSCE bodies. It is worth considering the reasons for this: On the one hand, collaboration with the OSCE always offers the possibility for the transfer of a certain legitimacy. On the other, word may have got about in one state or another that, in the current global competition situation, at least some elements of the rule of law are necessary to be able to keep up. Finally, the OSCE itself has also become more co-operative and has abandoned much of the missionary image for which it was known in the 1990s. For the Central Asian states, the Chinese influence has also become so dominant that they are looking for a counterbalance. Ultimately, they are firmly in the saddle, controlling the situation, and can afford to adopt a certain level of expertise in the human dimension without fearing immediate "colour revolutions".

Populist and Authoritarian Tendencies in the West

From the Second World War until into the 2000s, the concept of the "West" was the centre of political, economic, and military thought and implicitly represented the framework for the normative-political orientation of the OSCE. What still remains of the guiding concept of the "West" is up for debate, but it should be beyond dispute that the "West", in political-operational and normative terms, has become much more contradictory than ever before.

On an economic level, Trump's waves of customs and sanctions have turned the EU and the USA into opponents, to some extent even with a note of hostility. They remain united in a military sense, even if NATO has become much more competitive. In a normative sense, the image of the USA has already suffered since the senseless wars in Afghanistan and Iraq. The current nationalist-populist outbursts of the US President and his administration are the icing on the cake. This has relevance for the OSCE, as the US has thus far been one of the most important guarantors of the human dimension (amongst other aspects) – a function which it cannot credibly continue to fulfil.

The EU is experiencing an open-ended existential crisis. For decades, it has not been able to sufficiently mitigate the economic and social split between the northern and southern EU states, which in fact intensified due to the economic crisis in 2008. Added to this are centrifugal tendencies, not only Brexit, and secessionist efforts in several member states. One new element is that the nationalist-populist wave from the edges has washed into the centre. In the "East", this includes the governments of Poland and Hungary, which openly threaten the rule of law, division of powers, and academic freedom and have thereby provoked the EU to start proceedings. In the "West", an alliance of left and right-wing populists has, for the first time in a large EU state, taken over the government in Italy, and others could follow. But even in places where right-wing populists remain a minority, as in Germany, their influence is unmistakable. This was illustrated by the refugee policy campaign of the Christian Social Union in Bavaria, CSU) in autumn 2018, which brought the governing "grand coalition" to the limits of its capacity to act. In addition, the EU states appear unable to unite on concrete policies around important issues, such as finance or refugees. However, it must not be overlooked that the same states are indeed able to reach a consensus on other key issues, such as their position on Brexit or Italy's debt budget.

These processes have a significant influence on the OSCE's scope of action, both externally (e.g. initiatives involving third parties or participating States) and internally (e.g. decision-making capacities). On the one hand, the normative confusion inside the EU delegitimizes the normative *acquis* of the OSCE. On the other, there has been a significant drop in the attractiveness and cohesion of the European Union, which in many cases provided the political basis for implementing OSCE commitments in EU candidate countries in the 1990s.

A Change in Global Hegemony

In the two generations from the end of the Second World War to the end of the twentieth century, the USA took on a global hegemonic position which was only challenged by the Soviet Union, but was never seriously questioned, and, after the collapse of real socialism, appeared to offer the short-lived illusion of a "unipolar moment". However, the illusion was shattered all the more abruptly a short time later. In its hegemonic phase, the USA had not only engaged in bloody wars: It had also made large investments in global public goods that significantly contributed to making the world governable, and keeping it that way. Examples of this are the World Trade Organization (WTO) and the Non-Proliferation Treaty (NPT), or indeed the whole nuclear arms control regime. The OSCE, too, owes its current form in a large part to the work of the USA.

Apparently, the USA is no longer able or willing to fulfil this hegemonic regulatory function, at least not to the extent it has thus far. On the one hand, it has undermined its own economic and moral-political position with a series

of senseless and essentially failed wars. On the other hand, the Trump administration has begun to withdraw from taking an active role in a number of global and regional regimes, as had its predecessors, albeit in a less extreme form. In contrast to the Obama government, however, the Trump administration has gone about actively destroying multilateral structures and providers of global public goods. The US withdrawal from the Paris Agreement on climate change, the partly active attempts to bring down the WTO, and the destruction of the nuclear arms control regime have, in a historically short time, led to a substantial loss in global governability. Other states have so far been only partially willing and in the position to compensate for this loss. China, which itself has a strongly nationalist orientation, played a globally relevant, positive role in the economic crisis of 2008 and also contributed to saving the Paris Agreement, but is, on the whole, reluctant to play an active role in global governance in the long term. Due to its internal turmoil, the EU does not currently seem to be in a position to make pertinent contributions. The result is a shortage of global public goods, a reduction in global governance, more conflict, instability, and "turbulence" (James N. Rosenau) of all kinds.

These processes are taking place against the backdrop of a rapid hegemonic change in the relative positions of the USA and China, which is characterized by a complex relationship between co-operation and conflict. On the one hand, the USA and China are so closely linked to one another due to their deep interdependences that both sides would be seriously affected by the breakdown of these interdependencies. However, what is new about the current situation is, according to the German Federal President Frank-Walter Steinmeier on a visit to China in December 2018, that "America wants conflict and China feels so strong that it will no longer avoid conflict".[5] Nothing will have a greater impact on the world than the development of the China-US relationship somewhere between co-operation and conflict, and nothing is as uncertain as the direction this relationship will take.

However, it is clear that the global centre of power has shifted to Asia and will continue to shift further, and that the exceptional 200-year boom in Europe has come to an end. Europe is no longer at the centre, but rather on the periphery, even though this may contradict the political sentiment we have inherited. Currently, seven per cent of the world's population live in the EU; by 2030 this will be around five per cent. If the EU is not in a position to act as one (and there is not currently much evidence that it is) its individual parts – even the larger ones such as Germany or France – will no longer play a role in world politics in the future. Contrary to the fantasies in Brussels, the EU will, even in the best case, no longer be a central global actor in most fields of action. Others, particularly China, will instead expand into the governance area of the

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5   Cited in: Friederike Böge, Ein Schlusstrich unter eine Fehleinschätzung. Die China-Reise von Bundespräsident Steinmeier ist auch eine Begegnung mit der Vergangenheit [A final stroke under a misjudgement. President Steinmeier's trip to China is also an encounter with the past.], *Frankfurter Allgemeine Zeitung*, 10 December 2018, p. 3.

EU with even fewer inhibitions. The 16+1 format of China with the (South-) Eastern European governments and the surge in the influence of China in Central Asia are just the start.

All of these large-scale political processes and changes have a significant direct and indirect influence on the OSCE, both as forces that act on the Organization, but also in the development of new options for action.

Scope and Options for Action in the OSCE

The following will discuss a few examples of the ways in which the changes to the regional and global political conditions affect the scope and courses of options for action, both within and for the OSCE. The conclusion that the political scope within and for the OSCE has become smaller is trivial. Even such an active and comparatively influential country as Germany left little in the way of legacy besides the so-called Structured Dialogue when it held the Chairmanship in 2016. Less trivial, however, is the question as to which possibilities and challenges apply to which fields of action and where the OSCE, as in the case of the Special Monitoring Mission to Ukraine, is even the only international organization which can offer possible courses of action. Part of this evaluation consists also in distinguishing where political scope exists, and if and how these can be used. Overall, it is important to recognize that regardless of the fact that the overall scope of action of the Organization is becoming smaller, in individual fields and certain regions there will be new, to some extent unexpected courses of action to be taken.

The OSCE as a Norms-Based Organization

The OSCE is a deeply norms-based organization, whose orientation cannot be changed to suit a primarily interests-based political approach. In other organizations, including the EU and NATO, this may work to some extent; in relation to some states, for example China, it is indispensable. Such a "pragmatic" change of policy would, however, destroy the OSCE. First, this lack of flexibility represents a significant disadvantage. Ever fewer participating States must struggle to defend OSCE norms and commitments against open and covert attacks from states in the East and West. This can, however, be also understood as political investment in the future, supported by the conviction that sustained co-operation between states, which is essential to solve global and other problems, will always require a sufficiently normative basis. If this conviction is correct, it is also correct that high-quality normative platforms such as the OSCE should be preserved for a future when they will be needed. Therefore, every attempt to relativize norms should be countered, whichever point on the political compass it comes from. This does not rule out open dia-

logue about the meaning of specific norms, quite the contrary. However, abandoning the normative *acquis* of the OSCE is not up for debate. At the same time, under the given circumstances, a declaratory agreement to certain normative commitments should not be scoffed at, however relative it may be in its substance.

Coalition of the Willing in the Human Dimension

These considerations are notably relevant for the human dimension of the OSCE. This is the target of fierce attacks. For more than a decade it has not been possible to adopt decisions in the core areas of the human dimension. The tools of the human dimension, in particular the *Human Dimension Implementation Meeting* (HDIM), are under considerable pressure and their collapse can no longer be ruled out. In this situation, it is vital that the supporters of the human dimension come closer together in a coalition of the willing and drive forward the ongoing functioning of the HDIM, but also its necessary reform at a higher level and with more courage.

Parallel to the attacks on the human dimension and the HDIM, a counter movement can be observed whereby states ruled by authoritarian regimes request considerable expertise on certain aspects of the human dimension, in particular the rule of law. One of the tasks of a coalition of the willing would be to ensure that these requests for advice could be met.

Preparation for a Revival of the Politico-Military Dimension

The situation in the politico-military dimension is characterized by the contradiction that, on the one hand, the sides have largely given up the approaches to co-operative security policy of recent decades and are re-establishing structures of conventional deterrence with all its inherent risks. On the other hand, a discussion around arms control policy on containing these risks, in particular in the contact zones between Russia and NATO, has hardly begun.[6]

In the debates in the politico-military dimension, there has been a kind of thrust reversal. While years ago, Russia called for more activities in this dimension (and fewer in the human dimension), now the Russian Federation is rejecting the initiatives of the Western and neutral states to reform the Vienna Document 2011 (VD 11). While the Western states prefer moderate confidence-building measures, Russia may welcome a comprehensive approach – if any, which remains unclear. This is, however, rejected by the NATO states, indicating that under the current circumstances, "business as usual" with Russia is not possible, as if a reform of the VD 11 were something other than this. Thus, however, each approach rules out the other, and NATO is passing up the opportunity to seriously put Russia to the test, while it remains

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6   Cf. Wolfgang Zellner (Co-ordinator) et al., Reducing the Risks of Conventional Deterrence in Europe. Arms Control in the NATO-Russia Contact Zones, Vienna 2018.

divided on the question as to whether they should take a proactive stance on arms control. While the 22 members of the Germany-led group of like-minded countries on conventional arms control would tend to agree, other influential states such as the USA, Canada, Poland, the Baltic states and Norway are strictly opposed to it.

The Structured Dialogue – carried out since spring 2017 on the basis of a resolution of the Hamburg Meeting of the OSCE Ministerial Council in 2016[7] in the format of OSCE Vienna plus capitals – represents a certain contradiction to this. In the context of the Structured Dialogue, discussions have covered topics such as threat perception, military doctrine, challenges to a norms-based European security order, and the so-called "mapping exercise", which should use available data to come to an understanding of the existing military power relations. Firstly, the Structured Dialogue is important because it is currently the only systematic politico-military bridge of dialogue between the NATO states, the neutral states, and Russia and its allies. Secondly, this dialogue currently offers the only platform to discuss the dangers of reviving the structures of conventional deterrence – more manoeuvres closer to borders; modernization and development of armed forces; the military postures of the sides moving ever closer together; and overall the entry into a new arms race.

In this situation, it is important to maintain a differentiated dialogue that is not reduced to reciprocal recrimination to develop new concepts for arms control that address the current dangers, and to agree on initial practical steps.

The New Meaning of the Economic and Environmental Dimension

The claim that the economic and environmental dimension is the "step-child" of the OSCE has been widespread for decades. Less prominently discussed is the fact that this dimension is currently perhaps the largest and, at the same time, least used resource of the Organization, and the reasons for this. Three factors in particular have substantially increased the relevance of the economic and environmental dimension for security policy in the last one or two decades.

First, it can no longer be assumed that economic co-operation and integration will automatically foster political integration and stability, as has been the standard narrative (not only) in OSCE documents right up until the recent past. Since the start of the Ukraine conflict at the latest, we have known that weak and asymmetrical interdependence – which is how the economic relations between the West and Russia must largely be understood – can lead to conflict. Competition for integration and reciprocal sanctions – in short, economic methods – are being used as political weapons.

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7   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, available at: https://www.osce.org/chairmanship/289496.

Second, it is slowly becoming clear that the global economic crisis of 2008 was perhaps the most significant cause of the dramatic rise in nationalist, populist, and xenophobic trends in almost all European countries. The crisis led to a huge increase in anxiety about the future in large swathes of the population, while at the same time undermining both the legitimacy of the political leaderships and the functioning of the political institutions along with it. The consequences of this populist groundswell in Europe for security policy are still difficult to predict.

Third, in recent years China has become very active in various regions of the OSCE area, not only in Central Asia, but also in (South-)Eastern Europe and the core countries of Western Europe. This is of particular significance because China is an emerging hegemonic power, whose normative basis and governance structures are vastly different from those in the OSCE area. This does not only apply to Western Europe, but also to Russia and even Central Asia. Therefore, considering how these fundamentally different governance approaches will be compatible inside the OSCE area is an important issue for security policy.

All this could be discussed under the umbrella of the concept of "economic connectivity" that was introduced into the OSCE during the Swiss Chairmanship in 2014. Unfortunately, however, the debate around this concept has almost come to a standstill, and, in particular, the details of what economic connectivity means in concrete terms for the work of the OSCE have not been worked out sufficiently.

Therefore, it is about time that a group of interested states came together to break down the concept of economic connectivity to the political-operational level. There is no shortage of good individual suggestions – for years, Kazakhstan has been suggesting setting up an OSCE regional centre for economic and environmental issues in Astana. With China's participation, such a centre could become a laboratory for examining the conflict potential and the interplay of different governance structures and styles in the Eurasian space. The OSCE could pioneer this work.

Co-operation with China

The rise of China and its activities within the OSCE area are not adequately recognized by the OSCE and its participating States. China appears not only as an economic and political actor in the OSCE area, but has also occupied positions that have implications for security policy. For example, China is not only discussing questions of religious policy with the government of Tajikistan, but is also engaged in border management there. In Afghanistan too, China has been operating in various diplomatic formats for some time. And for (South-)Eastern Europe, China has started its own discussion and decision forum within the EU governance area, in the 16+1 format (meetings between China and 16 (South-)Eastern European states up to the level of a summit). In

individual states such as Greece, the influence of China is strong enough to block resolutions that are critical of China in the European Council. In short, China is becoming increasingly visible in the OSCE area, but is hardly acknowledged by the Organization.

In the years following 2003, China showed a certain interest in the OSCE for some time as well as an increased interest in the EU. In the one and a half decades since then, the power relations have not only shifted significantly in favour of China, but in parallel, the performance of both European IOs has deteriorated. Therefore, China prefers bilateral contacts to EU contacts, even if, unlike Russia, it is not explicitly attempting to weaken the EU. China has not actively engaged with the OSCE for at least ten years.

The OSCE should, however, involve China wherever and to the greatest extent possible. If China is invited, it accepts these invitations, as in the case of the economic conference of the German OSCE Chairmanship in May 2016, in which a Chinese delegation took part under the leadership of a deputy foreign minister. It would not be feasible for China to take on the status of an OSCE Partner for Co-operation, however, firstly, because this would require the adoption of the OSCE *acquis* and secondly, because China would probably not be interested. An alternative would be flexibly involving China in OSCE activities, by, for example, issuing invitations to conferences, participation in a regional economic and environmental office in Kazakhstan, and maintaining more intensive contacts between the OSCE and the Shanghai Cooperation Organisation. It would be necessary for a group of participating States to take the initiative.

Conflicts and Problems in "Western" Participating States

OSCE commitments apply to all participating States. In spite of this, many states see the OSCE as, first and foremost, an instrument of the West to influence the political East. While this business model might have been partly justified in the early 1990s given the conflicts and problems in the then transition phase, for the last 20 years this has been under criticism and is now, to a large extent, politically obsolete. The reason for this is, firstly, the fact that the transition period is now history, and secondly, the fact that today the OSCE commitments are grossly and continuously ignored in Western states too, whether it be issues of voter registration in the USA, academic freedom in Hungary, or the rule of law in Poland, the list could be extended. Therefore, the legitimacy of the OSCE stands and falls on the fact that its commitments are applied to all states in the same way. This still cannot be said to be the case today. Problems in the "West" are visibly on the agendas of only a few of the OSCE institutions. The most prominent is that of the Representative on Freedom of the Media, who brings to light the relevant problems in the East, as well as in the West. The problem is also often raised in the speeches of the

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High Commissioner on National Minorities. Otherwise, however, the Organization still continues to act on the East from the West. The OSCE will need to change this if it wants to continue to be relevant in the future.

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On the surface, the current situation may not be the best in which to talk about a (partial) reorientation of an international organization like the OSCE. However, it is precisely the present political crisis that makes it necessary, and provides the opportunity to start.

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Florian Raunig/Julie Peer

Chairing the OSCE

Conditions – Challenges – Conclusions. The Experience of the 2017 Austrian OSCE Chairmanship

Conditions

When Austria took over the Chairmanship of the Organization for Security and Co-operation in Europe (OSCE) on 1 January 2017, the 57 OSCE participating States were facing a multitude of serious challenges to peace and security, including conflicts and crises such as the one in and around Ukraine, violent extremism and radicalization that lead to terrorism (VERLT), and an increasing lack of trust between states. Relations between the participating States had been severely damaged by serious violations of the OSCE's principles and values in recent years, as well as a failure to implement agreements in good faith. In parallel, fear and mistrust had soared, a situation exacerbated by a loss of trust in the leaders and organizations responsible for ensuring security and stability. In addition, there were a number of critical, unresolved institutional issues within the OSCE.

This precarious situation has led to an increasing emphasis on dialogue between states. Open, honest and constructive dialogue is the key to improving the security situation in the Euro-Atlantic and Eurasian area, leading to mutual understanding and facilitating the search for solutions to common problems. Promoting and enabling this kind of dialogue was a centrepiece of the Austrian Chairmanship. In addition, the Organization provides the necessary normative, institutional, and operational framework to translate the results into concrete action on the ground.

It is widely recognized that this kind of meaningful dialogue is essential for improving our common security. However, this apparently overwhelming consensus on its vital importance is belied and undermined by the paucity of real dialogue in recent years. It is tempting to say there is more dialogue about dialogue than actual dialogue.

How has this situation come about? It is partly due to the politically poisoned atmosphere, which impedes not only the participating States' willingness and ability to listen, but also their capacity to engage in empathic interaction. On a more tangible level, the unresolved conflicts – so-called "protracted" conflicts, as well as the crisis in and around Ukraine – are impediments to dialogue. Furthermore, an insistence on the pre-eminence of one's own priorities while showing a profound lack of interest in the priorities of others

Note: The views contained in this article are the personal thoughts of the authors.

has promoted a sense of security as a competition with winners and losers, rather than as a common responsibility.

The OSCE is an indispensable forum to address challenges such as these and to restore trust. Created in a time of conflict and upheaval, the OSCE was designed to facilitate reconciliation between East and West. It counteracted the prevailing ideological, zero-sum thinking and helped the participating States move towards a more secure, peaceful and prosperous future, for the benefit of all.

The OSCE area needs that "Spirit of Helsinki" more than ever, given the diverging perceptions and priorities of the participating States, which emanate from and are partially driven by their vastly differing geopolitical contexts and economic and social situations.

Challenges

Rebuilding Trust

During its Chairmanship, Austria focused on fostering open and constructive dialogue in all three dimensions, addressing disagreements and differing perceptions and seeking compromise solutions, in order to improve trust amongst the participating States.

Based on the mandate provided in the 2016 Declaration on the Twentieth Anniversary of the OSCE Framework for Arms Control, Austria, with the support of Germany, launched a "Structured Dialogue" on the current and future security challenges in the OSCE area to help overcome the climate of confrontation. A newly-established Informal Working Group (IWG) held high-level meetings, and there were focused discussions at the ministerial level at the informal meeting in Mauerbach and the Ministerial Council in Vienna. These fostered a better common understanding of how to reverse negative trends in the arms control architecture, work towards an environment conducive to reinvigorating conventional arms control and Confidence- and Security-Building Measures (CSBMs), and revitalize co-operative security in Europe. Substantial and relatively constructive discussions contributed to higher awareness of the importance of this dialogue. It is clear that all participating States consider this on-going, open, and sincere process of dialogue an important achievement and a significant contribution to restoring trust.

The Austrian Chairmanship also invested substantial effort in issues such as economic connectivity, greening the economy, disaster risk reduction, and cyber security, enabling all participating States to deepen co-operation. Progress made in these areas aimed to foster a spirit of openness, transparency, and inclusiveness, to act as a catalyst for further joint work, to promote areas of potential compromise, and to seek consensus.

Austria also promoted inclusive and transparent discussions at both expert and political levels on topics in the human dimension, exploring ways to resolve long-standing disagreements between participating States. However, the rising intensity of the discord, as well as new areas of dispute, led to very difficult consultations. The Austrian Chairmanship expended significant time and energy to ensure that regular human dimension events, most importantly the annual Human Dimension Implementation Meeting (HDIM), could take place. However, despite improvements to the atmosphere in human dimension meetings and discussions, pressure on the mandate and budgets of the OSCE Institutions continues to increase. In addition, participating States continue to disagree as to how to regulate civil society access to human dimension events. This discussion led to the streamlining of accession procedures for civil society, without limiting the scope or nature of access previously agreed upon by the participating States. In November 2017, the Chairmanship, with the support of the Swiss Delegation, subsequently established an open-ended informal reflection process on the participation of civil society in OSCE events.

The informal ministerial meeting in Mauerbach in July 2017 was another example of the importance Austria attaches to real dialogue. Discussions in Mauerbach focused not only on high-priority security issues such as the crisis in and around Ukraine, radicalization and structured dialogue, but also on issues critical to the functioning of the Organization, including the budget and appointments to senior OSCE positions. The Chairmanship expressed regret that the crisis of confidence was affecting not only key political issues, but also matters within the Organization, to the detriment of its ability to function. Austria emphasized the need to compromise, for the good of the Organization and the participating States. In particular, Austria criticized the protracted negotiations on the OSCE's 2017 budget and the delays in achieving consensus on the four top positions in the Organization, which left the Institutions without leadership for an extended period of time, particularly the Office of the High Commissioner on National Minorities (HCNM). As a result of the informal discussions among ministers in Mauerbach, the OSCE participating States were finally able to come to an agreement on all four senior appointments.

Dialogue was also a main theme of the Ministerial Council in Vienna in December. The presence and active participation of a large number of ministers in the plenary sessions and approximately 100 bilateral meetings, as well as in the 16 thematic side events, demonstrated the interest and willingness of the participating States to engage in intensive dialogue.

These concentrated efforts throughout 2017 helped to improve relations between the participating States and created a more positive atmosphere within the Organization. However, it is clear that disagreements persist, with some participating States willing to block consensus on issues that they believe to be of national importance. In particular, there is a disturbing tendency to import

conflict-related disagreements into unrelated areas of OSCE work, to the detriment of the activities and functioning of the Organization, as well as to the overall security situation in the OSCE region.

Defusing Conflicts

Violent conflicts continue to cause much suffering, displacement, and destruction in parts of the OSCE region. The impact on the affected population has always been of great concern to Austria. From the first days of its Chairmanship, Austria underlined the importance of conflict and crisis management, as well as humanitarian protection, with the Chairperson-in-Office (CiO), Austrian Federal Minister for Europe, Integration, and Foreign Affairs Sebastian Kurz, making early visits to conflict-affected areas, including to Georgia, Moldova, and Ukraine.

The Chairmanship brokered an agreement in March 2017 on a timely renewal of the mandate of the OSCE Special Monitoring Mission (SMM) to Ukraine and the OSCE Observer Mission at the Russian Checkpoints Gukovo and Donetsk, including the important decision to strengthen the SMM through a substantial increase in its budget to allow for more monitors, increased observation activities, and improved technical equipment to enable around the clock monitoring. This was a decision of crucial importance for the OSCE and the SMM's role in managing the crisis. It has allowed the Mission to better monitor the situation on the ground, while at the same time taking proper measures to ensure the safety and security of SMM staff.

On 23 April, an armoured OSCE vehicle was heavily damaged in an explosion while on a routine patrol in Luhansk in non-government-controlled territory, killing one staff member and injuring two others. The Chairmanship instructed the OSCE Secretary General to initiate an independent forensic post-blast investigation. The Independent Forensic Investigation (IFI) team assembled and deployed by the International Humanitarian Fact-Finding Commission at the request of the OSCE concluded its report in September 2017. The IFI found that the SMM was most likely not the intended target of the mine. In parallel, an internal investigation was conducted by the OSCE which led to a number of recommendations to improve operational planning and security measures for patrols. The Chairmanship subsequently tasked the SMM Chief Monitor with drafting and implementing a response plan based on the results of the two reports.

The Austrian Chairmanship and the CiO personally placed great emphasis on improving the humanitarian situation in crisis and conflict areas. It was a recurrent theme in the CiO's high-level meetings and negotiations throughout the Chairmanship. In particular, he put special emphasis on the humanitarian situation in eastern Ukraine. In late August, the CiO published an article drawing attention to the acute environmental threats to security in Donbas due to the shelling and destruction of industrial complexes, chemical

factories, water treatment plants, and coal mines, as well as the accompanying risks to the population posed by repeated loss of water, electricity, and heating. Under the auspices of the Trilateral Contact Group (TCG), bringing together senior representatives of Ukraine, Russia, and the OSCE under the Austrian Chairmanship, the sides reached an agreement on creating limited safety zones near selected installations. Austria kept developments and challenges in the crisis high on the Organization's agenda, organizing a number of events throughout the year with Martin Sajdik, Special Representative of the CiO in Ukraine and in the TCG, and key SMM staff and pursuing a Ministerial Council decision on the crisis in and around Ukraine.

With regard to the humanitarian situation in the aftermath of the 2008 war in Georgia, the Chairmanship engaged in high-level discussions with the authorities in Tbilisi and supported an expert workshop on environmental challenges in the eastern Black Sea region. This workshop had a dual purpose: first, to prevent ecological damage in the region, and second, to build confidence between the sides in order to facilitate the peaceful settlement of the conflict.

In addition, the CiO visited a camp for internally displaced persons and addressed the participants of an Incident Prevention and Response Mechanism (IPRM) meeting in Ergneti, further raising awareness of the humanitarian situation of the local population. He underlined the Chairmanship's commitment to prioritizing efforts to resolve the conflict and to strengthening dialogue and confidence-building measures.

Regarding the Transdniestrian settlement process, the Chairmanship used the expert working groups to find technical solutions for core issues of common concern. This approach led to progress on the freedom of movement for people, goods, and services which was achieved by the ground-breaking decision to open the bridge at Gura Bîcului-Bychok for civilian traffic. The opening of this bridge in November 2017 created a new momentum and led to a formal meeting in the 5+2 format in Vienna on 27-28 November. In close cooperation with the OSCE Mission to Moldova and other 5+2 partners, Austria was able to put a number of complex topics back on the agenda for discussion and establish a new, active pace at all levels of the negotiation process. These historic agreements created a new dynamic in the negotiations, as well as tangible improvements in the lives of the local population on both sides. It is important to continue with this results-oriented approach, which was confirmed in a consensus declaration at the Ministerial Council in Vienna.

The situation regarding Nagorno-Karabakh remained tense in 2017, with disagreements between the sides having a negative impact on different aspects of the OSCE's work, most notably the operation of the OSCE Office in Yerevan. Despite the concerted efforts of the Austrian Chairmanship, including interventions by the CiO and the former Federal President of Austria, Heinz Fischer, it was impossible to reach consensus on the renewal of the mandate of the Office in Yerevan. The mission therefore closed in August 2017.

Preventing and Countering Terrorism and VERLT

In 2016, terrorist attacks in OSCE participating States caused more than a thousand deaths. Given the significant threat posed to all participating States by violent extremism and radicalization that lead to terrorism (VERLT), for the first time, the Chairmanship appointed an OSCE Special Representative on Countering Radicalization and Violent Extremism, Professor Peter Neumann of King's College, London. Austria had two goals in mind: first, to raise the profile of this issue within the Organization; and second, to better harness the OSCE's capabilities to combat this phenomenon.

The Chairmanship furthermore organized a series of regional workshops with young experts in South-Eastern Europe, Central Asia, the Black Sea region, and Western Europe, as well as the Mediterranean region, on addressing this challenge. Austria also brought together more than 500 participants for a major counter-terrorism conference in May, and engaged foreign ministers from across the OSCE area in a substantive discussion on this issue. This followed a Mediterranean Conference in Vienna in October 2016, held under the Austrian Chairmanship of the Mediterranean Partners Group and attended by high-ranking officials, which dealt with the issues of radicalization and migration from a youth perspective.

On the basis of these and other discussions, the Chairmanship's Special Representative prepared recommendations and a compilation of best-practice models and lessons learned in the OSCE region. The study will assist states in effectively combating this phenomenon and strengthening the OSCE as a networking hub, also by capitalizing on the OSCE's local presence in strategically important regions such as South-Eastern Europe and Central Asia. Implementing these proposals will strengthen the OSCE's capabilities and enable the Organization to make a more effective contribution to countering VERLT in its participating States. With Austrian support, the OSCE is now developing this compilation into a series of regional handbooks to assist participating States in countering violent radicalization.

Strengthening the Organization

Throughout its Chairmanship, Austria engaged intensively with OSCE field missions and their respective host countries to ensure they felt a strong sense of ownership of the missions' work, with a focus on impact and results in support of agreed reform priorities.

One of the first challenges Austria faced in this regard was the necessity to achieve consensus on the outstanding renewal of the mandates of five field operations. At the request of Kyrgyzstan and Tajikistan, with the assistance of a Special Envoy, the Austrian Chairmanship conducted in-depth negotiations on the adaptation and renewal of the mandates of their two field operations, brokering agreements to transform them into the Programme Office in Bishkek

and the Programme Office in Dushanbe. Two additional mandates were un-blocked as a result of discussions with the host countries and other partici-pating States. Unfortunately, no consensus could be found on renewing the mandate of the Office in Yerevan. A new project-based co-operation plan was subsequently developed between the OSCE and Armenia.

The OSCE's response to the political crisis in the former Yugoslav Republic of Macedonia (FYROM) in April, under the guidance and with the active involvement and support of the Chairmanship, demonstrated the Organ-ization's ability to respond quickly and effectively to evolving situations and to contribute positively, in a comprehensive, co-ordinated manner, to assist a participating State in defusing tensions and moving towards the long-term resolution of underlying challenges.

When Austria took over the Chairmanship on 1 January 2017, it was faced with several interlinked operational challenges, namely the need to adopt a budget for the Organization for 2017, approve new scales of contribution, and appoint new leadership of the Secretariat and Institutions.

The Chairmanship therefore had to overcome numerous political obstacles to ensure that the Organization has the necessary means to carry out its mandate.

Facilitating consensus on the annual budget of the Organization has become an exhausting exercise, repeated every year with the same difficulties, absorbing enormous amounts of the time and energy of the Chairmanship and the participating States – resources that would be much better invested in furthering the Organization's programmatic activities. This perpetual struggle has a negative impact on the effective functioning of the whole Organization, particularly when the budget is not adopted on time, which is now the norm rather than the exception. Budget negotiations lasted a full nine months under the Austrian Chairmanship, and the 2017 budget was not adopted until 1 June 2017. This significant delay led to uncertainties in planning and implementing programmes and activities in all OSCE executive structures. Moreover, the continued trend of adopting strict zero-nominal growth budgets has begun to negatively affect the substance of the Organization. This situation is becoming more acute with time. The same is true for the discussions surrounding the new scale of contributions to the Organization. Despite the concerted efforts of the Austrian Chair of the Informal Working Group on Scales, no consensus could be reached on a decision by the 31 December 2017 deadline. Unfortunately, the participating States have not demonstrated a willingness to make the com-promises necessary on this issue to achieve a sustainable result that provides a real foundation for the work of the OSCE in the coming years.

Why do the participating States have such difficulty coming to a con-sensus on the OSCE's budget and scales of contribution? Many states cite financial constraints to justify their insistence on a policy of zero-nominal growth. This policy means that every year the Organization has fewer funds to respond to challenges which are continuously growing in number and

complexity. However, ten years after the 2008 financial crisis, the economies of most participating States have recovered and are once again growing. This argument is becoming less and less credible, particularly when one takes into account the fact that the OSCE is a comparatively low-cost organization, offering excellent value for money. The downward trajectory of the OSCE's budget is even more worrying when contrasted with the trend of rising spending for military purposes. Has the concept of comprehensive, co-operative, equal and indivisible security – the raison d'être of the OSCE – lost ground to the promotion of hard security? Is co-operative security no longer seen as a worthy investment? The level and intensity of engagement by participating States in the work of the Organization would seem to indicate its continuing relevance. So why are states so reluctant to provide it with adequate resources?

In part, this situation could be a consequence of the current antagonistic security environment. Disagreements that might previously have been resolved through dialogue are now seen as points of principle, on which no compromise is possible – regardless of the actual amount of money involved or the negative impact on the Organization or relations between states. Political disputes have infiltrated what was hitherto a largely technical sphere, with blocking the budget becoming an effective – albeit destructive – weapon of choice for some participating States to realize their specific political interests and goals.

The Austrian Chairmanship also faced the key challenge of appointing a new OSCE Secretary General and new Heads of the three Institutions (High Commissioner on National Minorities/HCNM, Representative on Freedom of the Media/RFOM, and Director of the Office for Democratic Institutions and Human Rights/ODIHR). This unprecedented situation, in which all four senior staff positions were to be filled at the same time, was of the highest priority to the Chairmanship in the first half of the year. With the invaluable support and assistance of a "Group of Friends", the Chairmanship conducted an inclusive and intensive consultation process with participating States, both in Vienna and in the capitals. The group, composed of five Heads of Delegation from small, medium, and large participating States acting in their personal capacity, not only advised the Chairmanship at different stages of the consultations, but also actively supported the negotiation team by taking on various negotiation tasks. This turned out to be an effective working method, allowing parts of the heavy workload to be shared with the Group. More importantly, the internal consultations with the Group allowed them to shape the process in a way that guaranteed its consistency and transparency. This was indispensable to achieving a final consensus among the participating States in a climate rife with general mistrust and widespread rumours. A political understanding on all four positions was finally reached at the ministerial level at the informal meeting in Mauerbach in July and subsequently formalized. The agreement on these appointments marked a crucial milestone with a view to ensuring the functioning of the OSCE as a whole.

The legal status of the OSCE continued to be a focus of the Austrian Chairmanship in 2017. Special Advisor Ambassador Helmut Tichy chaired three meetings of the Informal Working Group on Strengthening the Legal Framework of the OSCE. Short of developing a solution that would grant international legal personality in accordance with the four options discussed in the Informal Working Group, participating States further explored ways to enhance the legal status of the OSCE through domestic legislation and/or through bilateral agreements with the OSCE, as well as by concluding an agreement on the legal status, privileges, and immunities of the OSCE between interested participating States outside of the OSCE's framework. An extended meeting of the Informal Working Group in July 2017 allowed for intensified discussions amongst delegations and with legal experts in the field on the practical implications for field operations and with regard to the duty of care. Furthermore, a Headquarters Agreement between Austria and the OSCE was signed in June 2017 – a clear recognition by Austria that it considers the OSCE as having international legal personality on the basis of customary international law. Poland followed suit with a host country agreement concluded with ODIHR.

Assuming the Chairmanship

Given the heavy burden and high expectations placed on the country holding the Chairmanship, one might ask why any state would volunteer to lead the Organization in such difficult times. Austria saw these challenges as formidable, but not insurmountable, and believed that it could make a positive contribution towards improving regional security. For Austria, assuming the Chairmanship meant showing responsibility. The OSCE Chairmanship is a commitment to multilateral diplomacy as the most appropriate means for international interaction, to promote prosperity, mutual understanding and prevent and resolve conflict. Smaller countries like Austria rely on strong and functional international organizations. By investing in effective multilateralism – and by liaising and allying with other like-minded states – smaller countries are better able to ensure that their interests are taken into account even when bigger and more powerful states have differing views.

In addition, as the host country of the OSCE Secretariat and the Office of the RFOM, as well as the seat of the Permanent Council, the Organization's main day-to-day decision-making body, Austria has a special obligation towards the Organization that goes beyond the mere functions of a host country. Austria's commitment to the Organization and its fundamental principles, its dedication to promoting these principles and its efforts to strengthen the OSCE prove that Austria is not only hosting the Organization, but also actively contributing to its proper programmatic and organizational functioning.

In addition to the specific challenges enumerated above, we should note that every Chairmanship has a number of general challenges to face in leading

the OSCE in thematic, programmatic, and organizational terms. The OSCE covers a vast area, thematically and geographically speaking, and it is the daunting task of the Chairmanship not only to maintain an overview, but also to facilitate a coherent, consensual organizational approach in a timely manner.

This means that the Chairmanship must deal with a variety of perceptions and priorities, cultures and values that prevail in the 57 participating States. It also means dealing with conflicts, both internal and between participating States, each one unique in its roots, genesis, intensity, and effects. The Chairmanship must attempt to reconcile the manifest interests and convictions of states that have – sometimes fundamental – political, social, economic, or cultural differences.

Despite – or perhaps due to – the exceptional diversity within and among the participating States, the OSCE has always emphasized consensus. It is one of the fundamental principles of the Organization. This requires additional effort and diplomatic skill from the Chairmanship, because the Chairmanship often finds itself in situations where is it necessary to "square the circle". The increasingly antagonistic and conflict-driven political environment in the OSCE region further aggravates the Chairmanship's position in this regard.

The Chairmanship must therefore respect its obligation to promote and protect the OSCE acquis, not only to proactively remind participating States that they have all agreed to these values and commitments, but also to insist on their respect for and implementation of this acquis.

Consensus is one of the OSCE's greatest strengths, but it can also be a fundamental weakness. In good times, it strengthens the Organization's capability, effectiveness and reputation. In difficult times, however, states have demonstrated a tendency to use the requirement for consensus to link disparate issues, leading to deadlock and organizational paralysis.

Between Obligation and Ambition

The sheer scope and level of ongoing challenges and the range of thematic and geographical issues and developments leaves little room for additional programmatic ambitions. The "obligatory" part of the Chairmanship's programme absorbs most of its attention and resources. The continuation of given themes and long-standing topics, as well as the intense pace of traditional events in the three dimensions and existing negotiating formats almost fully determine a Chairmanship's plan of action. Nevertheless, the Chairmanship must reserve the capacity to respond to unexpected developments, while still finding the time and resources to implement its own particular priorities for the year.

Conclusions

A number of initiatives and approaches of the Austrian Chairmanship had positive outcomes. Some of the most relevant for wider consideration are:

- *Efforts to foster open, transparent and respectful dialogue.* It is a mistake to think that we can demonize "the other" and reject co-operation without damaging our own security. It is more important than ever to keep channels of communication open at all levels, and to enhance contact between governments, civil society, academics, and the media. They all have a stake in the outcome, and have perspectives and ideas to contribute. The Structured Dialogue on current and future challenges and risks to security in the OSCE area is a vital example of this. Honest dialogue is the only way to overcome the current stalemate and address diverging perspectives and priorities.
- *Ownership of participating States in the OSCE.* The Austrian Chairmanship conducted intensive outreach to countries hosting field operations, as well as those who expressed concerns about the functioning of the Organization (e.g. open-ended dialogue on civil society participation in OSCE events). Ongoing battles over funding for the Organization and continual violations of OSCE principles and values show, however, that efforts must be redoubled. We need a renewed commitment by participating States to respect the Organization's fundamental principles and values. This Organization needs the full engagement and support – political and financial – of every participating State, in recognition of the simple fact that most challenges to security in the region can only be tackled successfully by working together.
- *Focus on addressing common challenges*. Participating States engage most enthusiastically when they see a direct relevance for their priorities and needs. The Austrian Chairmanship emphasized dealing with the major challenges to internal security posed by the increasing threats of terrorism and growing radicalization, especially of young people.
- *Safety and security of the populations affected by conflict in the OSCE area*. We must remember that there are people living in these conflict areas who continue to suffer on a daily basis. This Organization needs to demonstrate credibly that it makes a positive difference on the ground to the daily lives of the people. This will also help counteract our citizens' increasing loss of trust in state institutions and international organizations that are supposed to safeguard peace and our values.
- *Careful, pragmatic work on sensitive issues gets better results than militancy.* This is not a call to compromise on principles, but rather to actively look for areas in which to build confidence between and within participating States on controversial issues.

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- *Direct, interactive discussions between OSCE experts and experts from other international organizations deepen existing ties.* Discussions between OSCE experts and experts from other international organizations (e.g. UN Group of Governmental Experts on Information Security participation in the Informal Working Group established according to Permanent Council Decision No. 1039; side events in New York on the margins of the UN Women's Rights Commission in March and the UN Security Council in October) helped strengthen ties with other international organizations and reinforce the foundation for the OSCE's work.
- *Inclusion of actors from the private sector fosters real progress.* For instance, the high-level academic conference on connectivity in the economic and environmental fields in May 2017 in Linz brought together important representatives and decision-makers from the fields of business, politics, diplomacy, and academia. Similarly, the internet freedom conference in October 2017 was held with the participation of representatives from the media, internet intermediaries, academia, and civil society. Both events generated a number of tangible recommendations that promoted real progress on one of the most challenging aspects of economic co-operation and freedom of expression respectively.
- *A cross-dimensional approach to gender issues.* This enabled the participating States to address a wide range of gender-related topics (e.g. women's inclusion in all phases of the conflict cycle; UN Security Council Resolution 1325 on Women, Peace and Security; violence against women) from a different perspective, thereby gaining new insights or delving into new aspects of well-known topics.
- *Appointment of five Special Representatives of the Chairperson-in-Office on Youth and Security.* This enabled the inclusion of a youth perspective in a broad range of activities. The Special Representatives advised the Chairmanship on youth issues; voiced the views of young people at OSCE events on issues such as preventing and countering radicalization and terrorism, migration, human rights, political participation, and cybersecurity; and actively championed the concerns of young people in the OSCE region.
- *Close communication and co-operation with the OSCE structures.* The Chairmanship benefitted from the unparalleled expertise of the OSCE staff in the Secretariat, Institutions, and field operations, and was able to capitalize on direct channels of communication to respond efficiently and effectively to challenges.

The OSCE Participating States:
Domestic Developments and Multilateral Commitment

Focus on the Western Balkans/South-Eastern Europe

Julia Wanninger/Knut Fleckenstein

Albania Poised for a European Future

Introduction

In its recent history, Albania has never been as open to its close neighbours, and to the rest of the world, as in 2018. While the country had been isolated internationally since 1978 when the communist regime of Enver Hoxha broke off its privileged ties to China, today's Albania is an active member of numerous European and international organizations and alliances such as the Organization for Security and Co-operation in Europe (OSCE), the Council of Europe (CoE), and the North Atlantic Treaty Organization (NATO), as well as several regional organizations and initiatives in the Western Balkans. Freedom of travel, numerous bilateral agreements, and a 2010 visa liberalization agreement with the European Union (EU), make it easier for Albanian citizens to travel abroad for holidays and business. Albanian students study in EU countries thanks to the EU's Erasmus+ Programme, and many of them bring new ideas back home. The diaspora in Germany, Switzerland, Italy, and Greece takes a strong interest in domestic developments and hopes for a European future for their country.

The expectations, hopes and aspirations of many Albanian citizens rest on their political leaders' promises to take Albania into the EU. For the younger generation in particular, the EU represents much more than just the Single Market or a political community of 28 member states. It embodies nothing less than the future of the country. To them, EU accession means a higher standard of living, credible prospects for a better future, functioning democratic institutions, a reliable rule of law, and guaranteed economic and personal freedoms.

On its way to EU membership, Albania's politics and administration, economy, and society are facing numerous challenges that will be neither quick nor easy to overcome. These include political reforms such as the reform of the judiciary and public administration, the fight against corruption and organized crime, strengthening fundamental freedoms and the rights of minorities, as well as the long overdue electoral reform. The OSCE, the CoE, and the EU assist Albania with political support, legal expertise, and technical and financial assistance with the implementation of these reforms.

The high expectations of Albanian citizens for a better future place constant pressure to reform on their political leaders. Polls repeatedly indicate that, according to the population, reform progress is too slow. These expectations also affect the work of the international organizations present in Albania. For example, since many citizens believe their country is ready to join the EU, they quickly perceive any delay in the accession process as a harsh rejection of Albania by the EU. In the first half of 2018, the Albanian government therefore

made a particular effort to convince EU member states that, four years after Albania had received the status of an accession candidate, the European Council of June 2018 would be the right moment to finally decide to open accession negotiations with Albania. Instead, the EU accomplished the rare feat of neither overruling its reluctant members nor offending the Albanian government. Two days before the European Council, the Council of Ministers of the EU decided to "set out the path towards opening the accession negotiations" the following year.[1] This contribution will therefore examine the most significant expectations of the Albanian population currently, and the challenges these create for the country's reform policies and for the work of the aforementioned European and international organizations, in particular the EU and the OSCE.

Strengthening State Institutions through Administrative and Judicial Reforms

Since 2013, Albania has been governed by the Socialist Party (*Partia Socialiste*, PS) under the leadership of Prime Minister Edi Rama, who became known as a reformer during his time as mayor of the capital Tirana from 2000 until 2011. Until 2017, the PS was in a coalition with the Socialist Movement for Integration (*Lëvizja Socialiste për Integrim*, LSI) under Ilir Meta, who is the current president. Since winning a majority of 48.5 per cent in the June 2017 parliamentary elections, the PS has been able to govern without a coalition partner – a first in post-communist Albania. The PS, led by Edi Rama since October 2005, ran for election with the firm intention of obtaining an unassailable mandate to carry out the reforms required for Albania's EU accession. Taking into account past quarrels within the PS-LSI government coalition, including the disagreement over the role of the International Monitoring Operation (IMO) for the vetting of the judiciary in February 2017, the PS's absolute majority has certain advantages for the ongoing reform process. On the other hand, it remains essential for the success of the reforms to maintain the broadest possible support from all parties.

The focus of the outstanding accession-related reforms is on strengthening the democratic state institutions and fundamental freedoms. In its 2010 Opinion on the Albanian application for EU membership, the European Commission listed twelve reforms (the so-called key priorities), the fulfilment of which would be a condition for a positive Commission recommendation to open accession negotiations.[2] Since the government majority and opposition agreed on the adoption of key legislation in 2015, the European Commission,

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1   General Affairs Council, Council Conclusions on Enlargement and Stabilisation and Association Process, p. 19, para. 54, 26 June 2018, at: https://www.consilium.europa.eu/media/35863/st10555-en18.pdf./.

2   Cf. European Commission, Opinion on Albania's application for membership of the European Union, 9 November 2010, pp. 11-12, at: https://ec.europa.eu/ neighbourhood-enlargement /sites/near/files/al_opinion_2010_en.pdf?.

in its annual country reports, has been focusing on the following five key priorities: the reform of public administration; adoption and implementation of a reform strategy for the judiciary; implementation of the anti-corruption strategy; the fight against organized crime; and the protection of fundamental freedoms and minority rights, including the implementation of anti-discrimination policies.

The reform of public administration directly reflects the objective of strengthening the state institutions. Albania is aiming to depoliticize, as well as increase the professionalism, efficiency, transparency, and public accessibility of its administration. The European Commission's April 2018 country report on Albania[3] identifies public administration as the area where the reforms are most advanced compared to the other four key priorities. In the coming years and following the territorial reform, the challenge will be to replicate at a communal level the success achieved at the national level, following the approval of the territorial reforms. In the long term, it will be crucial to not only adapt to new organisational structures, recruitment procedures, and working processes, but to bring about transparency and public accessibility in daily administrative practice.

Prime Minister Edi Rama gave his second government, formed in September 2017, a fresh, modern face in two additional respects: The majority of the previous PS ministers were replaced, except, however, the key ministers for home affairs, finance, and foreign affairs. Minister of Foregin Affairs Ditmir Bushati, who retained his position, also assumed the responsibilities of the Ministry of European Affairs previously held by former coalition partner LSI. In addition, the government attempted to distinguish itself by introducing a women's quota of 50 per cent. For Albanian society, grappling with its patriarchal heritage, this has a signalling effect. Critical observers, however, will not fail to notice that numerical equality does not necessarily bring about equal opportunity to exert genuine influence. The preceding PS-LSI government coalition from 2013 to 2017 had already excelled by setting two records: It was the youngest Albanian government ever, with an average age of 43, and had the largest number of female members (six out of nineteen ministers).

Establishing Parliament as a Place of Political Debate

In the Albanian Parliament, or Kuvendi, the new face of Prime Minister Edi Rama's second government is not quite as clear. Out of 140 members of parliament (MPs), 74 belong to the current government majority. It is primarily the opposition seats of the Democratic Party (*Partia Demokratike*, PD) which are occupied by hitherto unknown faces. This, however, earned party leader Lulzim Basha strong criticism, as he had no longer wanted to nominate a number

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3   European Commission, Albania 2018 Report, 17 April 2018, available at: https://eeas.europa.eu/headquarters/headquarters-homepage/43230/albania-2018-report_en.

of prominent party members and MPs, including former Speaker of Parliament, Jozefina Topalli (2005-2013), or Majlinda Bregu, former Minister of European Integration (2007-2013), later Chair of the Parliament's European Affairs Committee, and Chair of the National Council for European Integration (2013-2017). Speaker of Parliament, Gramoz Ruçi, is not a newcomer: he had already been Secretary General of the PS in the 1990s, has been an MP since 1997 and has been the party whip twice, from 1998-1999 and 2010-2017. Upon taking up his mandate, he appeared intent on using his position as Speaker to prove that the majority group in parliament does not only serve as the mouthpiece of the government. The agreement reached between the government majority and the opposition in December 2015 regarding so-called "decriminalization" remains a challenge. At the same time, the parties committed themselves to banning candidates with a criminal record in Albania or abroad from their lists of candidates, thereby preventing them from seeking political mandates or public office.

It remains a task for Albania to consolidate the role of parliament in the democratic process and as a place of controversial political debate. Albania has a record of parliamentary boycotts, which often held the country back in its reform process. During the last legislative term from 2013 to 2017 alone, the PD, as the biggest opposition party, boycotted parliamentary work on two occasions. To start with, PD MPs assumed their mandates almost 18 months after the parliamentary elections, and then only following mediation by two Members of the European Parliament – Eduard Kukan (European People's Party, EEP, Slovakia) and Knut Fleckenstein (Socialists & Democrats, S&D, Germany) – who represented the two European party families to which the PS and the PD belong. In spring 2017, the PD boycotted parliament in spring 2017 again, threatened to also boycott the parliamentary elections of June 2017, and was only persuaded to abandon its obstructive approach after reaching an agreement that had initially been mediated by the EU and the US. In April 2017, EU representatives therefore issued an unusually strong warning that the democratic process in Albania was not to be hindered with boycotts and protests and that, on the contrary, parliament was to be used as a place for settling political disputes.[4]

One of the greatest moments in the history of the Albanian Parliament is without a doubt the July 2016 vote in favour of carrying out constitutional amendments necessary to implement the judicial reform. This reform provides the essential foundation to strengthen Albania's state institutions and is unique

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4   Cf. Statement by High Representative/Vice-President Federica Mogherini and Commissioner Johannes Hahn on the latest developments in Albania, 12 April 2017, at: https://eeas.europa.eu/headquarters/headquarters-homepage/24651/statement-federica-mogherini-and-johannes-hahn-latest-developments-albania_en; Statement of Commissioner Hahn to the citizens of Albania, 11 May 2017, at: https://ec.europa.eu/ commission/commissioners/2014-2019/hahn/announcements/statement-commissioner-hahn-citizens-albania_en.

in its scope and depth, at least in the Western Balkans. Despite deep controversies, the plenary of the Albanian Parliament on 22 July 2016 voted unanimously in favour of the constitutional amendments. The then Speaker of Parliament Ilir Meta's insistence played a significant role in bringing about this unanimous vote. When he refused to summon a meeting for the vote until there was a consensus on the amendments, he was initially criticized for attempting to block the judicial reform. The fact that he finally succeeded in uniting all parliamentarians, and therefore all parties, in taking responsibility for the constitutional amendments, meant that he cleared the way for the judicial reform. It was against this backdrop that, in November 2016, the European Commission for the first time issued its – albeit conditional – recommendation to open accession negotiations with Albania. The recommendation was only conditional, insofar as it formalized the requirement that Albania make "credible and tangible tangible progress in the implementation of the justice reform in particular the re-evaluation of judges and prosecutors *(vetting)*".[5]

Judicial Reform as a Test Case for the Credibility and Effectiveness of the Overall Approach to Reform

Albania's judicial reform is unique in the breadth of its implications. At stake is nothing less than the restoration of public trust in the country's rule of law, its public institutions and its political representatives. It also meets one of the central demands made by Albanian citizens and the electorate of their political decision makers. Polls show that 90 per cent of Albanians deem judicial reform necessary and unavoidable. At present, judicial proceedings are often protracted and inefficient; many representatives of the judicial system are accused of being corrupt and not immune to political influence. Public interest in a comprehensive judiciary reform is also huge because corruption is widespread in many areas that directly affect the daily lives of Albanian citizens, for example, in the education and health sectors. In addition, only a reformed judiciary will provide a solution for the issue of property rights in Albania, encompassing property registration, restoration, and compensation. Ultimately, the credibility and effectiveness of the fight against organized crime depend significantly on the success of the judicial reform. In this regard, the Albanian police have been collaborating closely with EU member states on monitoring and operations for several years, especially with the Italian financial police *(Guardia di Finanza)*. While the number of investigations and prosecutions has risen, EU institutions continue to criticise the relatively low conviction rate. There is, however a sense of nervousness, which is most likely based on

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5   European Commission, 2016 Communication on EU Enlargement Policy, 9 November 2016, p. 12, at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20161109_strategy_paper_en.pdf.

the increasing awareness that state institutions are determined to take action against corruption and organized crime, including at the highest level.

In the context of the judicial reform, Albania has also launched the aforementioned vetting process of judges and prosecutors. This process includes assessing the professional competence, personal integrity, and all assets, not only of the candidates themselves, but also of their close family members. Introduced at the beginning of 2017, the vetting process is already producing its first results: Up to June 2018, thirteen judges and public prosecutors came under scrutiny, five of whom were dismissed as a result. Nineteen judges and prosecutors announced they were stepping down from their positions before the start of their vetting process.[6]

Building Trust in Democratic Processes and in a Pluralist Society

Albania's politics and media landscape are characterized by a high degree of polarization. Politics is dominated by the perception that pursuing the interests of one side must necessarily contradict the interests of the other side. There is hardly a media outlet that does not clearly position itself in support of either the government or the opposition. The danger of such polarized political competition lies in the resulting mistrust of citizens in the ability of the political class to represent more than the interests of a certain group. This has led some to describe Albanian politics as a "comedy of general interest".[7]

In its annual resolutions on Albania's reform progress, the European Parliament has repeatedly been calling for "constructive dialogue" between political forces, as this is essential for further progress in the EU accession process. Unfortunately, the need for constructive political debate is often expressed as a demand for "political consensus". This reflects the desire, in particular on the part of the European People's Party (EPP), to give a more important role to its Albanian sister party, the PD, which has been in opposition since 2013. Rather than calling for *consensus* between the government majority and opposition, it would be more appropriate to call for *compromise* on both sides. A stronger emphasis on the need to forge political compromises would have the advantage of strengthening the role of the Albanian Parliament as a place to thrash out controversial political debates and forge compromises. The relevant European party families should assume more responsibility in this respect.

Albania's long overdue electoral reform would contribute to strengthening public trust in the electoral process. Above all, this concerns electoral administration, campaign financing, voter registration, the use of new voting

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6   The current figures are taken from an information leaflet produced by the Albanian government on the judicial reform, as of 14 June 2018.
7   Sébastien Colson, Albanie. Forteresse malgré elle, Brussels 2018, p. 30 (author's translation).

technology, and the participation of citizens living abroad. The OSCE has repeatedly made recommendations for reform in relation to many of these aspects.[8] Looking ahead to the local elections due in June 2019, the Parliamentary Ad-hoc Committee on Electoral Reform, chaired jointly by two representatives, one of the PS and one of the PD, intitally set the target of submitting the relevant reform proposals by autumn 2018. This time horizon would have respected the OSCE principle, which states that, in order to be legitimate, electoral legislation may not be amended in the twelve months before an election. Unfortunately, by December 2018, the Parliamentary Ad-hoc Committee on Electoral Reform had not yet agreed on its reform proposals.

While both the OSCE and the EU continue to find cause for concern regarding freedom of the press and freedom of speech in other Western Balkan countries, Albania's media landscape is characterized by considerable plurality. Issues that still spark criticism include the precarious working conditions of journalists, poor quality reporting, self-censorship, and the widespread uncritical use of media material pre-fabricated by the political parties, particularly at election times. The challenges therefore lie in ensuring genuine plurality and reducing political and economic interference with individual media outlets or regulatory bodies, strengthening media authorities, and improving the labour rights of journalists. Both the OSCE and the European Broadcasting Union (EBU) have also been advising Albania since 2015 on the reform of its public broadcaster (*Radio Televizioni Shqiptar*, RTSH), aiming to achieve greater independence from political decision-makers, higher-quality reporting, and an increase in market share.

The protection of minority rights is an additional aspect that will contribute to developing a pluralist society in Albania. Although the relevant legislation was significantly revised as part of the accession-related reforms, Albania must continue improving the living conditions, educational opportunities, and employment rate of Roma and other ethnic minorities. It should also be noted that the large religious communities in Albania positively influence religious and societal tolerance.

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8   Cf. OSCE ODIHR/Venice Commission/Council of Europe, European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Joint Opinion on the Electoral Law and the Electoral Practice of Albania, Strasbourg, 19 December 2011, Opinion No. 641/2011, available at: http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)042-e; OSCE Office for Democratic Institutions and Human Rights, Repubic of Albania, Parliamentary Elections, 25 June 2017, OSCE/ODIHR Election Observation Mission, Final Report, Warsaw, 28 Deptember 2017, at: https://www.osce.org/odihr/elections/Albania/346761.

Alongside Kosovo, Albania is one of two Western Balkan countries with an overwhelming majority of citizens who support EU accession. Eighty-one per cent of the Albanian population are positive about their country's planned EU membership. For the sake of comparison, in Kosovo the proportion is 90 per cent, in Serbia, 26 per cent.[9] In addition, the Albanian population is rather optimistic about when to expect EU accession: In 2017, a majority expected accession by 2020 or 2025. For most Albanians, EU membership primarily represents the freedom to study or work in other EU countries, and economic prosperity.

For years, the EU has been acknowledging Albania's "steady progress" in fulfilling the accession criteria. While the European Commission had already issued a conditional recommendation for opening accession negotiations in November 2016, it was in April 2018 that, for the first time, the Commission issued an unconditional recommendation. It explicitly stressed that the country had made good progress towards fulfilling the remaining five key priorities for reform. In addition, the European Commission recognized that, with the implementation of its comprehensive judicial reform and vetting process for judges and prosecutors, Albania had even exceeded the original prerequisites for the Commission to recommend the opening of accession negotiations. Indeed, in its opinion on Albania's application for EU membership, the European Commission, in November 2019, had recommended the adoption and implementation of a reform strategy that guaranteed the independence, efficiency, and accountability of the justice system in order to strengthen the rule of law.[10]

The European Parliament (EP) traditionally positions itself as the advocate of accession candidates, and, in the case of Albania, it had already spoken out in favour of opening accession negotiations in spring 2017. The latest report by the EP's Committee on Foreign Affairs therefore confirms this year's recommendation by the European Commission to open accession negotiations, on the grounds that this would set further incentives for the reform process.

The clear reform focus on EU accession puts the Albanian government under pressure to deliver, not only regarding the reforms, but also regarding the EU accession process itself. While the fight against corruption and organized crime is met with resistance in certain quarters, the socio-economic reforms at times require processes of adjustment, which may be painful for the whole population. Such difficult reforms are obviously easier to sell to voters when their social consequences can be balanced out by achievements in other

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9   Cf. Regional Cooperation Council, Balkan Barometer 2017: Public Opinion Survey, pp. 55-57, at: https://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf.
10   Cf. European Commission, Opinion on Albania's application for membership of the European Union, cited above (Note 2), p. 6.

areas. During election season, as well as in decisive moments for the country's EU accession process, Albania's political leaders therefore occasionally play the card of 'concerns about the stability of the Western Balkans' for political gains, including by stressing Albania's contribution to stability in the region, or by reverting to nationalist rhetoric about "Greater Albania".[11] In 2017, Prime Minister Edi Rama conjured a union between Albania and Kosovo, either inside the EU or, if not admitted, outside of it.[12] In 2018, Foreign Minister Ditmir Bushati developed an argument that currently appeals better to Brussels: With Brexit on the horizon, admitting new members such as Albania and Macedonia could give the EU new impetus.[13]

Conclusion and Outlook

Albania's political class has reached a decisive moment: Can it convince both its own population and its European partners, especially the EU member state governments, that the reforms it has begun and announced will genuinely transform Albania into a modern European state? A state whose democratic institutions reliably represent the interests of its citizens (and not the economic interests of specific individuals or groups), whose rule of law can be relied upon? A state that guarantees the protection of personal and economic freedoms, offering the prospect of prosperity and security?

Albania's current political and economic leaders are part of a transitional generation. Many of today's decision-makers started their political careers towards the end of the Hoxha regime, were members of the Party of Labour at the time (i.e. the predecessor of today's Socialist Party), or belonged to the protest movement from which the present Democratic Party emerged in the early 1990s. Others are too young to be rooted in the old networks, have often received their education abroad, and already perceive their country as a modern, European state whose future decidedly lies in the EU. For the younger generation preparing to take on positions of leadership in the political, economic and social spheres, access to a professional or political career is often difficult if they have no contacts within existing political or business networks. They are therefore frequently disillusioned with politics or in despair over the job market.

A large proportion of young Albanians today believe in a future in their own country only if Albania actually joins the EU soon. This is mainly due to

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11 For a more in-depth analysis of the topic, cf. also Jenny Nordman, Nationalism, EU Integration, and Stability in the Western Balkans, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 2015, Baden-Baden 2016, pp. 151-163.

12 Cf. Andrew MacDowall, Albanian prime minister: EU faces "nightmare" if EU hopes fade, Politico, 18 April 2017, at: https://www.politico.eu/article/albania-prime-minister-edi-rama-eu-faces-nightmare-if-balkans-denied/.

13 Cf. Ditmir Bushati, The Western Balkan challenge, Euractiv, 6 July 2018, at: https://www.euractiv.com/section/enlargement/opinion/the-western-balkan-challenge/.

high youth unemployment. The drastic rise in unfounded asylum requests by Albanian citizens in recent years – in Germany and France in particular, but also in other EU member states – is another symptom of Albanians' increasing impatience with protracted reforms and their diminishing trust in the prospect of EU accession, which seems ever more distant.

The outstanding EU accession-related reforms focus on strengthening the democratic state institutions and fundamental freedoms. Such reforms cannot be achieved overnight by merely adopting new legislation, but require long-term reform processes in order to be anchored in politics, administration, and society: the EU accession process and its reforms are not a simple "box ticking exercise".

Albania's still ongoing transformation process is not an obstacle to EU accession in the near future. While the European Council on 28 and 29 June 2018 did not decide to open accession negotiations with Albania, it neverthe-less tasked the European Commission with starting preparations by carrying out the so-called screening process. Albania's current task is therefore to con-solidate the reforms achieved and to anchor them in its politics, administration, economy, and society, as well as to continue swiftly with the reforms still underway.

In their future co-operation with Albania, the EU, the Council of Europe, and the OSCE should focus on providing continuous support to the country in order to ensure that the reforms, which were initiated with a view to securing accession to the EU, genuinely serve to strengthen the democractic institutions and bring the political culture closer to that of a pluralistic democracy. To make this happen, the OSCE, the CoE, and the EU must continue to closely co-ordinate their work on and in Albania.

Axel Jaenicke

Serbia at a Crossroads?

Introduction

In 2017/2018, the Western Balkans (successor states to Yugoslavia minus Slovenia and, since 2013, Croatia, plus Albania) became the focus of attention of the European Union (EU) and other international actors once again. This is due to the crisis-ridden developments in some states (Bosnia and Herzegovina/BiH, Former Yugoslav Republic of Macedonia/FYROM); the renewed increase in tensions between neighbouring states (Serbia and Croatia, Serbia and BiH); delays in the development of the rule of law and in fighting corruption and organized crime, which are unacceptable for the rapprochement process with the EU (Albania, Kosovo, Serbia); autocratic tendencies and limits to the freedom of the press and democracy (Serbia); a lack of protection for ethnic minorities, especially the Roma (BiH, Kosovo, Serbia); and the stagnation of the so-called Belgrade-Pristina dialogue – talks mediated by Brussels towards normalizing the relationship between the two sides – which is also a cause for concern. Brussels and Washington are also alert to the efforts of Moscow, Ankara, Beijing, and Riad to gain or regain their influence in the region.

In February 2018, the EU adopted a "Strategy for a credible expansion prospects for and strengthened engagement with the EU in the Western Balkans".[1] According to this strategy, two of the states, Montenegro and Serbia, would have the prospect of joining the EU as early as 2025, if they accelerated and successfully completed the necessary reforms in a timely manner. To emphasize the importance of the paper and gain the commitment of the politicians responsible, President of the European Commission Jean-Claude Juncker and Enlargement Commissioner Johannes Hahn travelled to Belgrade, Podgorica, Pristina, Sarajevo, Skopje, Sofia, und Tirana in the same month. On each of these visits, Juncker made it clear that the EU would not import any conflicts or border disputes between candidate countries. Looking to Kosovo, he stressed that the problems between Belgrade and Pristina must resolved with a legally binding agreement. "Clearly, people in the EU are tired of enlargement. It's important to explain that the western Balkans are on our doorstep. It's not far away, but the historic distance is long. Not too long ago, the region saw a fierce war. If we take away the western Balkans' accession

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Note: This article concerns the developments up to the end of 2018.

1   European Commission, A credible enlargement perspective for and enhanced EU engagement with the Western Balkans. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strasbourg, 6 February 2018, COM(2018) 65 final, at: https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.

perspective, that could soon repeat itself. We old Europeans must know that this can be the source of a message of peace, a contribution to calming Europe. If we are not prepared to enable our partners in the Balkans to join the EU, the situation could once again become worse",[2] said Juncker.

Serbia is not only the most centrally located, but also the largest territory and, with only around seven million inhabitants, still the most populous state to emerge from the collapse of the Socialist Federal Republic of Yugoslavia (SFRY) following the bloody secessionist wars in the 1990s. Serbia was not only a significant factor and focal point of these conflicts, but, due to its size, geopolitical status and links to all of its neighbours, is also critical for the successful transformation of the region into a place of stability and prosperity.

A Brief Review

For a short historical phase at the start of the 1990s, it was important to Serbia's leadership in Belgrade, which was in the process of losing its status as federal capital, to preserve the union of the Federation. However, as it soon became clear that the other constituent republics, above all Slovenia, Croatia, and later Bosnia and Herzegovina, were not prepared to do this, Serbian President Slobodan Milošević played the nationalist card. On the pretext of needing to protect Serbs outside Serbia, the creation of Serb republics in Croatia and BiH (*Republika Srpska Krajina*, *Republika Srpska*) received political, financial, and military support. This policy failed in summer 1995 with the recapture of "Krajina" by Croatian military and police forces and the exodus of more than 200,000 Serbian civilians. With the Dayton Agreement signed at the end of 1995, the *Republika Srpska* became one of the two entities of the federal state of Bosnia and Herzegovina.

The political and economic changes towards parliamentary democracy, rule of law, and a market economy that occurred in the Western Balkans after the end of the war came later in Serbia than in the other states of the former Yugoslavia. This was, above all, due to the power exercised by the Socalist Party of Serbia (*Socijalistička Partija Srbije*, SPS), which had succeeded Josip Broz Tito's League of Communists of Yugoslavia (LCY), under President Milošević (until October 2000) and the political and military secessionist endeavours by the autonomous province of Kosovo, which Milošević tried to prevent with all his might and often brutal deployment of police and military forces. The units deployed did not hold back from serious human rights violations and terrible war crimes against the Kosovo-Albanian civilian population, especially following the NATO air strikes began in 1999.

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2   Lars Scholtyssyk, EU expansion: Juncker stresses real progress on western Balkans trip, *Deutsche Welle*, 28 February 2018, at: https://www.dw.com/en/eu-expansion-juncker-stresses-real-progress-on-western-balkans-trip/a-42776178.

It should be borne in mind here that Serbia was the only Yugoslavian constituent republic on whose territory autonomous regions were established: the economically developed multi-ethnic *Vojvodina* in the north, and the underdeveloped, majority Albanian province of *Kosovo and Metohija* (known in the West as *Kosovo* and *Kosova* in Albanian) in the south. After the Serbian parliament significantly reduced the comprehensive rights to autonomy of Kosovo and Vojvodina in 1988, Albanian nationalists strengthened their secessionist efforts, with increasing support from large sections of the ethnic Albanian population. According to the Yugoslavian constitution, the constituent republics had a right to split off from the federal state, even if the practical implementation had never really been imaginable. However, no such right for provinces *within* a partial republic had been envisaged, even in cases where their position similar in some respects to the republics in the constitution of 1974.

While the Republic of Montenegro's proclamation of sovereignty following a referendum in May 2006 practically sealed the collapse of the federal state of Yugoslavia, the Kosovo-Albanians' Unilateral Declaration of Independence (UDI) in February 2008 and the resulting de-facto secession of Kosovo was, in the eyes of Serbia, illegitimate and was not covered either by the former federal constitituion, nor the constitution of Serbia.

This short excursion into the history of the last thirty years may help to explain the current situation in Serbia. For centuries, the Balkans was a powder keg on the edge of Europe, at the border to the Orient, between Christianity, Orthodoxy, and Islam, and between East and West in the Cold War. By the 1990s, the US and the EU had already recognized the how critical this area was for peace and security in Europe and beyond, which had implications for their own strategy. As a whole, this was certainly going in the right direction. Although this approach was not by any means disinterested, not always strictly applied and not a complete success, it did cover the following principles: helping states to help themselves and supporting them in overcoming war damage; returning refugees and internally displaced persons; developing rule-of-law structures, parliamentary democracy, and good governance; strengthening civil society and, not least, opening up the prospect of accession to the European Union. It is no coincidence that Serbia took a central role in this strategy.

Serbia and Its Neighbours

Of the seven neighbouring states of Serbia (not including Kosovo), four are EU member states (Bulgaria, Croatia, Hungary, and Romania – these four and, since 2017, Montenegro, are also NATO members). Two have EU candidate status (FYROM and Montenegro), while Bosnia and Herzegovina has signed a Stabilisation and Association Agreement (SAA) with the EU and is aiming

to become a candidate for accession. NATO member Albania, with which there are de facto no common borders any longer, is also a candidate for EU membership.

One would think that the bilateral problems with neighbouring EU member states would be of least concern. This is certainly true to a large extent of the relationships with Bulgaria, Hungary, and Romania. The trade and economic relationships with these countries are developing positively without fully exploiting the available potential; there are regional rail and road connection infrastructure projects, and increasing collaboration in the Danube region with significant EU support. Concerns that arise occasionally regarding alleged discrimination towards the respective national minorities in Serbia are, as a rule, overcome with political discussions – an important point in ensuring the support of the EU neighbours for Serbia's accession process.

Indeed, the refugee crisis of 2015/2016 led to certain tensions with Hungary as well as with Bulgaria. As refugees and migrants from the EU member state of Greece could enter Macedonia more or less unhindered, and from there travel on further to Serbia, thousands also came via the EU member state of Bulgaria, often without being registered by the authorities there or being prevented from travelling further. As a result, not only did up to a million people coming from two EU countries flood into Serbia, but two other EU states prevented them from travelling back into the EU: firstly, Hungary, with their famous border fence from September 2015, and then a little later Croatia. This led to significant problems in Serbia that the economically weak country could barely cope with. The EU were much too slow to provide Serbia with support, and when it came, it was insufficient. In addition, there were also "profiteers" in Serbia taking advantage of the situation, above all bus and taxi companies, who demanded excessive tarrifs from refugees. However, the country and its population behaved much more honourably in the humanitarian emergency than some of their EU nighbours.

Serbia's relationship with Croatia, an EU member state since 2013, proved to be problematic and highly strained for historical reasons. While Croatia accused Serbia of "Greater Serbia aggression" under Milošević and demanded clarity regarding the hundreds of people still missing since the war, Serbian officials continue to denounce the forced exodus of the majority of Croatian Serbs from Croatia. They also criticize alleged and actual discrimination of the Serbian minority, which has been reduced from 13 per cent to around three per cent in Croatia, and refer to the failure of the Croatian government to act against nationalist and right-wing extremist political forces seeking to downplay the crimes of the "Independent State of Croatia" (*Nezavisna Država Hrvatska,* NDH, 1941-1944), who continue to propagate the forbidden symbolism of the Croatian Ustasha fascists largely without challenge. The obvious shift to the right in Croatia, which has barely been discussed in Brussels officially since the country joined the EU, is also expressed in the ongoing debate about the former Jasenovac concentration camp, in

which tens of thousands of Serbs, Roma, Jews, and Communists were killed. In addition to arguments about the numbers of victims, in 2016, a memorial for the Croatian soldiers who died in the recent war was erected close to the former concentration camp, bearing the fascist Ustaša salute, *"Za dom – spremni!"* (For homeland – ready!), similar to the Nazi salute, and for a long time the authorities ignored it. The Council of Europe (CoE) warned of an increase in hate speech and verbal discrimination against ethnic and other minorities, especially Serbs, in Croatia.[3] Voices on both sides rightly express the concern that abusive behaviour on the part of nationalists and a lack of willingness for reconciliation have increasingly poisoned the atmosphere in recent years: since 2010, the level of tension has almost returned to that at the end of the war in 1995. Diametrically opposed interpretations of judgements by the International Criminal Tribunal for the former Yugoslavia (ICTY) have also contributed to this. While, in 2012, large parts of the Serbian public were shocked about the acquittal of Croatian Generals Ante Gotovina and Mladen Markač, who commanded Operation *"Oluja"* ("Storm"), leading to the exodus of hundreds of thousands of Serbs in 1995, the acquittal of Serbian radical leader Vojislav Šešelj on 31 March 2016 after twelve years in prison led to intense protests in BiH and Croatia.[4]

It is worth noting that the President of Croatia, Kolinda Grabar-Kitarović, invited the Serbian President Aleksandar Vučić to Zagreb in February 2018 at a point when the tensions were especially high. Observers speculated that the Croatian President's initiative, which brought her into conflict with the Prime Minister, was a reaction to warnings from Brussels, and probably also from Washington, not to let relations escalate further. Nationalist statements on the part of the Serbian defence minister Aleksandar Vulin and provocations from Šešelj led to renewed conflicts in spring 2018.

As a consequence of the war, relations between Serbia and Bosnia are also highly strained. During the war, Serbia supported Bosnian Serbs, whose army was responsible for the Srebrenica massacre, the biggest and most brutal war crime in Europe since the Second World War,[5] and the siege of Sarajevo. Without fundamentally questioning the special relationship[6] to the *Republika Srpska,* Aleksandar Vučić has made a real effort to reduce tension in recent years. Especially worthy of note was a meeting between President Vučić, the Bosniak member of the Presidency of BiH, Bakir Izetbegović, and the Turkish

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3   Cf. ECRI – European Commission against Racism and Intolerance, *Croatia: Racist and hate speech against Serbs, LGBT persons and Roma escalating, says Council of Europe anti-racism Commission*, 15 May 2018 at: http://hudoc.ecri.coe.int/fre?i=HRV-PR-V-2018-272-ENG.

4   In April 2018, Šešelj was pronounced guilty in the appeal proceedings and sentenced to ten years imprisonment, which was, however, satisfied by the eleven and a half years he had been on remand.

5   This war crime is defined as genocide in judgements by two international courts – a definition not accepted by Serbia, Russia, and a number of other states.

6   Observers do not rule out an expansion of this special relationship if a solution to the Kosovo issue could be found.

President, Recep Tayyip Erdoğan, in Istanbul in January 2018. While Vučić made a point of stressing Serbia's respect for the territorial integrity of Bosnia and Herzegovina, Erdoğan underlined the fact that the relationship with Serbia was Turkey's number one priority and emphasized the importance of Serbia for regional security and stability.

The relationship between Serbia and Montenegro, especially tense following the referendum in 2006 on Montenegro's separation fom the common state, has improved tangibly in recent years. Montenegro's accession to NATO in 2017 was received dismissively and distantly by the Serbian political establishment with only a reserved commentary.

An important aspect of Serbia's relationships with all its aforementioned neighbour states is the revision of history of the wars in the 1990s and punishments for war criminals via national jurisdiction. Both are still in their infancy, in Serbia and in the region as a whole. In October, the UN Chief Prosecutor Serge Brammertz issued stark criticism regarding the declining number of trials of war criminals and the unsatisfactory collaboration in the region. However, the governments of both Serbia and Montenegro have commited to working with the non-governmental Regional Commission for Establishing the Facts on War Crimes (RECOM) initiative, which is currently being set up. Up to now, the governments of BiH, Croatia, and Slovenia have not done so.

Relations with Skopje are relatively relaxed, but the Serbian Orthodox Church's refusal to acknowledge the separation of the Macedonien Orthodox Church (since 1967) and the Skopje government's support for Kosovo's UNESCO membership application repeatedly lead to difficulties. Serbia was the only neighbouring country not to congratulate FYROM on reaching a compromise in the name dispute with Greece, probably in large part because this would bring NATO membership for Macedonia within reach.

Improving the relationship between Serbia and Albania carries the greatest political significance, even if Serbia is de facto no longer a direct neighbour of Albania since the secession of Kosovo. The first visit by an Albanian prime minister after nearly 70 years was also noteworthy. Although there was a severe incident during Edi Rama's visit to Belgrade in 2016 – a drone with a "Greater Albania" map was flown into the football stadium where both prime ministers were at the time – Vučić and Rama brought about a new phase in the relationship between the two most densely populated nations in the Western Balkans. The announcements from Tirana and Pristina, according to which the common border should effectively be abolished from March 2019, have again led to an increase in tensions. Serbian politicians, not only from the government, see these proclamations as a step in the direction of "Greater Albania", linked to the annexation of a part of the Serbian state territory, and criticize the silence from Brussels.

Since the end of the Milošević era in October 2000, Serbia has been aiming for EU membership. Serbia signed the *Stabilisation and Association Agreement* in April 2008 after long negotiations, but it only came into force formally after it was ratified in 2012 by the Netherlands and in 2013 by Lithuania. On 1 March 2012, the European Council granted Serbia the candidate status it had applied for in 2009.[7] Serbia had previously fulfilled a further condition by arresting the last two convicted war criminals, Ratko Mladić and Goran Hadžić, in 2011, and delivering them to the ICTY. The start of accession negotiations was linked to strict conditionality on the side of the EU, including Belgrade's willingness to enter into dialogue with Pristina. After the First Agreement of Principles Governing the Normalization of Relations (Brussels Agreement) was initialled by the two prime ministers on 19 April 2013 as a result of dialogue supported by the EU, a further condition was fulfilled.[8] Membership negotiations were subsequently opened in January 2014. It then took almost two more years before the second intergovernmental conference between Serbia and the EU in December 2015 decided to start negotiations on the first two of 35 chapters. These were chapter 32 (financial controlling) and 35 (other issues). With all the other current EU accession candidates, only 34 chapters are under negotiation. The special addition of chapter 35 in the case of Serbia concerns the Kosovo question, without making this obvious in the title (cf. also under subheading *Belgrade-Pristina Relations*). At the third intergovernmental conference six months later, the commencement of negotiations on the extraordinarily significant chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom, and security) was announced. Because of the significance of these chapters, in contrast to other chapters (excluding 35), they will only be concluded at the end of the marathon round of negotiations, which can only be expected in 5-6 years at the earliest. This gives Brussels the possibility to build pressure and delay opening other chapters if Belgrade is found not to be making enough progress in relation to the reforms laid out in chapters 23 and 24. This situation arose, for example, in 2017 when member states expressed their dissatisfaction with the slow implementation of the action plan for chapter 23, which set goals for judicial reform, fighting corruption and the fundamental rights of EU citizens. Subsequently, it was determined at the December 2017 intergovernmental conference in Brussels that in the negotiations with Serbia at the start of 2018, only two new chapters were to be opened rather than three, as had been the original aim. Against this background, EU Enlargement Commissioner Hahn made it clear that progress in relation to the independence

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[7]   Cf. European Council*, Serbia is granted EU candidate status*, Brussels, 1 March 2012, EUCO 35/12, PRESSE 84, at: http://www.consilium.europa.eu/uedocs/cms_data/docs/ pressdata/en/ec/128445.pdf.

[8]   Cf. European Commission, Press Release, *Serbia and Kosovo: historic agreement paves the way for decisive progress in their EU perspectives*, Brussels, 22 April 2013, at: http:// europa.eu/rapid/press-release_IP-13-347_en.htm.

of the judiciary, freedom of expression, the media, the rights of national/ethnic minorities, and the fight against corruption and organized crime, including money laundering, are conditions for progressing the negotiation discussions.[9] In autumn 2018, too, Brussels criticized the lack of progress with reforms related to chapters 23 and 24. The negotiations for 16 chapters out of 35 had been opened by the end of 2018.

The majority of Serbia's foreign trade – around 65 per cent (amounting to more than 22 billion euros in 2017) – is with the EU member states, bringing the Serbian foreign trade deficit down by around 500 million euros in 2017 from 2.65 billion in 2013.[10] The EU is also the largest investment partner (1.5 billion euros were invested in 2017 alone, creating around 200,000 jobs).[11] Critics point out, however, that the investors from the EU space not only benefit from low wages and tax breaks, but often restrict employees' trade union rights. The European Union is now also Serbia's largest donor. In the 15 years from 2001 to 2016 alone, non-repayable aid amounting to more than three billion euros was paid to Serbia for more than 300 projects, including housing for internally displaced people from Kosovo and refugees from Croatia, as well as aid for overcoming the flood disaster of 2014 and the migration crisis in 2015/16.[12]

Since the parliamentary elections in May 2012, Serbia has been governed by a coalition under the leadership of an alliance of parties around the Serbian Progressive Party (*Srpska napredna stranka*, SNS). The coalition replaced the centre-left coalitions of parties emerging from the Democratic Opposition of Serbia (*Demokratska opozicija Srbije*, DOS), which had ruled since the fall of Milošević in 2000. The SNS was founded in 2008 by Tomislav Nikolić (President of Serbia 2012-2017) and Aleksandar Vučić as a splinter party of the Serbian Radical Party (*Srpska radikalna stranka*, SRS) led by Vojislav Šešelj, then imprisoned in The Hague for war crimes. To consolidate the position of the alliance around the SNS, Vučić proposed to hold another election after only two years in 2014. By adopting this strategy, the alliance more than doubled its parliamentary seats under his leadership from 73 to 158 of the seats in the *Narodna Skupština* (National Assembly). To secure power for another four years, further early parliamentary elections were held in 2016, in which the alliance led by Vučić won 131 seats.[13] As it became clear that

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9   Cf. Serbia opens chapters 6 and 30 in EU accession talks, B92, 12 December 2017, at: https://www.b92.net/eng/news/politics.php?yyyy=2017&mm=12&dd=12&nav_id=103005.

10   Cf. The Delegation of the European Union to the Republic of Serbia, *Serbia – EU trade,* at: http://europa.rs/serbia-and-the-eu/trade/serbia-eu-total-trade/?lang=en.

11   Cf. The Delegation of the European Union to the Republic of Serbia, *Remarks by High Representative/Vice-President Federica Mogherini at the press conference with Aleksandar Vučić, President of Serbia*, 19 April 2018, at: https://europa.rs/remarks-by-high-representative-vice-president-federica-mogherini-at-the-press-conference-with-aleksandar-vucic-president-of-serbia/?lang=en.

12   Cf. The Delegation of the European Union to the Republic of Serbia, *15 years of EU – Serbia partnership,* 2 February 2016 at: http://europa.rs/15-years-of-eu-serbia-partnership/?lang=en.

13   Meanwhile, President Vučić has not ruled out a further early presidential election in 2019.

President Nikolić would not win an absolute majority in the 2017 presidential elections, Vučić secured this post for the SNS by standing for election himself, placing indepdendent Ana Brnabić, the first openly gay woman to hold the position of prime minister of Serbia, the office he had previously held.

The moves towards an increasingly pronounced autocratic power centring on Vučić, which he exercises without restrictions regardless of his current position (head of government, president), are a cause for concern. These include limitations on the freedom of the media, massive support for smear campaigns against opposition politicians and journalists critical of the regime by media close to the government, and intimidation of non-governmental organizations, and even the sustained obstruction of a public institution. This is how the first Serbian ombudsman, Saša Janković, appointed by parliament (in Serbian: *Zaštitnik građana* – "Citizens' advocate"), and res-ponsible for building up and successfully leading this institution through two mandates from 2007 up until 2017, became the target of a smear campaign by government officials and media close to the government. Janković, who was extremely popular and had international support thanks to his courageous advocacy for the rights of citizens, won more than 16 per cent of the votes cast in the first round of the 2017 presidential elections–a considerable achieve-ment.

In the second half of 2018, the relatively weak opposition stepped up its activities. On 2 September, most of the democratic opposition parties came together to form an "Alliance for Serbia" *(Savez za Srbiju)* against Aleksandar Vučić's autocratic rule. The top politicians of the parties involved, including the former President of Serbia Boris Tadić (2004-2012), had had no opportunity since the spring to present their points of view or react to attacks via public television broadcasters, the main source of information for the majority of the population. Since the beginning of December, ten thousand opponents of the government have been going out into the streets of Belgrade every Saturday. The original reason for the demonstrations was the brutal attack on Borko Stefanović, head of the Serbian Left *(Levica Srbje)*, at the end of November in the southern Serbian town of Kruševac. Vučić, who believes he can reaffirm a parliamentary majority for the SNS, then brought the possibility of snap elections in 2019 into play.[14]

Brussels reacted critically to the authoritarian tendencies on numerous occasions and made statements on the subject in the annual country reports. However, the overall positive influence of Aleksandar Vučić on stability in the region, also with respect to the issues around Kosovo, is obviously considered of greater importance than the problematic developments within Serbia, which were largely caused by him. Leading pro-Western opposition politicians such as ex-president Tadić and the former foreign minister Vuk Jeremić (2007-

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14   If there is a parliamentary election in 2019, it is relatively safe to say that this will happen before Serbia can suggest a solution for the Kosovo question, as this would have a drastic impact on the results for Vučić's SNS.

2012)[15], who strictly oppose the independence of Kosovo, have also repeatedly expressed their incomprehension of the fact that some of the EU member states see the recognition of Pristina under Vučić as more important than democracy in Serbia. In their opinion, this begs the question as to where the "red line" in domestic policy might lie beyond which the the EU states would not tolerate a transgression.

A brief note about the role of the Organization for Security and Co-operation in Europe (OSCE) in the region: In all Western Balkan states (and Croatia, which was included until 2013), the OSCE set up field missions in the 1990s in the aftermath of the wars. After the suspension of Serbia's participation in the OSCE was lifted, an OSCE Mission to Serbia and Montenegro (after Montenegro gained sovereignty in 2006, Mission to Serbia) was established in March 2001, significantly later than elsewhere. This Mission had a broad mandate (rule of law, human rights, democratization, parliamentarism, local self governance, minority rights, civil society, freedom of the media, democratic police structures), and continues to perform a comprehensive role, which is largely highly appreciated. The OSCE thus makes an outstanding contribution to Serbia's efforts to fulfil the so-called Copenhagen Criteria (1993): "Membership [of the EU] requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities […]"[16] In the 40th anniversary year of the OSCE (2015), the Serbian Foreign Minister Ivica Dačić held the position of OSCE Chairman-in-Office.

Kosovo: Belgrade-Pristina Relations

The solution to the Kosovo question is and remains for Belgrade, Brussels, and Washington a key problem of the Western Balkans and is effectively, for the EU, the crux of the issue regarding Serbia's eventual accession. This solution will, however, only be possible if all members of the UN Security Council (UNSC) – including those which do not accept Kosovo's unilaterial secession (China, Russia) – agree to a minimal compromise.

Serbia has always rejected attempts to allow its southern province Kosovo and Metohija to separate, condemning both the NATO air strikes against the rest of Yugoslavia (Serbia and Montenegro) without a mandate from the UNSC in 1999, and the Kosovo-Albanians' UDI in February 2008. Serbia insists on the continuing legitimacy of UN Security Council Resolution (UNSCR) 1244 (1999). Belgrade criticizes the decision of the British

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15   Jeremić, 2012 President of the UN General Assembly, was one of the leading candidates for the post of UN Secretary-General in 2016. He came in second place after António Guterres.

16   European Council in Copenhagen, 21-22 June 1993, Conclusions of the Presidency, p. 13, at: http://www.consilium.europa.eu/media/21225/72921.pdf.

Presidency of the UNSC from August 2018 to waive the UN Secretary-General's quarterly report on Kosovo in future.[17]

Following pressure from the EU and the US, Serbia had already declared its willingness to enter into a dialogue to resolve technical, legal, and other practical questions. A technical dialogue, mediated and supported by the EU High Representative Catherine Ashton, began in spring 2011 and addressed questions that affected the daily lives of people on both sides of the administrative border (Serbian diction) or the state border (Kosovan diction), expressly without addressing questions of status. The technical dialogue includes topic areas such as recognition of customs stamps, vehicle licence plates, transfer of the civil register and land registry documentation by Serbia, mutual recognition of university qualifications, freedom of movement, electric energy systems, telecommunications, integrated management of (border)crossings, mutual representation by liaison officers with seats based in EU delegations in both capitals, and more. In addition, a political dialogue began in Brussels between the two prime ministers. The complicated dialogue process reached a temporary peak with the conclusion of the aforementioned First Agreement of Principles Governing the Normalization of Relations on 19 April 2013.

By the end of the same year, within the EU, the demand had prevailed for both sides to come to a legally binding agreement**.** This wording can be traced back to a proposal by the Christian Democratic Union/Christian Social Union (CDU/CSU) and the Free Democratic Party (FDP) in the German Bundestag, which stated: "The Bundestag welcomes the obligation laid down in the agreement of 19 April 2013 that neither party is to obstruct the other party's path towards the EU or incite others to do so. The Bundestag, however, is of the opinion that the normalization process should go much further than this with the aim of a *legally binding agreement* to the effect that Serbia and Kosovo, when they become full Member States, will be able to exercise their rights and responsibilities independently and jointly, and such a contractual agreement must be concluded before the completion of the accession negotiations."[18]

In the last two years, a new dynamic has developed, as evidenced by President Vučić's announcement of an "internal dialogue" in Serbia in summer 2017. The population of Serbia should obviously be carefully prepared for the fact that it may be necessary to abandon certain positions which were hitherto considered immovable and to accept a certain level of compromise. Most observers agree that only a conservative politican like Vučić, who originally

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17   After the USA, who held the Presidency in September, also failed to include the UN Secretary-General's quarterly report on Kosovo in the agenda, the Chinese Presidency included two quarterly reports in November's agenda.

18   Cited in: German Bundestag, Decision, Establishing agreement between the Bundestag and the Federal Government on the application of the Republic of Serbia for access to the European Union and on the recommendation made by the European Commission and the High Representative on 22 April 2013 that accession negotiations be opened, p. 3 (emphasis added).

came from the nationalist camp, can achieve a significant modifycation to Serbia's position without immediately losing his position, or at least his reputation. At the same time, however, the Serbian president wanted to signal to the West how hard it will be to bring about such a paradigm shift and gain understanding for this. At his meeting with German Chancellor Angela Merkel in Berlin in February 2018, he stated, "Serbia is ready for a solution, but the solution is in both sides losing something." He added that "it may be better if nobody is satisfied" and that it would be hardest for Serbia if it was "the only loser".[19]

Among those with an obvious interest in reaching a compromise are, on the one hand, Aleksander Vučić, who is seeking to speed up EU accession negotiations, and on the other, the EU and, in particular, Federica Mogherini, whose mandate ends in spring 2019. The US, too, has an extraordinarily strong interest and is becoming increasingly active, which is particularly appreciated by the top politicans in Pristina, who have long been hoping for more active leadership from the USA. In a rather unusual step, President Donald Trump sent separate letters to Presidents Aleksandar Vučić and Hashim Thaçi in December, emphatically calling for an agreement that would balance the interests of both sides. Obviously alluding to the total dissension of the Kosovo Albanian parties, he called on the Kosovo leadership to speak with a "unified voice".[20] The US Ambassador to Germany, Richard Grenell, a close confidant of Trump's, received Thaçi in Berlin a few days later and expressly renewed Trump's message once again.He urged Thaçi to take back the 100 per cent import tariffs on Serbian goods, which had only recently been issued in November, in order to relieve the tension in the dialgoue process. According to observers, however, the main interest of the US is to eliminate Russia's "last leverage" to exert influence in Serbia and the Balkans.[21] However, the increased American involvement is no longer inconvenient for Belgrade either, as it is expected to exert increased pressure on the Albanian leadership of Kosovo, who are hardly willing to compromise. In Serbia's view, the European Union is neither willing nor able to apply this pressure. It is also seen as an advantage that the US is showing greater flexibility than the relevant EU states with regard to a solution to the Kosovo problem, including possible border corrections.

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19   Vucic tells Merkel he wants "both sides to lose something", B92, 27 February 2018, at: https://www.b92.net/eng/news/politics.php?yyyy=2018&mm=02&dd=27&nav_id=103587.

20   Cited in: Snezana Bjelotomic, Trump's letter to Thaci: "I will be host to you and Vucic at the White House to celebrate historic accord", *Serbian monitor.com*, 19 December 2018, at: https://www.serbianmonitor.com/en/trumps-letter-to-thacii-will-be-host-to-you-and-vucic-at-the-white-house-to-celebrate-historic-agreement/.

21   Cf. Anne Gearan, Trump dangles Rose Garden treaty moment in quiet peace effort between Serbia and Kosovo, *The Washington Post*, 6 January 2019, at: https://www.washingtonpost.com/politics/trump-dangles-rose-garden-treaty-moment-in-quiet-peace-effort-between-serbia-and-kosovo/2019/01/06/b32f0d76-1067-11e9-84fc-d58c33d6c8c7_story.html?noredirect=on&utm_term=.0f377ca69663.

While it is undisputed in Serbia that Vučić should also lead the "final phase" of dialogue negotiations, in Kosovo there is no consensus on who should lead, even within the governing coalition. In autumn, a so-called "dialogue team" was created under pressure from Prime Minister Ramush Haradinaj, the political rival of President Thaçi, with the aim of limiting the president's ability to negotiate. The office of Federica Mogherini announced at the end of 2018 that this team will travel to Brussels for the first time in January 2019 for "consultations". With the prospect of early elections in 2019, the representatives of the Kosovo opposition hope to take power and to be in a position to radically change the course of the dialogue negotiations, from which, in their view, only Serbia is profiting. In addition, they suggest that Hashim Thaçi, who had already initialled the Brussels Agreement in 2013, is only interested in securing his inviolability and avoiding prosecution by the new special court in The Hague. In 2019, these special chambers of a court of justice legally based in Kosovo should, with some delay, start bringing their first charges against suspected Kosovan perpetrators, mostly for war crimes (the reference period is 1 January 1998 – 31 December 2000), especially against those suspected trafficking of organs removed from Serbian prisoners and political murders in the post-war period. For the first time at the end of 2018, more than a dozen Kosovo-Albanians, mostly from the upper echelons of the so-called Kosovo Liberation Army (UÇK/KLA), were summoned to The Hague for questioning in January 2019. In Serbia, on the one hand, there are still high hopes that victims and their relatives will still receive justice from this new judicial institution, but on the other, they are highly skeptical that it will be possible to present any evidence that will convince the court 18-20 years since the war crimes and murders in the post-war period were committed.

There are differing views on precisely what form a legally binding agreement and comprehensive normalization of relations might take, even within the EU. President of the European Commission Juncker stated that this was a matter for Belgrade and Pristina. Politicians from some EU states are of the opinion that complete recognition of Kosovo under international law, including UN membership, should be mandatory, a view shared by leading politicians in Kosovo. Representatives of other EU member states are of the opinion, however, that this may be desirable but is likely to prove almost impossible to put into practice, especially as five EU member states continue to refuse to recognize Kosovo (Cyprus, Greece, Romania, Slovakia, Spain) and informally bring a de facto recognition and observer status in the UNO into play. Mogherini's spokesperson Maja Kocijančić found a more wise definition in December: Such an agreement would need to "lead towards a permanent solution for open issues, that must be based on international law, in line with the EU laws and acceptable to all member states".[22]

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22   "Trump`s letter a sign of support and encouragement" – EU, *RTK Live,* 20 December 2018, at: https://www.rtklive.com/en/news-single.php?ID=13074.

The year 2018 did indeed see renewed tensions increasing between Belgrade and Pristina, not least by the stagnation of the EU-supported dialogue and the assassination of the moderate Kosovo Serb politican Oliver Ivanović in January, in relation to which the investigations seemed to be very drawn out on all sides. Tensions peaked for the first time in March with a militant dispute between senior politicians on both sides. The Serbian chief negotiator in the dialogue, Marko Đurić, was arrested and expelled by Kosovo's special police with disproportionate coercion, and subjected to degrading treatment and excessive media coverage, because he was in Kosovo without special permission. While the EU and the UN Secretary-General urged for moderation, both sides insinuated that the other had failed to fulfil the terms of agreements reached. In the summer, the arrest of Kosovo Serb politicians, who were accused of urging Serbian members of the Kosovo Security Force (FSK/KSF) to leave this quasi military formation, intensified tensions further. Belgrade still strictly opposes the transformation of the FSK/KSF, which grew out of the UÇK/KLA, into a Kosovo army.

On 14 December, the parliament in Pristina passed several laws to create a Kosovo army, bypassing an actually necessary constitutional amendment, which should have been approved by not only 2/3 of the Albanian members, but also 2/3 of the parliamentarians belonging to the Serb community. As expected, Serbia strongly protested, pointing to the violation of the UNSCR 1244 (1999), the Kumanovo Agreement which followed the end of the NATO airstrikes (June 1999) and Kosovo's own constitution. Belgrade demands Western guarantees that units of a Kosovo army will not be stationed in the majority Serbian populated area in the north. The majority of NATO states and EU members, who fundamentally support the creation of an army, expressed deep concern about the step Pristina has taken, which runs counter to previous arrangements. The United States and Britain, however, signalled support. NATO Secretary General Jens Stoltenberg reprimanded the "bad timing", with which he obviously had the imminent decisive phase of the dialogue negotiations in mind. The trade barriers to goods from Serbia and BiH (100 per cent tariff margins) adopted by Pristina in November in response to Serbia's policy of preventing Kosovo's admission to international organizations[23] (most recently Kosovo's application to INTERPOL had failed) also do nothing to improve the atmosphere. Repeated calls from Brussels and European capitals and Washington to remove them, especially as they also contravene CEFTA standards, have been stubbornly ignored by Prime Minister Haradinaj.

As a result of the dialogue negotiations undertaken so far, the Serbian so-called parallel police and justice structures in the north of Kosovo have been abolished, and the respective Kosovo Serb officials incorporated into Kosovo authorities. However, the virtual lawlessness in this part of Kosovo with strong

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23   Serbia regards any acceptance of Kosovo into an international organization as an anticipation of its future status, which, in Belgrade's view, remains unclear as long as UNSCR 1244 (1999) remains in force.

ethnic Serbian mafia structures has yet to be overcome. The existing Serbian structures in education, health care, and local administration also remain. Belgrade insists, and not without reason, that these should be merged, at least in part, into a single institution, as was key in the Brussels Agreement of April 2013. This refers to the creation of an association or community of municipalities with a majority Serb population (Association/Community of Serb Majority Municipalities; in Serbian, the word *zajednica* – community – is used). In addition to the northern municipalities, this would also include the municipalities with a Serb majority in the rest of Kosovo, such as Gračanica and Štrpce. As agreed, this institution should have competencies in the areas of economic development, education and healthcare, as well as spatial planning. Belgrade criticizes the fact that more than five years after the Brussels Agreement was initialled, this institution still does not have a statute, while in Pristina, there are fears that the Association/Community could become something like a Serbian Trojan horse and could lead to a kind of *Republika Srpska* and "Bosnian conditions", which Serbia strongly denies. Senior politicians in Serbia reject the judgement of the constitutional court of Kosovo, according to which the Brussels Agreement contains elements related to the Association/Community that are unconstitutional, and insist on its implementation.

The importance that Belgrade attributes to the creation of the Association/Community is clear from the text of the Brussels Agreement, in which the first six of the fifteen points concern this question alone. Pristina states categorically that the Association/Community should not have any executive powers, and should be a quasi non-governmental organization established on the basis of the current constitution and laws which do not stand in the way of a community of municiapalities in principle. Indeed, Brussels would not have on not have spent months negotiating hard over a situation that did not in fact require negotiation. Kosovo-Albanian politicians and some EU representatives not only seem to have disregarded, but also forgotten that it was always clear to both parties that some laws would inevitably require adjustments. Only a month after the Brussels agreement, the Prime Ministers of Kosovo and Serbia had come to a common understanding regarding an Implementation Plan that made provisions for the "adjustment of legal frameworks" on both sides. This includes without a doubt the creation of a legal framework for the Association/Community. The Chairman of the Serbian Parliament's Committee on Kosovo, Milovan Drecun, had already explained to me years ago that an analysis of Kosovo legislation by legal experts in parliament had shown that Kosovo's constitution and up to 40 legal acts would need to be adjusted in order to grant the Association/Community the agreed competences. This now seems, at least in part, to be recognized by Brussels too. In April, Brussels set a four-month deadline (August) for the drafting of the statute. A so-called management team made from ethnic Serbs had, according to their own statements, drafted a text by the deadline set, but had not presented it to the authorities in Pristina, nor to

Mogherini's team. The reason for this could be Belgrade's readiness to relativize this point of the Brussels Agreement in the case that border corrections would fall in Serbia's favour in the course of the negotiations.

For a long time, the status of the north of Kosovo, which is mainly populated by Serbs, has looked likely to be become the decisive element in any solution. The possible re-incorporation of the north into central Serbia is, however, ruled out by most EU states, as they fear that more border changes would open Pandora's box even further – already fairly wide open due to the recognition of Kosovo's secession. This option is, however, still under discussion in some circles in Belgrade and Pristina.

In September, Vučić publicly admitted that his ideas for a Kosovo solution had failed. If there had been whispers of disbelief from observers behind closed doors that Vučić's much-invoked compromise meant the reintegration of the Serb-dominated Kosovo north into central Serbia,[24] by late summer this was being discussed in detail everywhere. While on an international level, the German Chancellor, the British Prime Minister, and numerous Western and Balkan politicians, scientists, and journalists strictly opposed new border changes and warned of a domino effect, the US administration under Trump took a more relaxed view. If both sides agreed to a solution that increased stability in the region rather than endangering it, the US would be able to accept it, so they said. The crucial factor, however, was that Vučić countered harsh criticism in central Serbia and from the majority of those Kosovo Serbs whose settlement areas would remain in Kosovo after a possible separation of the north. Both the extemely influential Serbian Orthodox Church and the rather weak opposition, apostrophized in the West since the 1990s as pro-European, as well as the extremely nationalist opposition, vehemently opposed a "solution" that would mean abandoning the Serbian claim to sovereignty over Kosmet (Kosovo and Metohia) under breach of the constitution. In addition, Russia was apparently more than critical of such a variant. According to his own statements, Vučić had devoted almost an hour of his conversation with President Putin to this topic alone during his visit to Moscow on 2 October, but had probably been unable to convince him. According to observers, this was probably partly because Vučić's assurance that Serbia would stay away from NATO would no longer be fully trusted. But it was not only the Serbian president who had serious problems in his own country: His opponent, Kosovo's president Thaçi, who also spoke practically in unison with Vučić of "border corrections", was not only thwarted by the opposition, but also by the

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24 In July, Vučić gave the Zagreb Globus a clear indication that Kosovo was lost, but that Serbia wanted to "retrieve" as much as possible, by which he was quite obviously referring to the north of Kosovo. This was been reported as a sensation. Cf. Darko Hudelist, Nacionalna izdaja ili …? Aleksandar Vučić iznenada nazvao reportera Globusa "Svi Srbi znaju da su izgubili Kosovo ..." [National Race or …? Aleksandar Vučić surprisingly called the reporter of Globus "All Serbs know they have lost Kosovo ..."], Globus, Zagreb, 25 July 2018, at: https://www.jutarnji.hr/globus/Globus-politika/aleksandar-vucic-iznenada-nazvao-reportera-globusa-svi-srbi-znaju-da-su-izgubili-kosovo/7652250/.

head of government Ramush Haradinaj and influential politicians from his own party, including Chairman of the Assembly Kadri Veseli. And this despite the fact that he had promised to address the integration of the southern Serbian communities of Preševo, Medveđa, and Bujanovac with a high proportion of Albanians into Kosovo in Brussels – without, however, promising Serbia anything in return.

In the first half of 2018, Aleksandar Vučić met with high-ranking representatives in Washington, Brussels, and Paris, including two meetings with German Chancellor Merkel in Berlin and Russian President Vladimir Putin in Moscow, from whom a return visit is expected at the start of 2019. After his return, he appeared, however, more pessimistic and disappointed about the conversations with most of the Western politicians, who – in his view – considered the Kosovo question resolved and were not interested in a compromise that he could present to the Serbian public. Vučić made it clear several times that a "frozen conflict" was, in his opinion, one of the worst options. In May he stated, "The solution must be accepted by a majority, otherwise there will be a new wave of Serbian nationalism. […] Today, three quarters of Serbs would probably rather freeze the conflict than accept a compromise."[25] The harsh reactions of conservative and nationalist forces, and the Serbian Orthodox Church in particular, seem to show that he is very likely to be right about this. Polls have shown that, indeed, 63 per cent of respondents believe a "frozen conflict" is currently the best solution and 52 per cent can even imagine that the Serbian army might be deployed in the case of an "occupation" of the north of Kosovo.[26]

One obstacle to a clear paradigm shift that should not be underestimated is Serbia's constitution, validated by a referendum in 2006. The preamble to the constitution defines Kosovo as a part of Serbia. While all EU accession candidates so far have had to implement constitutional changes, Serbia would obviously also have to remove this definition and all references to Kosovo as a part of Serbia. A change to the constitution only becomes valid, however, when at least 50 per cent of all registered voters take part in a constitutional referendum, of which in turn 50 per cent must vote in favour. To achieve this would require a unified position and an enormous effort on the part of the political class in Serbia, which currently seems highly unlikely. Even if there is acceptance within Serbia for a compromise solution to the Kosovo question, the problem will not be resolved until it is accepted in Kosovo too. At the end of 2018 it seems unrealistic, when taking into account all the internal obstacles

25 Matthias Beermann, Serbiens Staatspräsident im Interview: "Liebt das Land eurer Kinder!" [Interview with Serbia's President: "Love the country of your children!"], in: Rheinische Post, 17 May 2018, at: https://rp-online.de/politik/ausland/serbiens-praesident-aleksandar-Vučić-will-loesung-fuer-den-kosovo-mitbestimmen_aid-22687251 (author's translation). For an English source, cf. "Wave of Serb nationalism possible without fair solution", Source: TANJUG, 17 May 2018, at: https://www.b92.net/eng/news/politics.php?yyyy=2018&mm=05&dd=17&nav_id=104181.
26 "Serbians like ruling party, and frozen conflict – poll", B92, 8 June 2018, at https://www.b92.net/eng/news/society.php?yyyy=2018&mm=06&dd=08&nav_id=104359.

in Belgrade and Pristina, as well as international positions and discussions overall, and despite the new dynamic created by the strengthened engagement of the US, that a conclusive solution to the Kosovo question will be possible in the short term.

Conclusion

Some observers think that the politicians in the region will only work with the fear in the West of new conflicts in the Western Balkans in order to force concessions on the way to EU membership.[27] This relates to the scaremongering of overflowing nationalism, unresolved bilateral conflicts, increasing external influences on the region, criminality, corruption, the export of organized crime, and terrorism. It is a pipe dream – so they argue – to assume that the prospect of accession offers an incentive for sustainable progress in these countries. Bulgaria, Croatia, Romania, and Hungary have shown that this has not worked up to now. On *Deutsche Welle*, Zoran Arbutina urged caution and commented that the announcement of a potential accession in the not too distant future rather allowed the ruling elites to maintain their grip on power. He names Serbian President Vučić as "a prime example" of someone who is "a master of playing on the fears of Russia and China, he presents himself as a modern, pragmatic and pro-EU leader, viewed in Brussels and Berlin as a strong source of stability, while his autocratic tendencies, including suppressing opposition and the press, go ignored, even tolerated."[28]

Indeed, the European Union seems to be in a dilemma, and appears to be trying to square the circle. The EU-Western Balkans Summit in May 2018 hosted by the Bulgarian presidency in Sofia, in which the Spanish prime minister did not take part in order to avoid appearing on a photo with senior Kosovo politicians, was the first event of its kind since the Thessaloniki Summit in 2003. The accession prospects of the Western Balkans partners were affirmed again, as they had been 15 years earlier. Even though the Commission repeatedly states that no one has been promised a date for accession and the 2025 deadline for Serbia and Montenegro should only serve as an incentive for quick and consistent reforms – obviously to dispel the fears of some member states that earlier mistakes on the part of the EU could be repeated, there are of course other, no less problematic aspects. For example, a lack of clarity about

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27 Cf. Jenny Nordman, Nationalism, EU Integration, and Stability in the Western Balkans, in: Institute für Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 151-163; Andreas Ernst, "Die Politiker auf dem Balkan spielen geschickt mit Europas Ängsten" [Politicians in the Balkans play with Europe's fears], in: *Neue Zürcher Zeitung*, 28 February 2018, at: https://www.nzz.ch/international/realpolitik-mit-werten-ueberzuckert-die-neue-erweiterungsstrategie-der-eu-auf-dem-balkan-ist-die-alte-ld.1361380.

28 Zoran Arbutina, Opinion: Western Balkans joining EU would be wrong move for wrong reasons, Deutsche Welle, 25 February 2018, at: https://www.dw.com/en/opinion-western-balkans-joining-eu-would-be-wrong-move-for-wrong-reasons/a-42721362.

the prospect of accession could very well lead to disappointment and weakening enthusasim for the clear pro-European forces in Serbia (and in the region) and, at the same time, weaken public support for the reforms. In such a case, it would then be even more complicated to convince the population of the benefits of EU membership in the long term. In Serbia, there has already been a clear decrease in public support in the last five years, but the slim majority of the population is, for now, still in favour of joining the EU. Brexit also plays a part. In 2017, for example, some radical nationalist forces prevented the EU ambassador and leader of the EU Delegation in Serbia from 2013-2017, a renowned British diplomat, from appearing in the Serbian National Assembly, referring to the UK's plans to leave the EU. The Kosovo question is another factor. Observers wonder whether the Serbian public will vote for accession to the EU on a rational basis, or whether they will react more emotionally and therefore actually oppose accession if the de jure abandonment of the de facto lost Kosovo were at stake.

In the light of the problems outlined, the question may also arise as to whether the EU actually has to offer Serbia and the other states in the Western Balkans full membership immediately, or whether it would be advisable to "first offer a common trading zone or privileged partnership. A type of co-operation must be established to protect economically weaker countries while supporting the development of democratic civil society – all outside the EU."[29]

Is Serbia therefore at a crossroads? This question seems inadequate and inexpedient. In the last few years, Belgrade has repeatedly made it explicitly clear that the EU integration of the country is the top priority of Serbia's for-eign policy and has, despite its faults, made very considerable progress. In the face of the enormous pressure from the West regarding the Kosovo question, some Serbian politicians, such as defence minister Aleksandar Vulin, have repeatedly challenged Vučić to reconsider the relationships to the EU. However, this was most likely directed at their own political clientele, but can also be understood as a demand that the West should not take this pressure too far. In contrast, Serbia does not intend to join the Collective Security Treaty Organization (CSTO) led by Russia, in which it has observer status, any more than it intends to join NATO, in whose manoeuvres Serbia participates even more extensively. Neither is Serbia aiming to join the Eurasian Economic Union (EEAU).

Despite its avowedly clear EU orientation, Serbia will also maintain hist-orically and culturally determined relationships (Slavonic heritage, orthodoxy) with the Russian Federation and continue to develop these. They have deepen-ed further, not least since Russia supported Serbia's Kosovo position with its power of veto in the UN Security Council, and are seen as essential. Serbia should obviously not be put in a position of having to decide either-or, as

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29   Ibid.

observers saw in Ukraine in 2013. Many within the EU seem to have recognized this too. In spite of the generally accepted requirement that an accession candidate should bring its foreign policy in line with that of the EU by the time it joins at the latest, it could prove questionable as to whether Serbia can be expected to adopt the EU's sanction policy towards Russia.[30] This comes at a time when a number of EU member states have long since recognized that it is not realistic to expect that a change in Russia's politics can be achieved through sanctions. In addition, Belgrade clearly sees that these sanctions also lead to considerable economic losses in many member states, but not the USA. The fear of some Western politicians that Serbia could prove to be Russia's Trojan horse in Europe also seems far-fetched. The access that Serbian politicians have to listening ears in Russia could instead be useful in overcoming the lack of dialogue between Moscow and the West. Twice already, Belgrade has provided the neutral ground upon which the American and Russian envoys in the Ukraine conflict, Kurt Volker and Vladislav Surkov, were able to agree to meet.

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30   Some EU member states block the opening of chapter 31 (foreign, security, and defence policy) referring to the fact that Serbia has not applied sanctions against Russia.

Biljana Vankovska

A Diplomatic Fairytale or Geopolitics as Usual: A Critical Perspective on the Agreement between Athens and Skopje

Background to the Name Dispute and Its Implications

The so-called name dispute between Greece and the Republic of Macedonia has had a long and unique trajectory. Since the name dispute is not the focal point of this analysis, we shall only make a brief overview of its essential elements.[1] Paradoxically, the dispute was "born" – i.e. politically and legally outlined – rather than resolved by the United Nations (UN) Security Council in the early 1990s. Security concerns for the Balkan region, although highly legitimate at the time, have in the meantime served as a 'fig leaf' to conceal the power politics in the region and the Republic of Macedonia. In 2018, when the landscape of the territory of former Yugoslavia is radically different from what it was in the 1990s, this dispute is not only an indication of the impotence and political inertia of the global powers represented in the Security Council. It also shows that the name Macedonia represents much more than what foreign observers dubbed a "ridiculous and absurd" disagreement between two Balkan states. The deep roots of this dispute can be traced back a century, or at least as far as the Greek civil war and the beginning of the Cold War, and the declaration of independence in 1991 disturbed long sleeping ghosts. Incapable of dealing with the major conflict in former Yugoslavia, the UN rushed to prevent and resolve at least one (potential) clash. In spite of the fact that Macedonia met all requirements for membership in accordance with Article 4 of the UN Charter, an additional requirement was imposed with regard to the name.[2] In short, Macedonia's admission to the UN was in breach of the Charter.[3] Ever since, the state has been named "the former Yugoslav Republic of Macedonia" – a bizarre reference to a deceased state. The first ever UN preventive deployment mission was later established on the ground to monitor a negative peace.

In its short political history, the Republic of Macedonia has been called "a success story" at least twice. Having avoided violent secession, and when it

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1 For those interested in the dispute, we would suggest at least these major academic works: Mircela Dzuvalekovska Casule (ed.), *The Name Issue Revisited. An Anthology of Academic Articles*, Skopje, 2012; Svetomir Shkaric/Dimitar Apasiev/Vladimir Patchev (eds), *The Name Issue – Greece and Macedonia*, Skopje, 2009, available at: https://www.academia.edu/2592095/THE_NAME_ISSUE_-_Greece_and_Macedonia.

2 Cf. Charter of the United Nations, Article 4 at: http://www.un.org/en/sections/un-charter/chapter-ii/index.html.

3 Cf. Igor Janev, Legal Aspects of the Use of a Provisional Name for Macedonia in the United Nations System, in: *American Journal of International Law* 1/1999, p. 155.

welcomed the first UN preventive mission (United Nations Preventive Deployment Force, UNPREDEP), the country was commended as "a success story" of preventive diplomacy. It proved difficult to maintain peace in the turbulent region, so the violence spilled over from Kosovo and fanned the flames of existing internal contradictions, leading to an outbreak of conflict in 2001. The short-lived inter-ethnic conflict was terminated with the help of international mediation by the USA and the EU: The Ohrid Framework Agreement introduced the power-sharing model into the constitution and was praised as a miraculous act of post-conflict mitigation. The international community was unanimous: Translating the agreement into constitutional provisions ended the inter-ethnic conflict, and Macedonia was again a "success story". Thus, only the issue of the name dispute remained to be resolved, as it not only prevented the full integration of Macedonia into NATO, but also hampered the process of international state-building. After a while, the international community defined the name issue as a security problem, which brought the discourse back to square one, where it had been in the nineties.[4] The closer Macedonia came to meeting the admission criteria, the farther it was pushed back due to the Greek veto. Instead of receiving encouragement for the reform results they achieved, like Tantalus, the small state's torments would just continue. NATO's rejection of Macedonia at the 2008 summit set the scene for a significant political about-turn: Instead of continuing with its futile efforts to complete reforms, the political elite took advantage of the national frustration to fortify its rule by intensely reinforcing the national ethos and pride. The infamous "Skopje 2014" project, with its monuments, illustrated the process most vividly. Behind the façade, however, a captured state was established. The former Prime Minister Nikola Gruevski's term of office (2006-2016) was brought to an end through a classic "coloured revolution" that lasted for almost two years (2014-2016). At the 2016 elections, his party (Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity/VMRO-DPMNE) won the largest number of seats but did not have the capacity to form a coalition, as the Albanian partner, the Democratic Union for Integration (DUI) was under strong international pressure not to continue their political collaboration. After a long ordeal in constitutional, political, and even security-related terms that escalated with the dramatic events of 27 April 2017,[5] the Social Democrats (Social Democratic Union of Macedonia, SDSM)

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4   Biljana Vankovska, The EU Integration as Security Discourse: The Curious Case of the Republic of Macedonia, Heinrich Boell Stiftung Magazine for SEE *Agenda*, No. 5, 2011 at: http://www.boell.rs/downloads/Agenda_5_Engl.pdf.

5   After more than two months of peaceful street protests, on 27 April 2017 the protesters stormed the Macedonian parliament building in reaction to the election of the new speaker, as his election violated the Constitution and the Code of Conduct of Parliament. The pretext for the mass protests was the so-called Tirana Platform (a list of ethnic demands set by the leaders of the Albanian parties in January 2017 as a condition for formation of the new government). The clashes on 27 April involved a group of violent protesters and a few MPs. Would-be Prime Minister Zaev was among those injured. The trial against the protesters and the organizers is still ongoing, but the charges against the opposition MPs served as a

formed a new government in coalition with a few Albanian parties. Zoran Zaev became the new prime minister, on the wings of the popularity he had gained during the wiretapping scandal (disclosed by him through so-called "audio-bombs"), and his government launched a new motto: "Life for all". However, instead of liberating the state and meeting popular expectations, the government almost immediately turned towards "resolving" the open foreign policy problems with Bulgaria and Greece. Some believe that the reason for this was twofold. First, Zaev had made a commitment to the international community to do anything to help the country's integration into NATO in return for their overt support. Second, it is easier for the government of a weak state to achieve NATO membership than it is to deliver wellbeing and meet the expectations of its citizens.

To foreign observers, the signing of the so-called Prespa Agreement[6] on the name change between Skopje and Athens on 17 June 2018 seemed to be the third success story. The two prime ministers, Zoran Zaev and Alexis Tsipras, were even mentioned as potential candidates for the Nobel Peace Prize.[7] A group of over 40 eminent foreign scholars rushed to greet the Agreement in an open letter. According to them, not only was the Agreement historic – it must also be honoured. At the same time, critics on both sides were accused of being hardliners and extremists.[8] Having carefully read and analysed all possible political, societal, and legal consequences of the eventual implementation of the Agreement, another group of over 70 prominent scholars of Macedonian and foreign origin, including the internationally acclaimed writer Milan Kundera, drafted a letter warning that it was too early for unfounded optimism.

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bargaining chip: their amnesty helped Zaev to provide the two-thirds majority necessary for the change to the Constitution in late 2018. For more information, see: Sinisa Jakov Marusic, *Macedonia Moves Forward With Amnesty Law*, *Balkan Insight*, December 13, 2018, https://balkaninsight.com/2018/12/13/macedonia-amnesty-law-moves-forward-12-13-2018/.

6   The full name of the Agreement reads: *Final Agreement for the Settlement of the Differences as Described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the Termination of the Interim Accord of 1995, and the Establishment of a Strategic Partnership between the Parties*. For practical reasons we refer to it as the Prespa Agreement. This name has another symbolic significance too: the 2001 Framework Agreement that put an end to the inter-ethnic conflict is usually referred to as the Ohrid Agreement, as the negotiations took place by the Ohrid Lake. Prespa Lake is just across the mountain Galichica, and is now famous as a place where another agreement supposedly put to an end a long-lasting dispute between Greece and Macedonia.

7   The first to mention the Nobel Peace Prize was Edward P. Joseph, member of the International Crisis Group, in an article published prior to the signing of the Agreement. Cf. *Alexis Tsipras Deserves the Nobel Peace Prize*, *Foreign Policy*, 15 June 2018, at: https://foreignpolicy.com/2018/06/15/alexis-tsipras-deserves-the-nobel-peace-prize/.   A few months later, there were a number of such opinions being expressed in the media. Cf., for example, Georgi Gotev, *Tsipras and Zaev reportedly in the running for Nobel Peace Prize*, *Euractiv*, 3 October 2018, at: https://www.euractiv.com/section/enlargement/news/tsipras-and-zaev-reportedly-in-the-running-for-nobel-peace-prize/.

8   Cf. *Historic deal on shared Macedonian identity must be honoured*, *The Guardian*, 20 July 2018, at: https://www.theguardian.com/global/2018/jul/20/historic-deal-on-shared-macedonian-identity-must-be-honoured.

Sadly, all mainstream Western media refused to publish it, so in the end, it appeared on a digital portal with limited international reach.[9]

The Murky Path to Prespa:[10] *Prologue to the Agreement*

A brief outline of the manner in which the Prespa Agreement was concluded is necessary to understand the consequent developments that led to today's deep constitutional and political crisis in the Republic of Macedonia. To quote Dante, the road to hell is paved with good intentions. The day of the signing ceremony was sunny, and motorboats carried the Macedonian delegation into the small port where the dignitaries were ready to greet the expected victory. By coincidence, it was UN Special Representative Matthew Nimetz's birthday. The group then moved to the Macedonian side of the lake to celebrate over lunch. Everything seemed idyllic and only a few of the participants were cautious and calling to hold off with the celebrations. The very same evening the special police used shock bombs and tear gas against peaceful protesters in front of the parliament building in Skopje; almost immediately, the media reacted as if orchestrated, accusing the protesters of violent actions.[11] The day that was applauded as historic marked the beginning of a long list of violations of the rule of law and democratic principles in order to push forward the name change and the geopolitical agenda. Indeed, Oxford professor James Pettifer argued that the talks leading to the Agreement were of a coercive nature designed to produce a short-term possible gain at the cost of increasing regional instability.[12]

After decades of formal UN mediation by Nimetz, it looked as if the two parties had made a huge leap forward towards direct bilateral negotiations between the foreign ministers and the two prime ministers in the months prior to the signing ceremony. The general picture presented to the public in both countries, however, seemed to portray a situation that more closely resembled arm wrestling, especially between the two foreign ministers, Nikola Dimitrov

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9   Letter to the Editor: Academics Take Issue With Prespa Agreement, *Balkan Insider*, 29 August 2018, at: https://www.balkaninsider.com/letter-to-the-editor-academics-take-issue-with-prespa-agreement/#menu-main-slide.

10   The Agreement was signed in the village of Nivici (Psarades in Greek) by Prespa Lake, on the Greek side of the border, but it is widely referred to as the Prespa Agreement by the Macedonian public.

11   The author was among the protesters and witnessed the brutal use of force. Some participants in the Coloured Revolution testified that it was unprecedented, unlike anything they had seen during the Gruevski regime and mass protests in 2015. Cf.Apasiev: Uchestvuvav na site protesti na "sharenite", no ne se sekjavam na solzavci i shok-bombi!?" [Apasiev: I participated in all "Coloured" protests but I have no recollection of any use of tear gas and shock bombs], *Ekonomski.mk*, 18 June 2018, at: https://ekonomski.mk/apasiev-uchestvuvav-na-site-protesti-na-sharenite-no-ne-se-sekjavam-na-solzavci-i-shok-bombi/.

12   Cf. Marjan Velevski, Interview with James Pettifer, Makedonija se stave vo vazalska polozhba kon Grcija [Macedonia Puts Itself into de facto Suzerainty Position Towards Greece], in: Nova Makedonija, 7 July 2018, at: https://www.novamakedonija.com.mk/makedonija/македонија-се-става-во-вазалска-полож.

and Nikos Kotzias. On the other hand, reports from the meetings between the prime ministers, and especially the interviews with Zoran Zaev, indicated that talks had been warm, friendly and almost intimate with no references to any "red lines" (i.e. protecting national interests) from the Macedonian side. In an interview on Greek television, Zaev addressed the Greek public, explicitly stating that he was refraining from thinking in terms of "red lines" but preferred to believe in exit lines.[13] With the acceptance of the new name with *erga omnes* (Latin for "towards all") effect (including in the internal legal and political order) and the change to the constitution, the Prespa Agreement de facto meant breaking the unspoken societal and political consensus regarding "red lines", abandoning the two most important pillars of Macedonia's policy towards the name dispute.

The public had been kept in the dark with practically no official information about the course of the negotiations. The only news came from the Greek media – and proved to be correct. Government officials used the same refrain: We cannot disclose any details in order to avoid jeopardizing the delicate process and its eventual success. The proposed future name "Ilinden Macedonia", which was allegedly agreed between the prime ministers during the EU-Western Balkans Summit in Sofia,[14] served as a political barometer to test the public's reaction. It was also a trick to get the opposition to adopt a clearly patriotic position but then express disagreement with the name "Ilinden Macedonia", and thus reveal their true colours. As soon as Tsipras got back home, however, the Greek side detected "irredentist claims" in Ilinden.[15] To make matters worse for the Macedonian side, Zaev failed to create either a political consensus or an inclusive and co-operative political climate with the opposition and the President of the Republic.[16]

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13   In an interview for the Greek television station Alpha TV on 8 January 2018, Zoran Zaev made a metaphorical link to the mythological labyrinth and minotaur, portraying himself as Theseus and his counterpart as Ariadne, at: https://www.youtube.com/watch?time_continue=3&v=xsrZJ4vBSsY.

14   Cf. Zaev Cites Agreement with Greeks on "Ilinden Macedonia" Name, *RadioFreeEurope/RadioLiberty,* 19 May 2018, at: https://www.rferl.org/a/macedonia-zaev-greece-name-dispute-llinden/29237627.html.

15   Ilinden (St. Elijah's day, 2 August) refers to the 1903 uprising against the Ottoman Empire, which embraced Macedonian freedom fighters also from today's Greek territories. The uprising resulted in the Krushevo Republic established by the Macedonian rebels, which lasted for ten days. On the same day, in 1944, the Anti-Fascist Assembly for the National Liberation of Macedonia took place. Its decisions have historic and constitutional meaning for the Macedonians' right to national and political self-determination. However, the proposal for Ilinden Macedonia was taken as a bad joke by the public, and soon it appeared to be just a barometer for the government too.

16   In addition to the calls for the parliamentary opposition, on the eve of the Prespa Agreement's conclusion, the Cabinet of President Ivanov issued a formal statement appealing to Prime Minister Zaev and the government to submit the proposal for negotiations with a constitutional basis, the draft of the agreement and the views of the delegation in the negotiation process – in order to provide a broader consensus on the name issue. This call fell on deaf ears. Cf. Ivanov calls for a national consensus on the name, *Republika English,* 1 June 2018, at: https://archive.english.republika.mk/ivanov-calls-for-a-national-consensus-on-the-name/.

The few days that preceded 17 June were particularly tense for the public, with the atmosphere changing from cold to hot within minutes. The Agreement (in its original English) was leaked by the Greek daily morning newspaper *Kathimerini*, and was only later translated and re-published in Macedonia.[17] The 20-page document came as a shock to the Macedonian public. In the months between the signing of the Agreement and the consultative referendum on 30 September 2018, there were a number of public opinion polls. Arguably, these were published in order to generate public opinion and not to assess it. This became evident once the results of the referendum were known, despite prognoses from pro-government media and PR agencies that the agreement would be accepted. The government's focus was on the number of citizens that would, or would not abstain from the vote, but some of these polls indicated another interesting point: Very few citizens had actually read the text of the Agreement – as few as three per cent according to the Skopje-based MCIC survey of August 2018. The conclusion of this survey was that the citizens claiming that they were familiar with the content and propositions of the Agreement – over 84 per cent – had got their information from second-hand sources. According to this survey, in response to the question regarding where respondents had found the necessary information, for a large majority (73 per cent) the media was the main source, followed by social media networks (almost 14 per cent), and relatives and friends (about six per cent).[18] Bearing in mind that the new government had failed to free the media space from political control, and the fact that a number of popular television talk shows were (and still are) funded by foreign agencies (mostly USAID, but also by some European embassies)[19], campaigning in favour of the agreement had been intensive and continuous even before the referendum was called. Yet the distrust would only deepen in the months to come.

Some of the most renowned professors of international law, such as Francis A. Boyle and Richard Falk, took a critical stance towards the Agreement. In a media comment, Boyle said, "Greece and Macedonia should be able to agree upon a mutually acceptable name without Macedonia having to sign

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17   Cf. Agreement. Final Agreement for the Settlement of the Differences as Described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the Termination of the Interim Accord of 1995, and the Establishment of a Strategic Partnership between the Partners, 12 June 2018, *Ekathimerini.com*, The full transcript of the Greece-FYROM deal, 12 June 2018, at: http://s.kathimerini.gr/resources/article-files/symfwnia-aggliko-keimeno.pdf. Two days later, on 14 June 2018, the Macedonian media published an un-authorized translation, at: https://www.mkd.mk/makedonija/politika/celosen-transkript-od-dogovorot-megju-makedonija-i-grcija.

18   Cf. Macedonian Center for International Cooperation (MCIC), *Referendum 2018: Public Opinion Poll in Macedonia*, August 2018, p. 7-8, at: http://www.mcms.mk/images/docs/2018/referendum-2018-public-opinion-poll-in-macedonia.pdf..

19   For instance, a popular talk show "Top Theme - On Your Side" (Top tema na vasha strana), broadcasted on TV Telma, is officially funded by USAID. See: https://www.usaid.gov/north-macedonia/news-information/press-releases/top-tema-your-side-exemplifies-journey-toward-self. The same applies to a few other TV projects at TV Sitel (Detektor) and Kanal 5 TV (Samo vistina).

a 20 page agreement basically drafted by the US State Department that would take a professional international lawyer quite some time to figure out what it means and what would be the consequences for Macedonia. How can the Macedonians know what they are voting for? As we Americans say, Macedonians will be getting the proverbial 'pig in the poke' if you vote for this agreement in the forthcoming referendum. The Americans have never cared about constitutional requirements when they are trying to get people to swallow an agreement."[20] In his opinion, scholars should research the ruling by the Permanent Court of International Justice on Germany's annexation of Austria in 1938. The annexation was ruled illegal because it violated the Treaty of Versailles by severely compromising the political and economic independence of Austria in favour of Germany. This could be seen as an analogous historical situation to that outlined by the Prespa Agreement, in this case in favour of NATO within the context of the new Cold War.

The Prespa Agreement ratification was never completed in the Macedonian parliament: The ruling coalition supported it with a majority vote (69 votes out of 120, with no consent from the opposition) on 20 June, with no substantial debate. President Gjorge Ivanov decided not to sign the decree promulgating the law ratifying the deal, stating that "the agreement has no constitutional ground and is not ratified in compliance with the constitution".[21] In spite of the repeated positive vote in the parliament, Ivanov used his so-called pocket veto and never signed the decree, which left the Agreement no more than a legal fiction. The government moved ahead, however, calling for a consultative referendum – again seriously breaching the national legislation and the Code of Good Practice on Referendums of the Venice Commission. The three initiatives submitted before the constitutional court were easily dismissed, so the referendum process could proceed.

The Prespa Agreement: A Critical Perspective

The rush with which the Prespa process proceeded speaks for itself. As we have seen, the Prespa Agreement was the culmination of the West's desire to produce a "success story", sell it to the public as such,[22] and put an end to the

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20 Amerikanski profesor po pravo: Dogovorot so Grcija vi e machka vo vrekja [An American Professor of Law: The Agreement with Greece Is a 'Pig in a Poke'], *off.net.mk*, 28 July 2018, at: https://m.off.net.mk/lokalno/razno/dogovorot-so-grcija-vi-e-machka-vo-vrekja (author's translation).

21 Ivanov fails to sign law ratifying name agreement, *European Western Balkans*, 26 June 2018, at: https://europeanwesternbalkans.com/2018/06/26/ivanov-fails-sign-law-ratifying-name-agreement/.

22 Professor Ljubomir Frchkoski, an influential intellectual, and once a foreign minister who strongly defended the constitutional name, changed his mind, arguing that the main problem for the government would be "selling the deal to its (popular) base"; Frchkoski: Sè e resheno osven prodavanjeto na dogovorot na svojata baza [Frchkoski: Everything has been settled except selling the agreement to the base], *Plusinfo*, 8 June 2016, at: https://plusinfo.mk/фрчкоски-сè-е-решено-освен-продавањет (author's translation).

long-lasting name dispute. The result was an asymmetric deal, with obligations only on the weaker side and all rights on the stronger one. Consequently, the political rhetoric differed significantly. Instead of a win-win situation, Tsipras openly spoke of his government achieving more than it could ever expect, while Zaev tried to prove that the price was high but worth it: this was the best possible agreement under the circumstances and that Macedonia had to accept the Greek ultimatum in order to move ahead towards NATO and the EU. Throughout the process, Zaev talked of a "second independence", "confirmation of the state's existence once and for all", and "getting a place in the cadastral map", which would make the Republic of Macedonia a real state for the first time in its history.[23]

Apart from the political campaign that accompanied the whole process, there has been a sharp divergence in the public debate in the domestic and international media to date. Unlike the Greek practice of inviting opinions from academic and intellectual circles, including the scholars from abroad who were included in drafting and analysing the agreement,[24] the Macedonian expert team was kept unidentified. Despite calls from the public to make its stance known, the Macedonian Academy of Sciences and Arts (MANU) refrained from criticizing the deal and expressed support for the government. The only debate including academics and experts was held on 11 September during the official referendum campaign. Participation was by invitation only, and not all academics were invited to give presentations. The invitation letter was circulated secretly among the members of the academic community, and referred to the need for *in bona fide* interpretation of the Agreement for the purpose of preparing the forthcoming constitutional review and full implementation of the agreement.[25] Thus, there was a scene for an apology instead of a call for critical

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23   Prior to the signing of the Agreement, Zaev had given such statements repeatedly. Cf. Zaev: So dogovor za imeto Makedonija dobiva imoten list, kje vpisheme vo katastar Republika Makedonija, [Zaev: With the name agreement Macedonia gets its cadastral map, we will be registered in the cadaster as the Republic of Macedonia], *Focus*, 11 May 2018, at: https://fokus.mk/zaev-so-dogovor-za-imeto-makedonija-dobiva-imoten-list-ke-vpisheme-vo-katastar-republika-makedonija/ (author's translation). In the Independence Day speech, he indicated that the forthcoming referendum would be a vote for a second independence. Cf. Vlada na Republika Makedonija, *Premierot Zaev na Denot na nezavisnosta: Nashata gerneracija so glas na referendumot kje go ostvari sonot na generacijata shto ja iglasa nezavisnosta od 1991, da obezbedi sigurna, mirna i stabilna – Evropska Makedonija* [Government of the Republic of Macedonia, Prime Minister Zaev on Independence Day: With a vote on the referendum, our generation will make the dream come true of the generation that voted for independence in 1991, and will secure a safe, peaceful and stable – European Macedonia], Official website of the Government of the Republic of Macedonia, at: http://vlada.mk/?q=node/15417&ln=en-gb (author's translation).

24   As early as February 2018, the Macedonian media pointed out that Greece was making clever use of its intellectual potential, unlike Macedonia. Cf. Fotofinish od pregovorite. Grchkite pregovarachi se sudii, diplomati, profesori … koj e nashiot ekspertski tim? [Photo finish of the negotiations. Greek negotiators include judges, diplomats, professors… Who makes up our expert team?], *MKD*, 22 February 2018, at: https://www.mkd.mk/makedonija/politika/grchkite-pregovarachi-se-sudii-diplomati-profesori-koj-e-nashiot-ekspertski-tim.

25   The debate's title "The Prespa Agreement: International Significance and its Implications for the Euro-Atlantic Integration of the Republic of Macedonia" echoed the already defined

analysis. The only academic institution that organized an open debate was the Faculty of Philosophy, Ss. Cyril and Methodius University. The debate went ahead despite pressures on the dean's office and the professors.[26]

While no serious scholarly texts have yet been published yet, most of the public commentaries appear to place an emphasis on the political effects and desirability of solving the dispute, but few go into a rigorous analysis of the long and complex text of the Agreement. One of the few scholars who put some effort into analysing the text, which is 45 pages in the Macedonian language, and its future implications is a professor of constitutional law, Gordana Siljanovska-Davkova.[27] An alternative view was expressed in a blog by another constitutional lawyer, Svetomir Shkaric, who has changed his basic position from the time when he was the main editor of the major book on the name dispute, published in 2008.[28]

The Agreement consists of a preamble and three parts. The first part includes eight articles regulating the name issue and related issues; the second deals with the strategic partnership, the third concerns the "settlement of disputes", and at the end, there are "Final Clauses". The official title, as already pointed out, is quite ambitious, aiming to be a comprehensive solution. However, it does not even mention the name issue, but includes a reference to the (future) strategic partnership. Interestingly, while the UN Resolutions speak of one difference, the agreement uses the plural form "differences". It would take another, longer analysis to explain why and how this came about For the purposes of this article, we focus only on the current document, its controversial content, and (un)intended consequences.

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referendum question. Furthermore, the invitation already spelled out the conclusion: the Agreement should be made permanent because "its provisions do not jeopardize the national identity of the Macedonian people, the Macedonian language and culture".

26 The debate entitled "The Agreement between Greece and the 'Second party': Pandora's Box or an Exit from the Labyrinth" took place on 3 September. It was open for the academic community and the general public. The keynote speakers included professors of law, sociology, constitutional law, pedagogy, and political science. Some of the talks can be seen at: https://antropol.mk/2018/09/08/dogovorot-megu-grcija-i-vtorata-strana-pandorina-kutija-ili-izlez-od-lavirintot/.

27 Cf. Gordana Siljanovska-Davkova, Za "Prespanskiot dogovor" i poshiroko [On the Prespa Agreement and Beyond], in: *Nova Makedonija*, the entire text is available at: https://www.novamakedonija.com.mk/wp-content/uploads/2018/10/3A-„ПРЕСПАНСКИ ОТ-ДОГОВОР"-И-ПОШИРОКО.pdf.

28 In one of his recent texts, unlike the books and numerous chapters written in the previous decades, Svetomir Shkaric starts with the following sentence: "The constitutional name is undecided." Svetomir Shkarikj, Bez Dogovorot so Grcija, Makedonija i natamu kje ostane bez drzhavno ime na megjunaroden plan [Without the Agreement with Greece, Macedonia will remain with no name in international relations], *respublica*, 22 August 2018, at: http://respublica.edu.mk/blog/2018-08-22-08-12-53 (author's translation). The author's position in his publication of 2008 is in contrast with this comment: "The Republic of Macedonia must fight alone for its name! No one can help the country regarding this matter as much as it can help itself. Macedonia has the strength for this, and the international law is on its side." Svetomir Shkaric, ICG Composition and Proposal for "Slavic Transcription" of the name, in: Shkaric/Apasiev/Patchev (eds), cited above (Note 1), pp. 330-335, here: p. 334.

The title and the content of the Agreement indeed aspire to overcome the previous UN Resolutions as well as the 1995 Interim Accord (i.e. the document that has been regulating the bilateral relations ever since). Strangely, it does not mention the 2011 decision of the UN International Court of Justice (ICJ), which ruled that the Hellenic Republic had violated the Interim Accord (Article 11) by vetoing NATO's invitation to the Former Yugoslav Republic of Macedonia (FYROM) to the Bucharest summit in 2008. In the end, both sides agree that the same court would be entitled to resolve eventual disagreements during the implementation process of this Agreement. It remains unclear how one could trust that Greece would obey the future verdicts of ICJ if it did not obey the previous one. The answer is simple: The Prespa Agreement is so asymmetrical that there is no possibility for Greece to be taken to the court; all obligations are carefully phrased and refer to the "Second Party", which remains unnamed throughout the whole text of the agreement. Siljanovska-Davkova stresses that "the Final Agreement is an agreement for the 'settlement of differences'", however, the differences on the name have transformed into differences and negotiations over Macedonian history, Macedonian identity, Macedonian language, culture, education, the political and legal system, the constitution, and human rights and freedoms. It imposes constitutional changes, i.e. constitutionalizing of the new name and the derived attributes; it regulates the manner, timeframe and oversight over the implementation of all solutions in the legal and political system of the "Second Party".[29] From the very beginning of the text, it cannot be overlooked that the document does not represent a compromise or an agreement between equal parties. The dispute has never been symmetrical, so the compromise is just a euphemism for the power imbalance that is embedded in the text. The picture of David vs. Goliath remains accurate.[30] According to key figures in peace research and conflict resolution, compromise is not the most desired or efficient way to resolve or mitigate conflicts or disputes, and even if it is taken as the only way out, there must be an assumption that one party does not impose a dictate.[31] What most observers turn a blind eye to is the fact that both parties have been under external dictate. There are serious indications that those who really drafted the Agreement should not be sought among the local elites or experts.[32]

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29 Cf. Siljanovska-Davkova, cited above (Note 24), p. 2.
30 Cf. Biljana Vankovska, David vs. Goliath: The Macedonian Position(s) in the So-called "Name Dispute" with Greece, in: *Südosteuropa*, 3/2010, pp. 436-467.
31 Cf. Johan Galtung, *Conflict Transformation by Peaceful Means (the Transcend Method)*, United Nations Disaster Management Training Programme, s.l. 2000, p. 10, at: https://www.transcend.org/pctrcluj2004/TRANSCEND_manual.pdf.
32 According to the UK professor Vassilis Fouskas, "The Agreement has been baked in Pentagon and Berlin and as such it serves, first and foremost the interests of the USA and Germany. In both countries, Greece and Macedonia, I stand with that part of the public that recognizes this reality, namely, the geopolitical and cultural drives of NATO and Germany-led Europe to exclude Russia from the Balkans […] Imperial powers never solve problems. They only fix them. Look around. In terms of security: Has Greece benefitted from NATO membership? No. [...] Has Greece benefited from EU/Eurozone membership? Quite the opposite, as you know! [...] When German-led policy of austerity and discipline comes to

The Preamble lists relevant international documents, including the UN Charter, and numerous principles and goals, such as the prohibition of interference in internal affairs. However, the content of the Agreement that follows demonstrates the opposite, since Greece is entitled to interfere directly in the internal affairs of the "Second Party", including constitution making, history, culture, nationality, language, and more. Regulation of such issues in a bilateral international agreement is an unknown precedent in modern international law. To call upon international law in order to establish a precedent that is beyond and against the international legal framework and practice is cynical and hypocritical, to put it mildly.[33] This bilateral Agreement is supposed to have more legal force than *jus cogens* (Latin: compelling law) norms that derive from the UN Charter and accompanying international instruments that guarantee the right of political independence of any sovereign state. Under the UN Resolutions, the Macedonian side has de facto more sovereignty rights than it would under the Prespa Agreement, including the use of its constitutional name and self-determination, the imposed provisional reference FYROM and the Interim Accord. For instance, the state is currently recognized by its constitutional name by over 135 out of 190 UN member states, including some permanent members of the UN Security Council. In the Greek media, the minister of foreign affairs has repeatedly said that Greece is the winner in the negotiations, and that the neighbouring country would never be called Macedonia again.[34]

Instances of interference are numerous. For instance, Article 1(3)(a) states that the official, constitutional name of the "Second Party" would be the Republic of North Macedonia and that it would be used *erga omnes*. Both signatories disregard the fact that a state's name is an essential element of its legal personality, and as such, it is an essential right – *stricto sensu* it is a part of its internal sovereign realm. No other state, or international entity, has the right to interfere in this matter. As prominent scholars of international law argue there "appears to be no basis in international law or practice" for the Greek demand that Macedonia change its name, "claiming that the right to use

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bite the Macedonian people, Zaev may not even be in power. Zaev is there to deliver NATO and Europe; he has no political programme. He does that, and then he is out, especially when Macedonians realize how futile it is to expect security from NATO and prosperity from the EU." Prespanskiot dogovor e zgotven vo Pentagon [The Prespa Agreement was cooked in the Pentagon], Interview with Vasilis Fouskas, in: *Nova Makedonija*, 13 July 2018, at: https://www.novamakedonija.com.mk/makedonija/politika/преспанскиот-договор-е-зготвен-во-пен (author's translation). James Pettifer believes that "the 20 page 'agreement' [...] seems to have been written by an unknown junior operative in a think tank not widely known for Balkans expertise." See: Should Albanians Support or Use the New Name?, *Illyria*, 27 June 2018, http://illyriapress.com/should-albanians-support-or-use-the-new-name/.

33 Cf. Siljanovska-Davkova, p. 4.
34 Cf. Kodzijas: Grcija e pobednik vo pregovorite za umeto, sosednata zemja vekje nikoj nema da ja vika Makedonija [Kotzias: Greece is the winner in the negotiation process, the neighbouring country will not be named Macedonia by anyone in the future], 9 September 2018, *Kurir,* at: https://kurir.mk/makedonija/vesti/kodzijas-grcija-e-pobednik-vo-pregovorite-za-imeto-sosednata-zemja-vekje-nikoj-nema-da-ja-vika-makedonija/.

that name should belong exclusively to Greece."[35] Yet, more important is the understanding of the *erga omnes* principle. According to *Britannica*, international law has established "a category of *erga omnes* obligations, which apply to all states. Whereas in ordinary obligations the defaulting state bears responsibility toward particular interested states (e.g., other parties to the treaty that has been breached), in the breach of *erga omnes* obligations, all states have an interest and may take appropriate actions in response."[36] The Greek request for *erga omnes* usage of the new name is not a new or a surprising one, but the acceptance of this condition by the Macedonian side is unique, and rather imprudent, as no one really understands how a bilateral agreement can impose obligations on third parties that are not affected by their mutual issue. Some experts rightly point out that this legal principle is mostly used in property rights and in general international law.[37] Its scope and nature is unclear in the context of the name issue, especially in the way it is prescribed by the Prespa Agreement, which is written in a mixture of diplomatic, political, and legal language. According to Lozanoska, "the problem further culminates with the insistence on the application of the *erga omnes* legal principle, whose roots, according to the Greek law, are derived from inheritance law. *Erga omnes* as a legal institution indeed exists in international public law. [...] Bearing in mind this difference in the effect and the usage of this legal institution, the name of a state cannot represent an obligation arising from *erga omnes* as an institute of international public law because of the essence of this issue. Therefore, *erga omnes* in the Macedonian-Greek dispute stems from property law. In this context, we should ask what inheritance, i.e. the property, is at stake here. And, can this serve as grounds for demands to rename a state in the present, which has its own borders, a legal and a political system?"[38]

The proponents of the agreement in the Republic of Macedonia mostly insist on the "achievement" embedded in Article 7, namely the use of the terms "Macedonian" when it comes to the nationality and language.[39] This appears to be a desperate attempt to select just one (allegedly favourable) provision that

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35   Louis Henkin/Richard C Pugh/Oscar Schachter/Hans Smit, *International Law: Cases and Materials*, Third edition, St. Paul, MN, 1993, p. 253; cf. also Francesco Messineo, The ICJ and the Macedonian Dispute, in: *Cambridge Journal of International and Comparative Law*, 1/2012, pp. 169-190, here: p. 189.

36   *Encyclopædia Britannica*, at: https://www.britannica.com/topic/international-law/Custom#ref794940.

37   Cf. Jana Lozanoska, Macedonia: erga omnes – dominus?, *Transconflict,* 10 July 2012, at: http://www.transconflict.com/2012/07/macedonia-erga-omnes-dominus-107/.

38   Jana Lozanoska, Neophodnosta od javen protor i debata i Dogovorot za imeto [The necessity of public space and debate and the name agreement], *respublica*, 19 September 2018, available at: http://respublica.edu.mk/blog/2018-09-19-09-41-16 (author's translation).

39   Cf. Shkarikj: Dogovorot od Prespa e dobar, ustavnite promeni se najchuvstvitelni [Shkarikj: Prespa Agreement is good, the constitutional changes are the most sensitive], *Fokus*, 21 July 2018, at: https://fokus.mk/shkarik-dogovorot-od-prespa-e-dobar-ustavnite-promeni-se-najchuvstvitelni/; cf. also Katerina Kolozova, Za "Makedonshtinata" i Republika Makedoija [On Macedonianness and the Republic of Macedonia], *Civil Media*, 5 September 2018, at: https://civilmedia.mk/za-makedonshtinata-i-republika-makedonija/.

guarantees the "Macedonian-ness" of the state, its constitutive population and its language and culture by neglecting the totality of the document. In fact, it is essential to look more closely at Article 1, as it is in direct contradiction to the Preamble, which acknowledges non-intervention in the state's internal affairs and good neighbourly relations in line with the UN Charter and the Helsinki Final Act of 1975. At the same time, it prescribes a total restructuring and redesigning of the internal order of a sovereign state, starting with the constitution, changes to names of the state institutions, symbols, currency, history, culture, trade codes, etc.[40]. In other words, even if Article 7 appears to be a concession from the Greek side, it is a subsidiary provision that serves to operationalize Article 1 and the paragraphs that refer to, and are related to, Article 7. Lozanoska is right in arguing that Article 7 cannot be read, understood, or implemented without having in mind Article 1 *in toto*.

Aleksandra Gjurkova has also provided an in-depth analysis of Article 1, which confirms the argument that the Agreement is a document with overwhelming effects on all aspects of legal, political, cultural, linguistic, and societal life in the Republic of Macedonia.[41] She successfully deconstructs the government's false argumentation regarding its achievements in the negotiation process, especially the claim that it preserved the Macedonian language – an issue that has never been a part of the UN process and/or a matter of inter-state agreements. As a linguist, she elaborates the future linguistic acrobatics of the name of the Macedonian people, especially in some Nordic and Germanic languages (German: *Nordmazedonier*, Danish and Swedish: *Nordmakedonsk/a*). This is not just a hypothetical possibility, as there are numerous examples of Western and English-language media not even waiting for the referendum outcome or final ratification to start writing and speaking of North Macedonia and North Macedonians.[42] This is particularly frustrating for the generations who, for the last 27 years, have endured the ordeal of trying to explain to various passport and consulate officers where they were coming from. An especially sensitive issue that remains not only unresolved but even more complicated, is the issue of the identity rights of the Macedonian minority in northern Greece, who have been documented by various international bodies as suffering discrimination by the Greek government. However, perhaps the most important and threatening problem is the issue of (self)censorship when historical research, and education, are submitted to oversight by an inter-governmental commission, as prescribed in the Prespa Agreement.

40　For instance, Article 1(3)d prescribes that the terms "Macedonia" and "Macedonian" "have the meaning given under Article 7 of this Agreement".

41　Cf. Aleksandra Gjurkova, Spogodbata za reshavanje na sporot za imeto kako upatstvo za avtocenzura [The agreement on the settlement of the name dispute as a manual for self-censorship], *respublica*, 25 September 2018, at: http://respublica.edu.mk/blog/2018-09-25-08-29-42.

42　One of the latest examples is the announcement of Harvard University for student enrolment, which already uses the name "Northern Macedonia". See: https://www.timeshighereducation.com/unijobs/listing/112997/pierre-keller-visiting-professorship/.

For many, including the author of this contribution, the issue of constitutional sovereignty, i.e. the right to political self-determination, is heavily violated by the demand not only for constitutional review, but a revision of the preamble of the Constitution that refers to the historical traditions (Krushevo 1903 and ASNOM 1944). The key provision of the Agreement, contrary to international law (i.e. *ius cogens* when it comes to self-determination), is Article 1(3)(g), which envisages that adoption of the Agreement's clauses through the internal procedure would be "both binding and irrevocable, entailing the amendment of the Constitution". Siljanovska-Davkova rightly points out that "it is highly unusual for a bilateral agreement to possess the power to tie the hands of future constitution-makers."[43]

As in any other sovereign state, there are strictly determined subjects who may initiate a constitutional review. In the Republic of Macedonia, this would be the government, the president of the republic, 30 MPs or 150,000 citizens. In no case can another state impose such a request, initiate, or even set the time frame for its completion. Furthermore, according to the Agreement, as soon as the "Second Party" finishes the constitutional revision, it is the Greek parliament who will promptly ratify the Agreement (Article 4[f]), and thus have the final say. One aspect of the problem is the uncertainty as to whether the First Party ("the Hellenic Republic", i.e. Tsipras government) will be satisfied with the constitutional amendments and able to provide the required majority (three fifths) for the ratification of an Agreement that is unpopular, not only with the Greek opposition, but also with some coalition partners in the government. A far more important aspect is the following: Does sovereignty really derive from the Macedonian citizens and belong to them, as stipulated by Article 2 of the Constitution? The Macedonian signatory (the minister/government) has agreed to make the state they represent dependent on the political will of the political representatives of another state. At the moment the Agreement was signed, theoretically, no one could know the exact content of the constitutional amendments, as there had been no debate, consensus, or even consultation with the public and the opposition.[44] Furthermore, up to 17 June 2018, all political parties agreed over one postulate: No one would accept a change in the constitution for the purpose of the name change. Adopting the behaviour of a colony, the "Second Party" submitted to the obligation to inform the First Party when all necessary procedures were complete.

In sum, the Agreement is nothing but an imposition of a sort of "eternity clause" by a bilateral agreement, which would result in an imposed constitution (*constitution octroyée*) – i.e. a constitutional review imposed on the majority of people without their full agreement.[45] Strictly speaking, the "full agreement"

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43   Siljanovska-Davkova, cited above (Note 24), p. 14 (author's translation).
44   However, there are rumours that the text of the amendments had been drafted prior to the conclusion of the Agreement by the Greek side, while some Macedonian constitutional lawyers were consulted – without the public's knowledge.
45   Cf. Mark W. Janis, "Human Rights and Imposed Constitutions", *Connecticut Law Review*, 4/2005.

will require that a majority of the people expressly consent to a constitution through a formal procedure. Constitutional development may always occur but it should be carried out in "a considered and consensual way and where the fundamental identity of the country is not threatened".[46] As President Ivanov has rightly pointed out, the issue is constitutional and Zaev and his foreign-influenced collaborators have no legal mandate at all to change it on the signature of a single person. Long ago Cicero asserted that a constitution, in the sense of the foundation of a republic, cannot result from the capacity of a single person, but from that of many people acting across centuries and ages rather than within a single generation.[47] It is also worth mentioning Article 28 of the Declaration of the Rights of Man and of the Citizen, attached to the French Constitution of 1793, according to which "[a] people always has the right to review, reform, and amend its constitution. One generation may not subject future generations to its laws". It is believed that constitutions are meant to declare certain values transcendent, beyond the reach of temporary political majorities.[48]

The Collateral Damage of the Prespa Agreement: Beneath the Ruins of the Rule of Law

The Prespa Agreement is not the first instance in which the rule of law has been sacrificed for "higher" causes (usually, peace and stability, or better – ensuring stabilitocracy[49]). Previously, the Macedonian constitution was amended after the 2001 armed conflict in order to mitigate the Albanian minority's demands. Thus, the power-sharing model was introduced in a way that seriously deformed the parliamentarian system originally embedded in the country's basic law. The amendments were drafted by the international state-builders (EU and US envoys and their experts), while the Macedonian MPs simply had to obey and proceed with the formal process in Parliament. Then during the "wiretapping scandal" and following the Colourful Revolution, the 2015/2016 political crisis was again managed in an extra-constitutional way with the so-called Przhino Agreement, which introduced changes to the Electoral Code that were evidently unconstitutional. The Constitutional Court

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46   Pettifer, cited above (Note 29).
47   Cicero, De re Publica, Book II, 1.
48   Cf. Frank Michelman, Law's Republic, *The Yale Law Journal* 8/1988, pp. 1493-1537, here: pp. 1501-1502, footnote 28.
49   The term "stabilitocracy" was introduced by the Canadian scholar Srdja Pavlović in order to describe a regime where undemocratic practices persist and the West turns a blind eye to this while simultaneously preaching the virtues of democracy and the rule of law". Cf. Srđa Pavlović, Montenegro's "stabilitocracy": The West's support of Đukanović is damaging the prospects of democratic change, The London School of Economic and Political Science (LSE) blog, 23 December 2016, at: http://blogs.lse.ac.uk/europpblog/2016/12/23/montenegros-stabilitocracy-how-the-wests-support-of-dukanovic-is-damaging-the-prospects-of-democratic-change/.

remained silent, behaving as a co-operative political entity rather than a legal entity.

From a legal point of view, the Prespa Agreement was an initiative of international power circles that was doomed to fail from the start. In the discourse over Macedonia, Western foreign policy-makers have revived the old Soviet Brezhnev Doctrine of limited sovereignty of client states.[50]

To make matters worse, any legalistic approach or criticism has immediately been labelled anti-Western, pro-Russian, etc. – in short, backwards and damaging for the bright Euro-Atlantic future of the country and the region. Some prominent academics and intellectuals overtly complained and even advocated that the document should not be interpreted from a legal point of view: The name dispute was a political matter, and a legal interpretation meant disregarding not only the constitutional and legal consequences of the deal's implementation but also the essential rule of law principle and constitutionalism as such.

From the very long list of breaches of procedural and material electoral law, for the sake of brevity, the author points out just a few of the most evident.

- The Agreement is in contradiction with Article 118 of the Macedonian Constitution, which reads: "International treaties ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law". This means that international agreements are not above the Constitution, neither can the Constitution be changed by the force of an international agreement.
- The ratification of the Agreement did not comply with the principle of the rule of law (Article 8) since there was no constitutional basis for this kind of an agreement. The procedure was in breach of the Law on conclusion, ratification, and implementation of international agreements, both in terms of the entitled institution and the procedure. In the Macedonian constitutional system, the president of the Republic is *primus*, while the government is *secundus* when it comes to the conclusion of international agreements.
- The Code of Conduct of the Macedonian parliament was violated repeatedly: The Law on Ratification of the Agreement was directed to the parliamentary Commission on European Issues (misuse of the so-called European flag) instead of the parliamentary Commission on Foreign Affairs. This was done in order to bypass the latter commission whose head comes from the opposition. The Law on Ratification was also invalid, since it did not define the constitutional basis for its adoption, the reasons for the ratification, and did not provide assessment for the

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50   Cf. Srđa Pavlović, Nomen est omen (Името e судбина), ín: *Nova Makedonija,* 10 October 2018, at: https://www.novamakedonija.com.mk/mislenja/kolumni/nomen-est-omen-името-е-судбина.

financial costs of the implementation of the law (all against Article 188 of the Code);
- Parliament adopted the Law on Ratification with a simple majority vote, despite the fact that the Agreement presupposes a change to the Constitution and the name of the state; the Law was adopted with only 69 votes and in the absence of the opposition;
- Parliament issued notice of a referendum without any constitutional or legal ground, since the Law on Ratification of the Agreement was never promulgated, thus it was not published in the Official Gazette – it was and still is nothing but a legal fiction.
- Parliament's decision on issuing notice of a referendum was invalid in a number of aspects, meticulously listed in the motion put before the Constitutional Court that was submitted by the political party Levica. Among other reasons for questioning the referendum notice, Professor Dimitar Apasiev stressed the following: The parliamentary decision was incomplete as it lacked the seven formal elements prescribed by the Law on Referenda; the referendum question was manipulative and captious, which goes against the Law and the Venice Commission's Code of Good Practice in Referendums;[51] Parliament did not define the type of referendum (obligatory or consultative, preceding or subsequent); the Macedonian constitution does not regulate consultative referenda, as Article 73 explicitly determines that a decision made in a referendum is binding, and must be adopted on the condition that more than half of the total number of voters cast a vote (50 per cent + 1).[52]
- The referendum campaign was problematic in its own way. Instead of running a purely informative campaign, the government was overtly involved in the "Yes" campaign, using the budgetary means and resources to support it. In their everyday meetings with citizens, government ministers and the prime minister were speaking publicly lobbying for a "Yes" vote. The media space was completely "occupied" by the pro-government experts, video messages, etc. The other options ("No" and "Boycott") could use only social media. Some of the most disreputable examples of the campaign include Zaev's public call for political corruption, encouragement for private businessmen to "incite" their

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51 The question on the referendum ballot was: "Are you in favour of European Union and NATO membership by accepting the agreement between the Republic of Macedonia and the Republic of Greece?" Translation into English in: Macedonia sets question for name referendum, *euobserver,* 30 July 2018, at: https://euobserver.com/tickers/142494.

52 Cf. Apasiev: "Sobraniskata Odluka za referendum ne mozhe pravno da proizvede dejstvo, bidejkji e protivvustavna" [Apasiev: "The Parliamentary Decision on the referendum cannot have any legal effect because it is unconstitutional"], *Antropol,* 9 August 2018, at: https://antropol.mk/2018/08/09/apasiev-sobraniskata-odluka-za-referendum-ne-moze-pravno-da-proizvede-dejstvo-bidejki-e-protiv-ustavna/. Professor Siljanovska agreed with this position: Siljanovska: It's time for the Constitutional Court to gather strength and say that the referendum question is unconstitutional, unclear and imprecise, *Republika English*, 4 September 2018, at: http://archive.english.republika.mk/p203913/.

employees to go and vote,[53] intimidation, abuse of the military for a video message showing Zaev as a commander in chief at the monument in Krushevo, etc. The active engagement of the international community was also unusual. In addition to Western ambassadors, the European Delegation played a part in campaigning (including billboards and posters depicting children, under the motto "Imagine the Future").

The list of breaches of the European standards and national legislation for good referendum practices is endless (including the day of the vote and ballot stuffing). Even before the results were made known, the government came out with the "Plan B": to proceed with the constitutional review regardless of the opinion of the people. Sadly, the OSCE's ODIHR observation mission appears to have missed, or downplayed, breaches of the law and human rights. The preliminary conclusions read that the referendum was administered impartially and fundamental freedoms were respected throughout the campaign.[54]

Referendum Aftermath: Vox Populi that Does Not Matter

The Agreement mentions the referendum as a facultative option of the "Second Party". Calling for a consultative referendum displayed the government's in-security and fear of failure, so the referendum de facto became nothing more than a very expensive public opinion poll. The question read: "Are you in favour of European Union and NATO membership by accepting the agreement between the Republic of Macedonia and the Republic of Greece?". The promise of NATO and EU membership were intended to sugar coat what could be considered a bitter pill, resolving the controversial name issue by the back door. To respond with simple "yes" or "no" was impossible, due to the three variables and eight possible combinations in answering. The question lacked the formal, substantial, and hierarchical logic required by the Venice Com-mission's Code of Good Practice on Referendums. From the very beginning (i.e. the day after Parliament issued the notice), the basic line of the government campaign, supported overtly by a long list of foreign officials and dignitaries, some of whom visited the state personally,[55] was that the referendum must be successful. For that purpose, the opponents were demonized and intimidated. For instance, Vlado Kambovski, a member of the Macedonian Academy of

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53 Cf. PrimeMinister #Zaev caught on camera promising money to people that vote on the #namechange, at: https://www.youtube.com/watch?v=syZeP_JrdjE.
54 International Referendum Observation Mission. The former Yugoslav Republic of Macedonia, Referendum, 30 September 2018, *Statement of Preliminary Findings and Conclusions*, available at: https://www.osce.org/odihr/elections/fyrom/ 398210?download= true.
55 The list of foreign visitors included the NATO Secretary General, the German and Austrian Chancellors, EU Commissioners, etc. Each visit was interpreted as giving support and en-couraging Euro-Atlantic integration of the Republic of Macedonia.

Sciences and professor of criminal law, argued that organizing a boycott of the referendum would be subject to prosecution for engaging in criminal activity.

Faced with such an undemocratic and even threatening atmosphere, with no equality of opportunity for all sides and the overt use of public funds for campaigning purposes, while the freedom of voters to form an opinion was limited,[56] citizens self-organized in a horizontal movement "I Boycott". Bearing in mind the national regulation and the current context, there was a widespread opinion that boycotting would be the most intelligent and most effective strategy to make the referendum fail.[57]

Parliament was the formal proposer of the referendum, so the government was not entitled to run the campaign with budgetary means. According to the Law on the Referendum, the Venice Code, and the Przhino Agreement, this was a clear breach of the rule of law. In bypassing the Electoral Code that regulates some aspects relevant for the referendum process, the government extended the length of the campaign over 20 days (more precisely, from 1 August – instead of 10 September – until 28 September). Under Macedonian law, it is illegal to finance a referendum with foreign funds or from the state budget, but state ministers dominated in literally all media outposts that strongly advocated the "Yes" side of the campaign.

The referendum result was a mixture between a very expensive public opinion poll and a reality show, especially for the international public. With a turnout of only 37 per cent, it showed that the citizens were largely aware that the government had no intention of acting on the vote, as it had already announced its determination to proceed with the implementation of the Agreement regardless of the outcome of the referendum. The overwhelming abstention from voting represents "a very wide and conscious rejection" of the Agreement. The citizens' vote was intended to annul the result of the 1991 referendum on independence[58] and provide the ruling elite with a sort of political legitimacy for the upcoming constitution change "once and for all" as the

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56 Cf. European Commission for Democracy through Law (Venice Commission), *Code of Good Practice on Referendums*, Strasbourg, 25 October 2018, pp. 17-18, at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007) 008 rev-cor-e.

57 This decision is in line with the recommendations of the Venice Code when it comes to quorums: "A turn-out quorum (minimum percentage) means that it is in the interests of a proposal's opponents to abstain rather than to vote against it. For example, if 48% of electors are in favour of a proposal, 5% are against it and 47% intend to abstain, the 5% of opponents need only desert the ballot box in order to impose their viewpoint, even though they are very much in the minority. In addition, their absence from the campaign is liable to increase the number of abstentions and thus the likelihood that the quorum will not be reached. Encouraging either abstention or the imposition of a minority viewpoint is not healthy for democracy (point III.7.a). Moreover, there is a great temptation to falsify the turn-out rate in the face of weak opposition." Venice Commission, *Code of Good Practice on Referendums*, cited above (Note 53), p. 23, para. 51.

58 The turnout of the 1991 referendum when Macedonia decided to form a sovereign and independent state was over 75 per cent (despite the boycott by ethnic Albanians who were still waiting and hoping for an integral solution of the "Albanian Question" on a regional basis). Over 95 per cent of the votes were in favour of independence. It was hoped that this second referendum would eventually substitute the expressed will of the people who voted for an

Greek side demanded. Despite the government's endless efforts to translate the defeat into a victory by counting and comparing the number of votes with those achieved in various parliamentary, local, or presidential elections, bare legal logic meant that the referendum did not pass – an outcome that was confirmed in the formal report of the State Electoral Commission. The "Boycott" movement delegitimized the government. The prime minister had already publicly admitted that he had been gambling with his people "all in". He lost the referendum, but the international community continued its support using a political oxymoron, claiming that the Agreement received popular and wide support, despite the fact that the turnout had been very low. Two weeks later, the government initiated a constitutional revision, and on 19 October it managed to provide a two-thirds majority for the second stage of the process. However, the process was undemocratic, as opposition MPs were bribed, intimidated, or blackmailed to join the parliamentary majority. Nevertheless, the international media has taken more interest in alleged Russian interference than in the way democracy has been undermined and the involvement of the US ambassador. One of the rare objective observers was Panagiotis Lafazanis, the leader of the Greek political party Popular Unity, who compared the Western powers' treatment of people and referenda in both countries: "In a similar way as they did with the 2015 referendum in Greece, they managed to set one more 'night of long knives', an orgy of blackmail and pressures in order to get 'yes' votes and to achieve the magic number of 80 parliamentarians".[59] According to him, "the real masters of Greece and Macedonia – two countries that have become loose protectorates of the US and NATO – are the US ambassadors. Also, it is not possible to sustain agreements in the long run purely relying on the signatures of the governments and parliaments susceptible to corruption, pressures, led by their selfish interests; agreements need the people."[60] For a television interview, Greek professor Stavros Mavroudeas spelled out a similar conclusion. According to him, the Agreement would not bring any good to either country, or to the region. Rather, it was forcefully imposed upon both countries by the US and the EU. The leaders and governments of both countries, in his opinion, are very subservient, very weak, and they did not object to the Agreement, which means that it is artificial, intended not to ensure stability, friendship, and peace in the area, but to secure the area in the Western sphere of interest and potentially against Russia. Such an Agree-

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"independent state of Macedonia" and instead decide on a "second independence" (to use the Prime Minister's words) for the state North Macedonia.

59 Λαφαζάνης: Όργιο εκβιασμών, πιέσεων και εξαγορών για να περάσει η συμφωνία στην ΠΓΔΜ [Lafazanis: A ban on blackmail, pressure and redemption to pass the deal to FYROM], *Protothema,* 20 October 2018, at: https://www.protothema.gr/politics/article/831437/lafazanis-orgio-ekviasmon-pieseon-kai-exagoron-gia-na-perasei-i-sumfonia-stin-pgdm/ (author's translation).

60 Ibid. (author's translation).

ment, on the other hand, aggravates tensions in the area and nationalist tendencies in both countries. The pressure from the West is extreme, and it reminds one of colonial era involvement in internal politics.[61]

The Prespa process has never been about dispute settlement but about a geopolitical power game and the NATO chessboard in the Balkans. The name dispute, a nuisance for many years, could not be tolerated any longer. The US clearly has an interest in Macedonia joining NATO one way or another.

The Way Ahead: Instead of a Conclusion

At the time of writing, there are far more uncertainties and insecurities than one would have expected when the Prespa Agreement was drafted and signed. The name issue has not been resolved and will remain an open wound for a very long time because Macedonian society is heavily bruised. The international power centres – as ever – prefer quick fixes and do not think of future consequences, which locals then have to live with. In a misguided attempt to settle a dispute, the international powers around Nimitz have a constitution that goes against the stated policy of the international community to strengthen the rule of law in the Western Balkans and has effectively broken international laws and the constitution.

If fully ratified and implemented, the Prespa Agreement will remain an alleged compromise that was imposed on the Macedonian citizens at an extremely high price. Dag Hammarskjöld's words ring true in this case: "It is my firm conviction that any result bought at the price of a compromise with the principles and ideals of the Organization [United Nations] either by yielding to force, by disregard of justice, by neglect of common interests or by contempt for human rights, is bought at too high a price. This is so because a compromise with its principles and purposes weakens the Organization in a way representing a definite loss for the future that cannot be balanced by any immediate advantage achieved."[62]

To make things even more ironic, the Prespa Agreement is a typical Balkan deal for at least three reasons: first, using the pretext of the "(state) name dispute", the deal regulates archetypal issues such as identities, languages, cultures, and histories. As the first party is superior in power and influence to the second, it "extorts" confession of the Greek continuity myth by banning the alternative Balkan continuity myth. As such, the deal goes beyond UN resolutions and Nimetz's mediation prerogatives. Second, the deal was drafted and imposed by the Western powers for the sake of their geopolitical interests in the Balkans, while the local elites are merely executors of the will of external

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61   Cf. Interview with Stavros Mavroudeas, on Press TV, 30 September 2018, at: https:// www.youtube.com/watch?time_continue=6&v=LWZ3VAri_g4.
62   Introduction to the Annual Report of the Secretary-General on the Work of the Organization, 15 June 1959-15 June 1960, quoted from: John S. Gibson, *International Organizations, Constitutional Law, and Human Rights*, New York 1991, p. XV.

stakeholders. Third, the way in which the whole process has been carried out is also typical of the Balkan region. In both countries, the rule of law has been sacrificed, there was political corruption and black funds, bribery of the media and civil society circles which aided the spread of propaganda, etc. The Prespa process revealed the unpleasant truth about international conflict management on the European periphery and the dependence syndrome of the local elites. Instead of overcoming a long-lasting dispute and nationalism on both sides, it has already produced the opposite in both countries. Rather than paying attention to the real problems of the citizens, both societies were pushed back to the vicious circle of an identity conflict that would not only fester, but would distract from internal political and economic struggles.

The unsuccessful referendum of 30 September and the way in which a two-thirds majority was secured on 19 October indicate that the popular will was completely disregarded. It remains unclear how the government will put into force an agreement and legal regulations without the use of coercion. The weak Macedonian state is now even weaker, not stronger. Not even immediate admission to NATO could compensate for the deep societal and political distrust, rehabilitation of the criminals for the sake of the constitutional review - and the definite end of (what existed of) the rule of law principle. The international observers proved to be pragmatic and to care only about the "wider picture" of Euro-Atlanticism, thus neglecting the new potential for future internal rupture and regional destabilization.

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Engjellushe Morina

Kosovo's Status Challenged Internally and Externally

Introduction

On 17 February 2018, Kosovo celebrated the 10th anniversary of its independence. However, to date, the youngest country in Europe is still not a member of the UN, EU, and NATO, and therefore does not enjoy the benefits of being treated as a state by these international organizations, although its institutions are recognized. As not all UN Security Council member states have recognized Kosovo, notably Russia and China, UN Security Council Resolution (UNSCR) 1244 that ended the conflict in 1999 remains in place, as does the United Nations Mission in Kosovo (UNMIK), albeit with a considerably reduced number of personnel. Although Kosovo is currently recognized by over 120 countries, the remaining five European non-recognizers (Spain, Greece, Cyprus, Romania, and Slovakia) hinder its EU accession process and blur its path to Europe. For instance, Kosovo is the only country in Wider Europe that does not enjoy the Schengen visa-free regime. Just recently, the EU Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn, following a meeting with Kosovo's Prime Minister Ramush Haradinaj in Pristina, declared that the chances of granting Kosovo citizens visa-free access to the EU are slim, even in 2020. This comes after years of effort and cooperation on the part of the Kosovo institutions with the EU Commission towards reaching the necessary benchmarks set by EU institutions to gain visa-free access to Europe.

Citizens of Kosovo are reportedly deeply disappointed with institutions (local, national, and international) and with the trajectory of events in recent years. Kosovars feel they have no future prospects, their statehood is contested and their institutions marred by bad practices. Coupled with the recent uncertainty regarding the direction that negotiations with Serbia have taken since the President of Kosovo Hashim Thaçi declared that he is prepared to consider a "border adjustment" with Serbia, this has stirred further dissatisfaction among many, but in particular among the youngest members of the population who dream of leaving the country. On 29 September 2018, tens of thousands of people protested in Pristina at the way the negotiations with Serbia have been developing recently and at their subsequent results.

The aim of this contribution is to shed light on the recent events in and around Kosovo, and in particular concerning the ongoing Belgrade-Pristina dialogue by focusing on its format, challenges, and future prospects. It will aim to delve more deeply into the potential opportunities that exist for Kosovo regarding its contested statehood and to probe into the potential interfaces for

mutual support between national and international institutions in order to maximize complementarity between them. The contribution begins with an analysis of the areas of conflict, followed by the main internal and external challenges to the statehood of Kosovo currently. Finally, a conclusion and key reflections will be outlined. Two very negative scenarios are presented as food for thought only.

Conflict Analysis

Since the war in 1999, Kosovo has been undergoing a complex political, economic, and social transition, which is still to reach its endpoint. Landmark events in this process have included, amongst others: the deployment of the United Nations Mission in Kosovo (UNMIK) under UNSCR 1244[1] in mid-1999; the re-emergence of ethnic violence in March 2004; the tabling of the "Ahtisaari Plan" (Comprehensive Proposal for the Kosovo Status Settlement) in 2007[2]; Kosovo's declaration of independence from Serbia on 17 February 2008; the enactment of the new country's constitution drawn up by the UN Secretary-General's Special Envoy, former Finnish President Martti Ahtisaari in June 2008; the passing of numerous laws; the creation of new Kosovo-Serb municipalities as part of decentralization, and the start of the Dialogue for Normalization of Relations with Serbia facilitated by the EU.

The recent census in 2012, in which the Serb majority inhabiting the north of Kosovo did not participate, estimates the population of Kosovo at 1.8 million inhabitants, excluding the extensive diaspora in Europe and the US. The population in the north of Kosovo is estimated at 50,000 inhabitants. In terms of size, Kosovo is not larger than 10,000 square kilometers. The majority of Kosovars are Muslims (95 per cent) with 3.6 per cent Roman Catholics and 1.5 per cent Orthodox Christians, mainly of Serb and Montenegrin descent.

After 1941, most of Kosovo was part of the "greater" Albania and most Albanians supported retaining this status even after the war. Kosovar Albanians were not keen to return to Yugoslavia under the rule of Serbia, since they feared that Communism would not support their claim for self-determination.[3] The communist party at one point supported the idea of Kosovo remaining part of Albania, but it was Josip Broz Tito (then the Head of the Communist Party of Yugoslavia and subsequently the President of

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1   United Nations, Security Council, Resolution 1244 (1999), S/RES/1244 (1999), 10 June 1999, at: https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244 (1999).pdf.

2   Comprehensive Proposal for the Kosovo Status Settlement. 2 February 2007, at: http://www.kuvendikosoves.org/common/docs/Comprehensive Proposal.pdf.

3   Cf. A Power Primer: A Handbook to Politics, People and Parties in Kosovo, IKS Publications, Pristina 2011, p. 14.

Yugoslavia), who changed the Party's stance in the hope of winning Serbs over to communism. [4]

In November 1943, the Anti-Fascist Council for the National Liberation of Yugoslavia (AVNOJ) decided to create a federal state called Yugoslavia where "southern Slavic people" would live in six constituent republics. Kosovo was not mentioned. As a response to AVNOJ's decision, 49 communists from Albania, Montenegro, Kosovo, and Serbia gathered and adopted a resolution calling for the post-war unification of Kosovo with Albania. The resolution was quickly rejected by the Yugoslav communist leadership and it further confirmed their distrust of Kosovo Albanians and their political aims. Eventually, in 1945, the Communist Party of Yugoslavia organized a Regional People's Council of Kosovo with only 33 Albanians out of a total of 142 members, and met in Prizren to vote for Kosovo to become part of Serbia.[5] With this move, Kosovo became a province of the Republic of Serbia. In the light of this new political situation, Kosovo's fate was now in the hands of local Serb policy and decision makers and the Serbian and Yugoslav security services. The next 20 years marked the harshest oppression for Kosovar Albanians, who were considered by the authorities to be disloyal with unacceptable separatist political ideas, such as joining Albania.

By 1968, and partially due to student protests in Kosovo (as elsewhere in Europe), the then province's status was upgraded in Serbia's constitutional framework. By now, Kosovo had its own constitution: The assembly was empowered to draft and pass laws; a supreme court and the Albanian-language University in Pristina were established; Albania became the official language, and the Albanian flag was permitted as a national symbol. By 1974, Kosovo was granted effective equality with other Yugoslav republics in the new Yugoslav constitution, including equal representation within the federal central institutions, its own commercial bank and the ability to enter into bilateral relations. This meant that it fulfilled all the constitutional prerequisites of a state according to international law. From 1974 to 1981, the wellbeing of Kosovars improved immensely due to the constitutional reforms, the most dramatic of which were in education. By 1979, close to 47,000 students were enrolled at the University of Pristina. Despite these constitutional reforms, Kosovo remained relatively underdeveloped in socio-economic terms in comparison to other federal units of Yugoslavia.

The years leading to 1989 saw the then President of Serbia, Slobodan Milošević, tirelessly "protecting" Kosovo Serbs. He went as far as to change the constitution of 1974 by arranging for the MPs to vote under duress whilst army planes and helicopters were flying above the capital Pristina, where the streets were full of army enforcements that had been brought in for the particular purpose of stripping Kosovo of its autonomy. In March 1989 Kosovo slid back under Serbia.

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4   Cf. ibid.
5   Cf. ibid.

When the dissolution of Yugoslavia started in 1991, with Slovenia first declaring its independence, the EU Council of Ministers tasked Robert Badinter's Arbitration Commission with providing the Peace Conference on Yugoslavia with legal advice. The Commission failed to treat Kosovo as a separate entity of the federation, instead treating it as part of Serbia. As such, Kosovo was left in the hands of Serb institutions during the 1990s until the violent conflict broke out in 1998.

In June 1999, after the NATO intervention, UNMIK was deployed under UNSCR 1244. The Mission was tasked with administering the territory of Kosovo via an interim civilian administration led by the UN, under which Kosovo's people could progressively enjoy substantial autonomy. Furthermore, UNMIK would oversee the transfer of authority from Kosovo's provisional institutions to a set of institutions established under a political settlement.

Perpetual Crisis

The creation of a multi-ethnic society was a key feature of Kosovo's state-building process, which was heavily influenced and shaped by the main international players in the country and the region, namely the EU, the US, and the UN. This included decentralizing and strengthening local governance, as well as protecting minorities through the preservation of cultural and religious heritage, language provision, and self-governance, among other things. Although the process was largely driven by ethno-political conflict resolution and prevention consideration on part of the international community, improving public services delivery for citizens across Kosovo and strengthening local governance in the emerging country was also an important motivator. Integrating the Kosovo Serb community into the new political-institutional landscape of the country through decentralization, local governance, and service delivery has clearly been one of the key policy challenges in recent years. Full ethno-political integration and socio-economic development in Kosovo, as well as advances towards EU integration, continue to depend on strengthened decentralization and protection of minority rights.

On 17 February 2008, the Parliament of Kosovo declared independence and on 15 June of the same year, the constitution of the Republic of Kosovo was adopted on the basis of the Ahtisaari Plan. Following independence, the International Civilian Office (ICO) was established in Kosovo, tasked with overseeing the implementation of the Ahtisaari Plan. Kosovo Serb citizens, the largest ethnic minority, did not take part in any of the processes above and were not part of the institutions such as parliament and government, apart from using the reserved seats as guaranteed by the Constitution of the Republic. Nonetheless, the 2010 parliamentary elections were the first time Kosovo Serbs participated in democratic elections organized by Kosovo's institutions

since 2001. Serbs living in the centre and south of Kosovo returned to the polls and mainly supported the newly formed Liberal Party, despite their weak integrational, political, and economic agenda. However, Serbs living in the north of Kosovo remained outside the democratic processes organized by Kosovo's governing institutions. It was only in November 2013 that Serbs in the north of Kosovo participated in local elections.

Due to the ongoing dispute over the sovereignty of Kosovo on the part of Kosovo Serbs as well as Serbia proper, which claims that Kosovo is part of Serbia, and described as such in the constitution of Serbia,[6] municipalities in the north of Kosovo, including North Mitrovica, remain outside the full realm of control of Pristina authorities. Instead, parallel structures supported by Serbia serve as service providers and political representatives of the citizens. The presence of these parallel structures, and the inability of central government institutions and international organizations to take control of, and guarantee order and the rule of law in the north of Kosovo, have made the disputed territory of the north the main subject of ongoing dialogue between Kosovo and Serbia, and most recently between the presidents of both countries.

A dialogue process was started for the purposes of integrating the north of Kosovo and its inhabitants into the rest of Kosovo and its institutions. This process was initially a technical dialogue, but later progressed to higher-level dialogue meetings between the prime ministers and presidents of both countries.

The technical dialogue began in March 2011 as a follow-up to the UN General Assembly Resolution of September 2010,[7] and it mainly dealt with the issues concerning the territory of the north of Kosovo. A few agreements were reached on issues regarding cadaster records, custom stamps, freedom of movement, university diplomas, civil registry, regional representation, and integrated border management, but the sides did not respect most of them. To date, both the technical dialogue and the subsequent high-level dialogue involving the prime ministers and presidents of Kosovo and Serbia have been facilitated by the EU through the office of the High Representative for Foreign Affairs and Security Policy.

On 19 April 2013, an agreement was reached between the prime ministers of Pristina and Belgrade. This 2013 Brussels Agreement or "First Agreement of Principles Governing the Normalization of Relations",[8] as it is named in the

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6   Cf. Constitution of the Republic of Serbia, Article 182, at: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74694/119555/F838981147/SRB74694%20Eng.pdf.

7   United Nations, General Assembly, Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law, A/64/L.65/Rev.1, 8 September 2010, at: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20A64%20L.65%20Rev1.pdf.

8   First Agreement of Principles Governing the Normalization of Relations, 19 April 2013, at: http://www.kryeministri-ks.net/repository/docs/FIRST_AGREEMENT_OF_PRINCIPLES_GOVERNING_THE_NORMALIZATION_OF_RELATIONS,_APRIL_19,_2013_BRUSSELS_en.pdf.

official documents of the European Union, was verbally hailed as historic by almost all interlocutors. The principles and parameters under which the process was constructed contained elements including: "bringing parties closer to the EU; without prejudice to either side about the status; common handling of the press; nothing is agreed until all is agreed; EU handles the process and sets the agenda."[9] The document clearly states that the disputed northern territory of Kosovo is the main subject of the agreement reached between Kosovo and Serbia, and the three main elements in the paper were state structures: police, the judiciary, and a separate association of municipalities for the municipalities of the north mainly inhabited by Serbs. A lack of transparency during the high-level talks has created skepticism amongst the population in Kosovo, in particular in the north: the public discourse coming from politicians and EU member states was all about the normalization of relations between Kosovo and Serbia, and not about the internal issues in Kosovo, such as the disputed northern territory. Mitigating the territorial conflict in the north of Kosovo and the proper treatment of communities (in particular the Serb community) holds the key to a long lasting solution for stability.[10]

To date, the main element of the Brussels Agreement which remains disputed is the creation of an association of municipalities with a Serb majority (this would also include the newly created municipalities under the decentralization process, as foreseen in the Ahtisaari Plan). The opposition parties in Kosovo raised major concerns regarding the association, claiming that its creation paves the way for a bi-ethnic state of Kosovo and leads towards the disintegration of society and communities, rather than the integration and creation of a multi-ethnic society as envisioned. The agreement was ruled partially unconstitutional after a petition submitted by opposition parties to the Constitutional Court.[11] This ruling gave the opposition a strong position from which to further oppose the Brussels Agreement and its forms of dialogue, and mobilize the masses for further protests.

Opposition to processes designed and led internationally is not a novelty in Kosovo. Opposition parties, and in particular the *Vetëvendosje* movement, continue to oppose the Ahtisaari Plan and the ongoing talks with Serbia, as they deem these processes to be detrimental to the full sovereignty and integrity of Kosovo. According to its leader Albin Kurti, the Ahtisaari plan created decentralization on ethnic lines, thus deepening the division in the country

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9   Engjellushe Morina, Brussels "First Agreement" – A Year After, Konrad Adenauer Stiftung/Prishtina Council on Foreign Relations, Policy Briefs Kosovo, April 2014.

10   Cf. ibid.

11   Cf. The Constitutional Court of the Republic of Kosovo, Decision on Interim Measure in Case No. K0130/15, Applicant: The President of the Republic of Kosovo, Concerning the assessment of the compatibility of the "Association/Community of Serb majority municipalities in Kosovo general principles/main elements" with the spirit of the Constitution, Article 3 [Equality Before the Law], paragraph 1, Chapter II [Fundamental Rights and Freedoms] and Chapter III [Rights of Communities and Their Members] of the Constitution of the Republic of Kosovo, Prishtina, 10 November 2015, available at: http://gjk-ks.org/en/.

between the two ethnic groups that must work together for the development of the country.[12]

Nonetheless, the creation of the association of Serb municipalities and the "border adjustment" issue are not the only problems to have plagued Kosovo recently. Corruption and organized crime are major obstacles to Kosovo's development and prosperity. These are also among the main issues the international community uses to measure the challenges to peace and stability in Kosovo. In its latest reports, the EU concludes that "corruption is widespread and remains an issue of concern. Concerted efforts are needed to tackle this problem in a comprehensive and strategic manner", and that "the Kosovo authorities need to be more effective in their efforts to fight money laundering and the relevant law should be brought in line with [the] EU acquis and international standards".[13]

Status Challenged Externally and Internally

Kosovo's statehood, although yet to reach its full ripeness, is a reality. It is in compliance with the Montevideo Convention on the Rights and Duties of States, and in compliance with international public law. Kosovo clearly has the qualifications of the state as a person of international law as listed in the Montevideo Convention. These qualifications are as follows: i) a permanent population; ii) a defined territory; iii) a government, and iv) the capacity to enter into relations with other states.[14] The main obstacles to its statehood are its status, which is disputed by its own citizens and its own minority Serb population, and a lack of universal recognition. Over the years, these obstacles together have endangered not only the stability of the country, but also the stability of an already fragile region that runs the risk of falling increasingly under the influence of other geopolitical actors who do not necessarily share the same political and human rights values as those of Europe and other democratic actors.

Indeed, a historical analysis of Kosovo's statehood is not complete without taking into account the influence of the "foreign factor". Kosovo is clearly

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12 The "*Vetëvendosje*" or "Self-determination" movement is a movement born of revolt against the situation in Kosovo after the installation of international missions and lack of sovereignty. They act via demonstrations, political graffiti, and presentation of their programme to the Kosovo Parliament.

13 European Commission, Commission Staff Working Document, Kosovo 2018 Report, *Accompanying the document* Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2018 Communication on EU Enlargement Policy, SWD(2018) 156 final, Strasbourg, 17 April 2018, p. 4, at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf

14 Cf. Montevideo Convention on the Rights and Duties of States, Signed at Montvideo, 26 December 1933. Entered into Force, 26 December 1934. Article 8 reaffirmed by Protocol, 23 December 1936, Article 1, at: https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf.

sui generis. The international community is highly involved in the decision-making practices in Kosovo almost on a daily basis; its presence is strongly felt in the political, economic, and social lives of Kosovars. There are numerous cases where the international community is very closely involved in the work of the Kosovo Parliament.

Although at first glance, Kosovo appears to be a fully functioning independent state with democratic institutions in place, there is a huge discrepancy between appearance and reality. Institutions are not fully independent, they function under the close monitoring of the international community. Nonetheless, and despite difficulties, Kosovo is progressing towards joining the EU. In spite of its economic weakness and political instability, its European future has been stipulated many times, starting with the Thessaloniki Summit in 2003. The Stabilization and Association Agreement (SAA) between Kosovo and EU was signed on 27 October 2015,[15] clearing the way for Kosovo to gain candidate status. Bearing in mind that Kosovo has not been recognized by five EU member states, the signing of the SAA agreement is seen as an important commitment by both Kosovo and the EU to advancing Kosovo's EU integration.

Poor interethnic relations continue, despite the efforts to decentralize public services and policy-making, as well as to accommodate the Serb community with local self-governance and respect for human rights such as language rights, and participation in political and public life.[16]

Kosovo's economy is still failing to develop sustainably: The current unemployment rate is just above 36 per cent, and is highest among young people who represent more than half of population.[17] The socio-economic situation continues to deteriorate: Apart from high unemployment, services such as health and education, as well as rule of law, ranked fairly low in people's perceptions.[18] Progress on eliminating corruption and organized crime is no better. Since 2013, violent extremism has been on the rise among youth in particular: Approximately 300 people have joined fights outside of Kosovo, either amongst the ranks of the "Islamic State" in Syria and Iraq or with various pro-Russian fractions in eastern Ukraine, thereby making the number of fighters per capita from Kosovo the second highest in Europe.[19] The lack of freedom of movement and the disconnect between elites and ordinary citizens make the current picture even bleaker.

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15   Cf. European Council/Council of the European Union, Stabilisation and Association Agreement (SAA) between the European Union and Kosovo signed, 27 October 2015, at: http://www.consilium.europa.eu/en/press/press-releases/2015/10/27-kosovo-eu-stabilisation-association-agreement/.

16   See the Ahtisaari Plan and current track I dialogue agreements reached in Brussels between Pristina and Belgrade.

17   Cf. Trading Economics, Kosovo unemployment rate, at: https://tradingeconomics.com/kosovo/unemployment-rate.

18   Cf. UNDP Kosovo Human Development Index 2017.

19   Cf. Rudine Jakupi/Garentina Kraja, Accounting for the Difference: Vulnerability and Resilience to Violent Extremism in Kosovo, Berghof Foundation/Kosovar Centre for Security Studies (KCSS), October 2018, pp. 1 and 21.

Lastly, the lack of clear strategy and clearly-defined goals on the side of the international community and its status-neutral treatment of Kosovo has not played a supportive role in facilitating the transition process. For many Kosovars, the notion of status neutrality makes little sense and is viewed and understood as a lack of recognition of their status, meaning that the international community is siding with the non-recognizers. This, in combination with ongoing processes that lack transparency, accountability, participatory democracy, inclusiveness, and the sense of national ownership, runs the danger of making the local population want to migrate or consider supporting other causes such as unification with Albania.

Reflections and Outlook

How best to strengthen statehood and eventually gain UN membership is a puzzle for many in and around Kosovo. Many problems remain unaddressed: dealing with the past is a major hindrance, not only to the normalization of present relations, but also to any attempt to move towards a jointly perceived future for the Kosovar Albanians and Kosovar Serbs.

There is ongoing conflict at the level of the state-building process – as envisioned and as stated in the Constitution, Kosovo is a multi-ethnic state – and at the level of the societal and political conflict, incited mainly by the political parties. The opposition parties clearly voice their dissatisfaction with the government and the governing parties with regard to the major developments in the country, such as the creation of the association of Serb municipalities and the recent talks of land swaps or border adjustment (as they call it) between the two presidents of Kosovo and Serbia. Organized crime and corruption, as well as the lack of any feasible economic development are also major topics in the critical discourse of the opposition.

Nonetheless, despite Kosovars and internationals regularly flagging up the problem of corruption, there are questions as to the level of commitment of the Kosovo authorities and political parties, as well as the effectiveness of the EU Rule of Law Mission (EULEX), when it comes to fighting corruption and organized crime. Arguably, the scope and structure of corruption is not yet sufficiently understood either.[20]

Clearly, the conflict levels differ in Kosovo, but at the same time they are interlinked. The disputes and disagreements between the main political parties in Kosovo vary, from disagreements on the treatment of different communities (positive discrimination) to practices of bad governance. Both, the opposition and critics argue, lead to a highly dysfunctional state. While the conflict between Kosovar Albanians and Kosovar Serbs has been at its lowest levels

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20   Cf. Untying the Knot: The Political Economy of Corruption and Accountability in Kosovo, IKS Policy Analysis, Pristina, 29 June 2011, at: http://iksweb.org/en/wp-content/uploads/2017/05/enuntying_the_knot_491401.pdf.

since 1999, it is highly likely to be of a de-escalatory nature, especially as in recent times, more and more Serbs endorse the idea of integrating into the political, social, and economic life of Kosovo.

Kosovo's independence continues to be disputed by parts of the international community, Serbia, and the Serb community in Kosovo. Relations between Pristina and Belgrade, and between Albanian and Serb communities in Kosovo, remain tense. Kosovo Serbs remained nominally integrated into Kosovo's system, but Belgrade controls them through political and financial mechanisms. The return of Kosovar Serbs has not been successful, and many private property cases remained unresolved. With decreased international presence and rising tensions, fear of renewed conflict is growing.

Looking to the Future: Two (Negative) Scenarios

Scenario One – Continuation of the Status Quo

If the status quo continues, it is unlikely that relations between Kosovo and Serbia will have normalized or the status dispute be settled by 2021. To put this in perspective, this comes after ten years of dialogue between Kosovo and Serbia, facilitated by the EU High Representative. The parties opt for a half-baked deal, leaving the status issue unresolved for later discussions. Nonetheless, most of the agreements that result from the ongoing talks do not receive the necessary political support and are not been implemented. Despite both parties' commitment to progress, Serbia lobbies continuously against Kosovo's membership in international organizations whilst Kosovo continues to ignore most of the parameters of the agreement concerning the northern territory of Kosovo. At the same time, the EU is in turmoil, marred by problems mainly caused by the strengthening of the right-wing parties who campaign for changes in immigration laws, as well as obstructing the EU enlargement process. Brexit does not help matters, as it incites similar anti-EU sentiments in some member states. The French leadership does not fulfil its promises to strengthen Europe and steer it in the right direction. Although very promising, the new leadership in Germany, however, is left rather on its own to sort out most of the problems in the old continent.

The grim political prospects in the EU have a trickledown effect, not only in Serbia and Kosovo, but also in the region. Macedonia and Albania start negotiations for accession to the EU, but do not progress at the desired speed, and Bosnia and Herzegovina, with its current tri-partite presidency, struggles to stay intact and avoid dissolution. Serbia's EU integration process lags behind considerably, mainly due to the lack of political commitment to fulfilling chapters 24, dealing mostly with the rule of law, and 35, which is related to Kosovo. Serbia continues to consider Kosovo as a part of its own country, and does not make efforts to change the constitution. Kosovo, on the

other hand remains the only country in Europe outside of the visa-free regime, and its accession negotiations do not start because the five non-recognizers do not change their stance towards Kosovo's independence.

All of the above have a detrimental effect on the domestic situation in both Kosovo and Serbia. Economic development is lacking or deteriorating, rule of law institutions perpetuate a culture of impunity, are dysfunctional and under the tutelage of political powers, as are most media outlets. Corruption and organized crime flourish further, as do various kinds of violent extremism and right-wing groups. The societies show clear signs of further radicalization. Most young people dream of leaving the countries and work hard at learning German and English so they can integrate quickly in Europe, Germany especially.

Kosovo Serbs still do not fully accept Kosovo institutions and feel let down by Belgrade institutions and politics. Kosovo Albanians on the other hand are more open to the option of uniting with Albania than before; this sentiment is encouraged by many joint government meetings between Kosovo and Albania and by the fact that Kosovars feel isolated from the rest of Europe and cannot move freely. Recognizing the deadlock, the presidents of Kosovo and Serbia call for the renewal of talks regarding the so-called land swap or border adjustment that was initially started in 2018, but due to the heavy local and international resistance to the idea, the talks eventually die down.

Scenario Two – Land Swap or Border Adjustment

After numerous attempts by Kosovo and Serbia, supported by the EU and the rest of the international community, to find a solution to the dispute centering on territory of the north of Kosovo, President Hashim Thaçi of Kosovo and President Aleksandar Vučić of Serbia engage in talks on land swaps and/or "border adjustment", as they call it. Local and international resistance is high. Some of the main centres of political decision-making, such as Brussels and Washington, show signs of support early on. The German government, however, does not support the idea of a land swap, but stipulates that it would accept a deal reached by the parties in a peaceful and democratic manner. Many critics in Kosovo, Serbia, and elsewhere argue that the idea is a dangerous one and would trigger the creation of ethnic states – precisely the opposite of the idea of creating multi-ethnic states. The creation of ethnic states is strongly rejected in the Dayton Agreement in Bosnia and Herzegovina, the Ohrid Framework Agreement in Macedonia, and the Ahtisaari Comprehensive Plan in Kosovo.

Nonetheless, the land swap idea becomes quite attractive to the two political leaders and to the EU facilitators, as it appears to serve the personal interests of all parties. The president of Kosovo, with his status weakened at home, could gain recognition from Serbia and UN membership for Kosovo. The president of Serbia, who is expected to find a solution to the problem of

Kosovo where his predecessors had failed, gains popular support both in Serbia and among the Serbs in Kosovo for finally delivering on the promise of "looking after the Serbian national interest and the Serbs in Kosovo". The EU High Representative Federica Mogherini is nearing the end of her term and is looking for a legacy of achievement with which to leave her position and return to Italian politics.

Despite heavy resistance on many fronts, but especially from Kosovo, the presidents reach an agreement at the end of 2019, supported by the new EU institutions resulting from the latest European Parliamentary elections, where nationalist forces have gained the upper hand. The agreement stipulates that the three Serb-inhabited municipalities in the north of Kosovo, namely Zvečan, Zubin Potok, and North Mitrovica, would become part of Serbia proper, while three tiny villages located in the south of Serbia and inhabited by Albanians would became part of Kosovo's territory. The agreement further stipulates that Serbia would recognize the independence of Kosovo and would change its constitution and would stop lobbying globally for the de-recognition of Kosovo. In good faith, Serbia would lobby Russia and other non-recognizers to finally recognize Kosovo.

The Kosovo government and most of the parliamentary political parties who vowed not to support its implementation reject the agreement outright. The main opposition parties call for massive protests. Various groups in Kosovo and Albania call for unification and the creation of Greater Albania.

The agreement puts an even greater strain on regional stability. With Kosovo in a shambles and with the potential for open conflict in the region, the future of Macedonia and Bosnia and Herzegovina seems very uncertain. Albanians in Macedonia and Serbs in Bosnia and Herzegovina indicate that if a border change takes place anywhere in the region, they will take the necessary steps to become part of their kin communities. This creates a domino effect in the region. Serbs in Bosnia and Herzegovina and Albanians in Macedonia mobilized. The Macedonia army and police withdraw from the Albanian-majority areas. Banja Luka cuts all ties with Sarajevo. Within days, there is a massive internal displacement of populations in Serbia, Kosovo, Macedonia, and Bosnia and Herzegovina. A new Balkan map emerges, with newly-carved ethnically homogeneous states. The EU institutions in Brussels are in disarray and have no idea how to react.

Goran Bandov/Domagoj Hajduković

A Contribution to the Research of a Neglected Past – the Peaceful Reintegration of the Croatian Danube Basin – the Role of UNTAES in Peace Restoration

Introduction

The objective of this article is to contribute to the research of a somewhat neglected episode from Croatian history – the peaceful reintegration of the Croatian Danube Basin – analysing the engagement of the international community in promoting peace, security, and stability, and the role of the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES) in building peace and trust in the region. The Erdut Agreement (1995) was a peace agreement between Croatia and local Serbs signed under the patronage of the international community, outlining how the people and territory of Eastern Slavonia, Baranja, and Western Sirmium would be reintegrated into the constitutional and legal order of the Republic of Croatia. The provisions of the Agreement charged the United Nations (UN) Security Council with establishing a Transitional Administration of the territory to be reintegrated. The primary objectives of the Transitional Administration put forward in the Agreement were demilitarization; the administrative, social, and economic reintegration of people and territory; the return of all refugees and displaced persons; ensuring compliance with the highest standards of human rights; the rebuilding and economic revitalization of the territory; the creation of a multi-ethnic environment; and the organization of free elections. The maximum timeframe given for implementing these objectives was set at 24 months.

The Period Between the Oluja Military Operation and the Erdut Agreement

When considering the question of the Croatian Danube Basin, one must bear in mind the peculiarities of this area of Croatia due to its geopolitical position,[1] as well as the disruption to the multi-ethnic character of the region following intensive military operations and the policy of ethnic cleansing.[2] The future of

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1   The Croatian Danube Basin is part of the territory of the Republic of Croatia by the river Danube, namely Eastern Slavonia, Baranja, and Western Sirmium. It borders Hungary in the north, Serbia in the east, and Bosnia and Herzegovina in the south.

2   According to the 1991 census in the Croatian Danube Basin, there were around 194,000 inhabitants, of which 45 per cent were Croats, 35 per cent Serbs, and 20 per cent other national and ethnic minorities. It was estimated that by the end of 1995 following the *Bljesak* and *Oluja* military operations, there were 120,000 to 150,000 inhabitants, over 95 per cent Serbs, including around 50,000 refugees from other parts of Croatia and Bosnia and

the region was considered and decided on the margins of the Dayton Peace Conference on ending military conflict in Bosnia and Herzegovina in 1995.[3] However, it is important to note that the political negotiations on peaceful reintegration were a result of two successful Croatian military operations, *Bljesak* ("Flash", May 1995) and *Oluja* ("Storm", August 1995), and the liberation of a sizeable Croatian territory that had been under occupation. These Croatian military triumphs paved the way for peace negotiations, as local Serbian officials from the Danube Basin and Slobodan Milošević's Serbia became aware of Croatia's military superiority and ability to liberate the rest of the occupied territory with military means.

On the other hand, Croatia's military victories fuelled strong support for further military action,[4] especially since previous attempts at negotiations had failed at the very beginning, as even the agenda could not be agreed. In previous negotiation attempts, the Croatian side had insisted on the full integration of territories under the control of local Serbs into its constitutional and legal order, while the local Serb population insisted on full independence from Croatia. With such immovable initial positions, it was difficult to even commence, let alone complete negotiations with any kind of success.

Although recent military action undertaken by Croatia demonstrated the country's ability to reintegrate occupied territories without peace negotiations, this did not mean that the majority of the Serb population in the area abandoned the idea of independence or annexation by Serbia, since a large portion of the Serb population was still under the influence of Greater Serbia propaganda. In addition, a group of individuals involved in criminal activities and profiteering, ranging from smuggling oil from the Đeletovci oil fields as well as other raw materials (e.g. timber) out of occupied territory, exercised significant political influence, and wanted to preserve the existing political and economic situation for as long as possible. A prominent member of this group was Goran Hadžić,[5]

Herzegovina. For more information, cf. Ivo Turk/Marijan Jukić, Promjene u udjelima Hrvata i Srba u etničkom sastavu stanovništva Hrvatskog Podunavlja kao posljedica Domovinskog rata i mirne reintegracije (1991.-2001.) [Changes in the proportion of Croats and Serbs in the ethnic composition of the Croatian Danube Basin population as a result of the Homeland War and peaceful reintegration (1991-2001)], in: Dražen Živić/Sanja Cvikić (eds), *Mirna reintegracija Hrvatskog Podunavlja: Znanstveni, empirijski i iskustveni uvidi* [Peaceful reintegration of the Croatian Danube Basin: Scientific, empirical, and experiential insights], Zagreb/Vukovar 2010, pp. 193-212; Joop Scheffers, *Veleposlanik u Zagrebu 1994.-1998.*, Zagreb 2000, p. 123.

3   Cf. Mate Granić, *Vanjski poslovi iza kulisa politike* [Foreign Affairs Behind the Coulisse of Politics], Zagreb 2005, p. 128.

4   Cf. Ružica Jakešević,, Mirovne misije Ujedinjenih nacija i rješavanje etničkih sukoba: studija slučaja Istočne Slavonije [United Nations peacekeeping missions and the resolution of ethnic conflicts: case study Eastern Slavonia], *Politička misao* 2/2012, pp. 186-203, here: p. 192; Joško Morić, U potrazi za učvršćivanjem mira u Istočnoj Slavoniji [Looking for the consolidation of peace in Eastern Slavonia], , in: Dijana Antunović Lazić, *Mirna reintegracija hrvatskog Podunavlja – zaboravljeni mirovni projekt?* [Peaceful integration of the Croatian Danube Basin – a forgotten project?], Vukovar 2015, pp.14-21, here: pp. 14-15; Scheffers, cited above (Note 2), p. 126.

5   Goran Hadžić was a war leader of the self-proclaimed Republic of Serbian Krajina in the Croatian territory. The International Criminal Tribunal for the former Yugoslavia (ICTY)

a local Serbian leader during the war operations, who was installed by Slobodan Milošević as chief negotiator for the Serbian side.[6] Hadžić's interests were primarily focused on oil smuggling and profiteering, rather than on the welfare of the local Serbian population.[7]

However, the situation radically changed once local Serbs lost the support of Milošević's Serbia.[8] Faced with a large influx of refugees from the occupied territories in Croatia and Bosnia and Herzegovina, and fearing that an additional wave of refugees from Eastern Slavonia would further destabilize the delicate social balance in Serbia and endanger his position of power, Milošević withdrew his support. With the passage of time, local Serbs became less reluctant to embrace the idea of reintegration with Croatia, making way for a more realistic approach. Propaganda about Greater Serbia was much less effective in the face of recent military defeats; criminal elements became aware that the state of lawlessness and their profiteering was nearing an end, and gradually the realities of life paved the way for the start of serious negotiations on reintegration. Nevertheless, the situation was far from favourable for successfully reintegrating people and territory peacefully. The best illustration of this situation is a statement by Milan Milanović, signatory of the Erdut Agreement and former deputy minister of defence of the so-called Republic of Serbian Krajina, given after the signing of the Agreement. Milanović explained to local Serbs that the central premise of the Agreement was that there would be UN forces in the territory of the Transitional Administration and that there would be no Croatian police, Croatian customs, or any other Croatian authorities.[9] This was the complete opposite of what had been outlined in the Erdut Agreement.

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accused him of crimes against humanity and of violating the laws and customs of war. Hadžić was indicted on fourteen counts. The charges included criminal involvement in the "deportation or forcible transfer of tens of thousands of Croat and other non-Serb civilians" from Croatian territory between June 1991 and December 1993, including 20,000 from Vukovar; the forced labour of detainees; the "extermination or murder of hundreds of Croat and other non-Serb civilians" in ten Croatian towns and villages including Vukovar; and the "torture, beatings and killings of detainees", including 264 victims seized from Vukovar Hospital. The Tribunal's last remaining fugitive, Hadžić was captured by Serbian authorities on 20th July 2011. His trial was abandoned in 2014 when he received a terminal brain cancer diagnosis; he died at the age of 57 on 12 July 2016. For more information, cf. The International Criminal Tribunal for the Former Yugoslavia, Case no. IT-04-75-I, The Prosecutor of the Tribunal against Goran Hadžić, The Hague, 21 May 2004, at: http://www.icty.org/x/cases/hadzic/ind/en/had-ii040716e.htm.

6   Cf. Vesna Škare-Ožbolt/Ivica Vrkić, Olujni mir – kronologija hrvatske misije mira na Dunavu [Stormy peace – the chronology of the Croatian peace mission in the Danube], Zagreb 1998, p. 60; Boris Pavelić, Peaceful Reintegration. The Discarded Triumph of Reason and Peace, Zagreb, January 2018, p. 7.

7   Cf. Jacques Paul Klein, *Kad je Glavaš na stol stavio pištolj od 9mm, ja sam izvukao Magnum* [When Glavaš put a 9mm gun on the desk, I pulled out the Magnum], interview held by Drago Hedl, Jutarnji list, 6. February 2013.

8   Cf. Peter Galbraith, Negotiating peace in Croatia: a personal account of the road to Erdut, in: Brad K. Blitz (ed.), *War and Change in the Balkans. Nationalism, Conflict and Cooperation*, Cambridge 2006, pp. 124-131, here: p. 127.

9   Cf. Ana Holjevac Tuković, *Proces mirne reintegracije hrvatskog Podunavlja* [The process of peaceful reintegration of the Croatian Danube Basin], Zagreb 2015. p. 75.

On the other hand, Croatia had already prepared a plan to liberate the Croatian Danube Basin with military action, codenamed "Vukovarska Golubica" and informally known as "Skok u Dalj"[10] (a play on words in Croatian). The rumour in diplomatic circles was that the date for the operation was set for the weekend of 11 and 12 November 1995.[11] However, the geopolitical situation of the Croatian Danube Basin was more complex than in formerly liberated territories since, unlike other territories, the Danube Basin had a direct border with Serbia. Projections foresaw that, in the case of military action, there would be a high casualty rate on both sides – a high price to pay in human lives, especially bearing in mind that the international community had already tabled a suggestion for reintegrating the territory into Croatia.

The international community strongly encouraged Croatia not to go on with military action but to join the peace negotiations instead, guaranteeing the Croatian side full recognition of its independence, territorial sovereignty, and constitutional and administrative jurisdiction on all of its territory, provided that it upheld the highest standards of human rights and specifically minority rights. Although there was strong support for a military solution, research has shown that the most vulnerable group in society at that time – refugees and internally displaced persons – favoured peaceful reintegration.[12] Furthermore, the same research shows that the majority of the refugee community believed that implementing peaceful reintegration was Croatia's decision, as it was the best solution in the long run, but also a result of strong pressure from the international community.[13] Nevertheless, it is important to note that the international community believed that the successful reintegration of Eastern Slavonia would enable relations between Serbia and Croatia to be normalized, which would ensure stability across South-Eastern Europe – one of the international community's long-term goals.[14]

The Legal Framework for Setting up Peaceful Reintegration and the Peace Mission

The legal framework for setting up peaceful reintegration and the peace mission included a set of legal acts consisting of the peace agreement itself, national law acts and bills, and UN resolutions. The most important document

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10 Cf. ibid., p. 65; Joško Morić, (Ne)željena reintegracija [(Un)desired reintegration], *Političke analize* 25/2016, pp. 14-17, here: p. 15; Ivan Vrkić, *Istočno od Zapada – politički putopisi hrvatskim Istokom* [East of the West – Political travels in the East of Croatia], Zagreb 1997, p. 10.
11 Cf. Scheffers, cited above (Note 2), p. 126.
12 Cf. Vlado Šakić/Ivan Rogić/Slavko Sakoman, Attitudes and Opinions of the Croatian Displaced Persons Considering Peaceful Reintegration of the Croatian Danube Basin, *Društvena istraživanja* 2-3/1997, pp. 235-258, here: pp. 241-242.
13 Cf. ibid.
14 Cf. Jacques Paul Klein, UNTAES-sažeto izvješće misije [UNTAES – summary of the mission report], in: Živić/Cvikić (eds.), cited above (Note 2), pp. 15-27, here: p. 19.

was the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium, which provided the legal foundation for the peaceful re-integration of the Croatian Danube Basin. It was signed on 12 November 1995 by the authorities of the Republic of Croatia and the local Serb authorities of the Eastern Slavonia, Baranja and Western Sirmium region.[15] The document is better known as the Erdut Agreement, named after the village of Erdut, one of the locations where the agreement was signed. It was signed by Milan Milanović, Head of the Serb Negotiating Delegation, and Hrvoje Šarinić, Head of the Croatian Government Delegation, witnessed by Peter W. Galbraith, US Ambassador to Croatia, and Thorvald Stoltenberg, UN Mediator.

With the Erdut Agreement, signatories requested that the UN Security Council establish a Transitional Administration to govern the Danube region during the transitional period of a maximum of 24 months in the interests of all residents in, or returning to, the region.[16] In accordance with the Erdut Agreement, the UN was requested to demilitarize the region, to secure all the prerequisites for the return of refugees and displaced persons to their places of origin, and to re-establish the normal functioning of all public services in the region without delay.[17] The parties agreed to request help from the UN to establish and train temporary police forces, to build professionalism among the police and trust among all ethnic communities, and to ensure the highest levels of internationally recognized human rights standards and fundamental freedoms.[18]

The Erdut Agreement recognized the right of all persons in the Croatian Danube Basin region to have restored to them any property that had been taken from them by unlawful acts, or that they were forced to abandon, as well as the right to fair compensation for property that could not be restored to them.[19] Moreover, according to the Erdut Agreement, the right to recover property, to receive compensation for property that could not be returned, and to receive assistance in the reconstruction of damaged property was to be equally available to all persons regardless of their ethnicity.[20]

The Erdut Agreement stipulated that the Transitional Administration should organize elections for all local government bodies, including those of

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15 Basic agreement on the region of Eastern Slavonia, Baranja and Western Sirmium, 12 November 1995, Annex to: United Nations, General Assembly, Security Council, Letter dated 15 November 1995 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary General, A/50/757, S/1995/951, 15 November 1995, pp. 3-5, at: https://peacemaker.un.org/sites/peacemaker.un.org/files/HR_951112_ ErdutAgreement.pdf (hereinafter referred to as Erdut Agreement); cf also: Erdutski Sporazom, Osnovni Sporazom o Području Istočne Slavonije, Baranje i Zapadnog Srema, at: https://www.zvo.hr/dokumenti/c731c4afbd208ca.pdf).
16 Cf. Erdut Agreement, Articles 1, 2.
17 Cf. ibid., Articles 3, 4, 7.
18 Cf. ibid., Articles 5, 6.
19 Cf. ibid., Article 8.
20 Cf. ibid., Article 9.

municipalities, districts, and counties, as well as the right of the Serbian community to appoint a Joint Council of Municipalities no later than 30 days before the end of the transitional period.[21]

The Agreement entered into force when it was adopted under United Nations Security Council Resolution (UNSCR) 1037 (1996) on 15 January 1996, affirming the requests made in the Agreement.[22]

With UNSCR 1037 (1996), the Security Council reaffirmed once again its commitment to the independence, sovereignty, and territorial integrity of Croatia and emphasized that the territory of the region is an integral part of Croatia. Additionally, the Security Council stressed the importance of full respect for the human rights and fundamental freedoms of all individuals in those territories. The Security Council also expressed its support for the Erdut Agreement and assisted the parties in their efforts to reach a peaceful settlement of their disputes, and thus to contribute to achieving peace in the South-Eastern Europe region as a whole.

The UN peace mandate, and indeed the process of peaceful reintegration itself, also officially started with the adoption of UNSCR 1037 (1996). The UNTAES mandate was extended by six months on 14 July 1997 with the adoption of Resolution 1120 (1997) and was formally completed on 15 January 1998, exactly two years after the mission began.[23] In UNSCR 1120 (1997), the UN Security Council once again reaffirmed its commitment to the independence, sovereignty, and territorial integrity of Croatia and emphasized that the territory of the Croatian Danube Basin is an integral part of Croatia. The Resolution also voices concern regarding human rights, including the rights of persons belonging to minorities, in particular in territories that were under UN protection. However, the, Resolution reminded the local Serb population in Eastern Slavonia, Baranja, and Western Sirmium of the importance of demonstrating a constructive attitude towards reintegration and showing willingness to co-operate fully with Croatia in building a stable and positive future for the region.

In December 1997, Resolution 1145 (1997) confirmed the decision of the UN Security Council to complete the UN peace mission and again reaffirmed that the Croatian Danube Basin is an integral part of Croatia.[24] The Resolution also recalled the mandate of the Organization for Security and Co-operation in Europe (OSCE) of 26 June 1997 providing for a "reinforced OSCE presence in the Republic of Croatia, with a focus on the two-way return of all refugees and displaced persons, the protection of their rights, and the protection of

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21   Cf. ibid., Article 12.
22   Cf. United Nations, Security Council, Resolution 1037 (1996), S/RES/1037 (1996), 15 January 1996, at: http://unscr.com/en/resolutions/doc/1037.
23   Cf. United Nations, Security Council, Resolution 1120 (1997), S/RES/1120 (1997). 14 July 1997, at: http://unscr.com/en/resolutions/doc/1120.
24   Cf. United Nations, Security Council, Resolution 1145 (1997). S/RES/1145 (1997), 19 December 1997, at: http://unscr.com/en/resolutions/doc/1145.

persons belonging to national minorities".[25] Furthermore, the Resolution underlined the obligation of Croatian authorities to take on responsibility for the successful and peaceful reintegration of the region and genuine reconciliation of the people.

The Erdut Agreement and a number of UN Resolutions did not provide a sufficient legal framework to regulate all the specific situations that occurred during the process of implementing peaceful reintegration. To ensure the full transfer of authority and the full administrative and jurisdictional reintegration of people and territory, UNTAES successfully worked with Croatia on passing a number of acts and bills that were aimed at ensuring the fair and equal treatment of citizens in the Danube Basin.[26] All these legal acts, in addition to those already in existence, guaranteed all citizens living in the Danube Basin the unrestricted ability to exercise all their rights and obligations as equal citizens of Croatia.

The Role of the UNTAES Mission in Peacebuilding

The citizens of Croatia had completely lost faith in the UN institutions, since the previous UN missions to Croatia (United Nations Protection Force/UNPROFOR, United Nations Confidence Restoration Operation/UNCRO) had not lived up to the expectations of the local populace in

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25   Ibid.; for the wording of the OSCE's mandate cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 176, PC.DEC/176, 26 June 1997.

26   Croatian legal acts passed in view of peaceful reintegration: Affidavit on the Rights of Public Employees (16-19 December 1996), Letter dated 13 January 1997 from the Government of Croatia addressed to the President of the Security Council (S/1997/27, annex), Annex to the Affidavit (14 February 1997), Law on Convalidation (22 September 1997), Letter of Agreement by the Croatian Highway Administration (21 March 1997), Letter of Agreement by Croatian State Radio and Television (2 April 1997), Letter of Agreement by the Croatian Post and Telecommunications Administration (9 May 1997), Letter of Agreement by the Croatian Water Administration (22 May 1997), Agreement by the Croatian Pension Fund on Pension Services (29 May 1997), Letter of Agreement by Croatian Railways (6 June 1997), Agreement by the Ministry of Health on Regional Health Services (6 June 1997), Letter of Agreement by the Croatian Electricity Company (22 July 1997), Letter of Agreement by the Croatian Forestry Commission (25 June 1997), Declaration on Educational Certificates (11 March 1997), Agreement on the Distribution of Principals' Positions (4 August 1997), Decision on Curriculum Content (4 August 1997), Declaration on Minority Education Rights (6 August 1997), Letter of Agreement by the Ministry of Education (7 August 1997), Joint Statement on Reintegration of the Tax Department (4 September 1997), Joint Statement on Reintegration of the Employment System (11 September 1997), Joint Statement on Reintegration of the Social Welfare System (11 September 1997), Agreement on Recognition and Handover of Record Books (25 September 1997), Memorandum of Understanding on Restructuring the Transitional Police Force (undated), Agreement on the Joint Working Group on Returns (23 April 1997), Organization of the Joint Council of Municipalities (23 May 1997), Declaration on Conditions for Judicial Reintegration (30 September 1997). Cf. UN Secretary General, Report of the Secretary-General on the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, S/1997/953, 4 December 1997, Annex I: List of public agreements with continuing validity as at 27 November 1997, at: https://www.nato.int/ifor/un/ u971204a.htm.

returning occupied territories, and did not bring real peace, stability, and security. The main objection on the Croatian side was that the expulsion of the non-Serb population, with the objective of incorporating the ethnically cleansed areas of Croatia and Bosnia and Herzegovina into Serbia, continued during the UNPROFOR mission.[27] On the other side, the Serb population in territories under local Serb control was not satisfied with UNPROFOR's mandate, as the UN forces failed to act when Croatia executed five minor military operations aimed at Serb occupied territories.[28] However, it should be noted that these UN missions had been deployed to separate belligerents without a clear political decision, peace treaty, or agreement between them. The scope of the work of UNPROFOR and UNCRO was confined to controlling the dividing lines between the belligerents, monitoring breaches of signed cease-fire agreements and overseeing heavy weapons, which were supposed to be moved away from the conflict zones.

The UNTAES mission was radically different in both form and purpose from its predecessors. Therefore, it enjoyed stronger support from Croats, the majority of whom thought that the peaceful reintegration UNTAES was supposed to foster would ensure a better future for Croatia.[29] Furthermore, the UNTAES mission was founded on a peace agreement between the opposing forces of Croatia and local rebel Serbs with the strong support of the international community, especially the UN and USA.[30]

The UNTAES mission had a precisely defined political and security mandate, clear objectives and a timeframe for achieving them. Primary objectives for the UNTAES mission were outlined in the UNSCR 1037 (1996) of 15 January 1996, which were to bring about the peaceful reintegration of people and territory of Eastern Slavonia into the constitutional and legal order of the Republic of Croatia. In the Erdut Agreement, the goals set by the opposing sides were realistic, did not leave room for differing interpretations and had a firmly set timeframe for their implementation, ensuring that the process would not stall.

Unlike the previous UN mission, UNTAES also had a clearly defined military component and a civil component including the strong military support of NATO forces and forces of the NATO-led Stabilisation Force (SFOR), specifically their air forces.[31] The military component of the UNTAES mission

27   Cf. Albert Bing, Put do Erduta [The Road to Erdut], *Scrinia Slavonica* 7/2007, pp. 371-404, here: p. 379.
28   Cf. Carl Bildt, *Zadatak mir* [The objective: peace], Belgrade 1999, p. 85.
29   Cf. Šakić/Rogić/Sakoman, cited above (Note 12), p. 242.
30   On the influence of the USA on the preparation and implementation of peaceful reintegration cf. Albert Bing, Međunarodna zajednica i reintegracija hrvatskog Podunavlja: Realpolitika i multietnički odnosi [The international community and the reintegration of the Croatian Danube Basin: Realpolitik and multi-ethnic relations], in: Živić/Cvikić (eds), cited above (Note 2), pp. 83-113.
31   Cf. United Nations, Security Council, Resolution 1093 (1997), S/RES/1093 (1997), 14 January 1997; Jean Krasno/Bradd C. Hayes/Donald C.F. Daniel (eds), Leveraging for Success in United Nations Peace Operations, London 2003, p. 123.

comprised of units from more than 30 states,[32] with an authorized strength of 5,000 troops, equipped with weapons and armoured vehicles. In addition to military personnel, UNTAES had police monitors and military observers at its disposal.[33] The strong military component of the mission certainly contributed to encouraging compliance and diligence from all the local actors involved in implementing the Erdut Agreement provisions.

Attaining the Specific Objectives of the UNTAES Peace Mission

The specific objectives of the UNTAES mission were defined in the Erdut Agreement as demilitarization; the administrative, social, and economic re-integration of people and territory; the return of all refugees and displaced persons; establishing and upholding a high standard of human rights pro-tection; the development and economic rebuilding of the region; the creation of a multi-ethnic environment; and the organization of free elections no later than 30 days before the end of the transitional period. In order to achieve these objectives within the given timeframe, UN forces began a range of activities with the aim of building trust between the opposing sides, including the de-velopment of measures for social reintegration as discussed below.

Demilitarization
One of the main objectives set out in the Erdut Agreement was the complete demilitarization of the region. Subsequently, at the very start of the mission, UNSCR 1037 of 15 January 1996 concluded that the demilitarization of the Danube Basin should be completed within 30 days after the Secretary-General informed the Council that the military component of UNTAES had been de-ployed and was in operation.[34]

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32 Argentina, Austria, Bangladesh, Belgium, Brazil, Czech Republic, Denmark, Egypt, Fiji, Finland, Ghana, Indonesia, Ireland, Jordan, Kenya, Lithuania, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, Russian Federation, Slovak Republic, Sweden, Switzerland, Tunisia, Ukraine, and the United States (as at 30 September 1997). Cf. Croatia – UNTAES, United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, Prepared by the Department of Public Information, United Nations, New York 1997, at: https://peacekeeping.un.org/mission/past/untaes_b.htm.

33 Cf. ibid.

34 Cf., United Nations, Security Council, Resolution 1037 (1996), cited above (Note 22). The 1,600 Belgian and Russian troops already in the region as part of the existing UN peacekeeping operation were supplemented by a further 3,300 troops. These consisted of battalions from Jordan and Pakistan, with their M60 and T95 tanks, M113 armoured personnel carriers and howitzers; a helicopter squadron from Ukraine with Mi-24 assault helicopters and Mi-8 transport helicopters; an Argentinean reconnaissance company; a Slovak engineering battalion; a Czech field hospital and surgical team; and an Indonesian medical company. A small Polish special police group was added later. Cf. Derek Boothby, The UNTAES Experience: Weapons Buy-back in Eastern Slavonia, Baranja and Western Sirmium (Croatia), Bonn International Center for Conversion (BICC), brief 12, October 1998, p. 13.

Demilitarization included the dissolution and disbandment of all military and police forces, units, and personnel. Consequently, no weapons, ammunition, explosives or any other military equipment was allowed in UNTAES-administered territory without the special permission of the UN Transitional Administrator. Upon the arrival of UN forces in Eastern Slavonia, Baranja, and West Sirmium, the 11th Corps of the Army of the Republic of Serbian Krajina was deployed. The 11th Corps had about 15,000 soldiers divided into seven brigades of the Baranja and Eastern Slavonia divisions.[35] Some of the officers were former officers of the Yugoslav People's Army (*Jugoslovenska narodna armija/*JNA) and the military equipment of the 11th Corps included 120 tanks, 120 pieces of artillery, 140 mortars, and other heavy weapons.[36] In addition to military forces, the local police had 1,500 operatives and there were paramilitary units present in the region (Arkanovci, Škorpioni, Poskoci) with around 2,000 members.[37]

The UNTAES Force Commander Major General Jozef Schoups, General Dušan Lončar of the local Krajina Serb Army and General Djuro Dečak of the Croatian Army certified the completion of the demilitarization process. Between March and June 1996, UNTAES monitored the removal of 93 tanks, 11 armoured personnel carriers, 35 anti-tank systems, 107 pieces of artillery, 123 mortars and 42 anti-aircraft guns.[38] On 26 August 1996, General Schoups stated, "the single existing military organization in the region is the UNTAES military component. There are no military threats."[39]

However, in reality, the local Serb population was still in possession of a significant amount of armaments. These ranged from handguns to anti-tank rockets and mortars, mines, cassette bombs, and a wide variety of ammunition. To encourage the populace to hand in weapons voluntarily, UNTAES, in cooperation with Croatia, started a weapons buy-back programme. The programme provided for payments in cash and guaranteed the anonymity of people handing in weapons at four collection points in the region's UNTAES military compounds. Upon handing in weapons, cash was paid directly to the person concerned as determined by Croatian weapons experts.[40] In a report to the Security Council dated 24 February 1997, the Secretary-General stated that, since its inception on 2 October 1996, the weapons buy-back programme, financed by Croatia and organized by the UNTAES military component, had

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35   Klein, UNTAES-sažeto izvješće misije, cited above (Note 14), p. 22.
36   Cf. Boothby, cited above (Note 34), p. 13.
37   Cf. Ana Holjevac Tuković, Kako je Hrvatska vratila Podunavlje, zašto nije bilo nove Oluje te koliko je sve to koštalo [How did Croatia return the Danube Basin, why was there no new Storm and how much did it cost?], *tportal*, 15 January 2018, at: https://www.tportal.hr/ vijesti/clanak/kako-je-hrvatska-vratila-podunavlje-zasto-nije-bilo-nove-oluje-te-koliko-je-sve-to-kostalo-foto-20180112.
38   Cf. Croatia – UNTAES, cited above (Note 32).
39   United Nations, Eastern Slavonia, Baranja and Western Sirmium. Brief Chronology, 15 January 1996 - 15 January 1998, at: http://www.un.org/Depts/DPKO/Missions/untaes_e. htm; Croatia – UNTAES, cited above (Note 32).
40   Cf. Boothby, cited above (Note 34).

collected over 15,000 weapons and 435,000 rounds of ammunition.[41] Weapons in good condition were transferred to Zagreb and placed in storage in UN custody until the end of the UNTAES mandate in January 1998, when they were handed over to the Croatian authorities. Weapons that were old, un-serviceable, or dangerous, and all ammunition recovered, were destroyed by UNTAES.[42] Demilitarization, and the weapons buy-back programme in particular, was a resounding success, and was executed within the assigned time-frame. The considerable reduction in armaments in the hands of the local populace, combined with other aspects of UNTAES' work, contributed significantly to achieving stability, peace, and security in the region.

Establishing Transitional Police Forces

Local Serb police forces were also included in the process of demilitarization. UNSCR 1037 (1996), establishing the Transitional Administration for Eastern Slavonia, Baranja, and Western Sirmium, included a provision mandating the Transitional Administration with putting in place a temporary police force as quickly as possible. The Transitional Administration would also define the structure and size of the Temporary Police, develop a training programme and oversee its implementation, and monitor the treatment of offenders and the prison system.[43] When UNTAES was deployed, there were 1,500 active local Serb police operatives in the Croatian Danube Basin.[44] Additionally, the local Serb police force (*milicija*) was also supplemented with personnel from Serbia.[45]

After successful demilitarization, on 1 July 1996 the Transitional Police started its operations with the main objective of providing security and protection to all the inhabitants of the Danube Basin.[46] The national structure of the Transitional Police was set by the 1991 census, and provided for ethnic diversity in the police force. This increased the confidence of the local Serb population in the police, as all ethnicities had their "own" officers within the Transitional Police.

However, this clearly demonstrates the prejudices and even aversion to specific ethnic communities of certain members of the Transitional Police. This meant that they were not properly trained to work in communities in which there was mistrust between ethnic groups. Therefore, improving the level of professionalism within the police force was a priority for the success

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41   Cf. United Nations, Security Council. Report of the Secretary-General on the United Nations transitional administration for Eastern Slavonia, Baranja and Western Sirmium, S/1997/148. 24 February 1997, part III. Military aspects, point 12.
42   Cf. Boothby, cited above (Note 34).
43   Cf. United Nations, Security Council, Resolution 1037 (1996), S/RES/1037 (1996), 15 January 1996, p. 4.
44   Cf. Holjevac Tuković, Kako je Hrvatska vratila Podunavlje, zašto nije bilo nove Oluje te koliko je sve to koštalo, [How did Croatia return the Danube Basin, why was there no new Storm and how much did it cost?], cited above (Note 37).
45   Cf. Boothby, cited above (Note 34), p. 13.
46   Cf. Vrkić, cited above (Note 10), p. 108.

of peaceful reintegration. Consequently, officers of the Transitional Police attended international police training in Budapest (Hungary) in ethnically mixed groups with the aim of unifying qualifications and equipping officers with new skills and knowledge needed for their work in such a delicate situation.[47]

The Letter of Intent adopted on 13 January 1996 by the government of the Republic of Croatia stipulated that there should be proportionate representation of Serbs in the police, including managerial positions, and ensured this would be guaranteed in the case of possible future changes to administrative divisions.[48] The Letter further stipulated that during the first year after local elections, police officers of Serbian ethnicity and other non-Croatian ethnic groups should number no more than 800 officers, while the appointment of Serb officers should be conducted by the Joint Council of (Serb) Municipalities. This was successfully implemented.[49]

In December 1997, with the UNTAES mission nearing its end, the Transitional Police had become an integral part of the Croatian Ministry of the Interior. The Security Council with UN Resolution 1145 (1997) established a support group of 180 civilian police monitors for a single period of up to nine months, effective as of 16 January 1998, to continue monitoring the performance of the Croatian police in the Danube Basin, particularly in connection with the return of displaced persons.[50] In effect, this meant that even after the official end of the UNTAES mission (15 January 1998), the strong support of the international community remained in effect in the area, ensuring that peace, stability, and security were safeguarded in the region for the near future as well as long term.

Administrative and Jurisdictional Reintegration

Part of the UNTAES mission was to reintegrate people and territory into the Croatian administrative and jurisdictional framework. In order to achieve this objective, Croatia passed a set of acts and bills aimed at making gradual reintegration easier for the population of the region.[51] The administrative and jurisdictional aspects of reintegration encompassed a set of sensitive and complex administrative and technical issues with an impact on the everyday life of each individual. The motive for this aspect of reintegration was to grant all Croatian citizens living in the region access to all rights and obligations available to other Croatian citizens, as well as access to all public services.

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47   Cf. Škare-Ožbolt/Vrkić, cited above (Note 6), p. 70; cf. also Croatia – UNTAES, cited above (Note 32).
48   Cf. Pismo namjere Vlade Republike Hrvatske o dovršenju mirne reintegracije područja pod Prijelaznom upravom [Letter of Intent by the Government of the Republic of Croatia on the completion of the peaceful reintegration of the territories under the Transitional Administration], 13 January 1996.
49   Cf. ibid..
50   Cf. United Nations, Security Council, Resolution 1145 (1997), cited above (Note 24).
51   Cf. the detailed list of all Croatian acts and bills as well as other documents passed as a result of and in relation to peaceful reintegration cited above (Note 26).

This aspect of reintegration included issues of personal rights related to status and citizenship (primarily the right to citizenship, Croatian personal documents, the right to work and pension); adequately organized public services (including health services, education, transport, communications, infrastructure, water supply, post, telecommunications, forest management); and the reorganization of political, regional, and local (self-)government and harmonization with the rest of Croatia.

Administrative and jurisdictional reintegration encompassed a set of substantially different aspects of which we shall examine the following: the issuance of Croatian documents, access to health services, and access to education. Regulating one's personal status is vital for any individual. Without personal documents, a Croatian citizen cannot benefit from the rights guaranteed under Croatian law, including the right to vote and the right to stand as a candidate in elections. Att the beginning of the UNTAES mission there was not a large demand for Croatian documents, but the elections sparked interest amongst the local Serb population in acquiring the documents in order to receive a vote. By the end of the UNTAES mandate, almost all Serbs living in the region had requested issuance of Croatian documents. As of 25 September 1997, approximately 146,000 citizenship documents (*domovnica*), 130,000 Croatian identity cards, and 126,000 passports had been issued.[52]

In the Letter of Intent on the completion of the peaceful reintegration of the territories under the Transitional Administration of the Republic of Croatia of 13 January 1996, Croatia guaranteed local Serbs and other minorities in the Danube Basin full rights to educational and cultural autonomy.[53] Within the framework of the education system, local Serbs were left with choices regarding how to protect their cultural identity, history and heritage. Croatia developed an education system for all minorities, including Serbs from the Croatian Danube Basin, that offers three models as follows: A. all classes are taught in the language of a minority; B. social sciences are taught in Croatian while natural sciences are taught in the language of a minority; and C. all classes are taught in Croatian with an additional five classes a week in a minority language aimed at preserving and nurturing their culture.[54] The choice of which model to apply was left to each local minority self-government institution for the municipality it administered. The local Serbian population in the area of the Danube Basin almost exclusively opted for model A, which remains in force.

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52 Cf. Croatia – UNTAES, cited above (Note 32).
53 Cf. Pismo namjere Vlade Republike Hrvatske o dovršenju mirne reintegracije područja pod Prijelaznom upravom, cited above (Note 48), Article 8.
54 Cf. Goran Bandov, Die Implementierung der nationalen Gesetzgebung und der internationalen Instrumente zum Schutz nationaler Minderheiten im Bildungsbereich in der Republik Kroatien [Implementation of national legislation and international instruments for the protection of national minorities in the field of education in the Republic of Croatia], in: Hans J. Gießmann/Patricia Schneider (eds). *Reformen zur Friedenskonsolidierung* [Reforms for Peacebuilding], Hamburger Beiträge 144, Hamburg, October 2006, pp. 10-30.

In order for citizens in the UNTAES administered territory to have access to health care after reintegration, the Croatian minister of health signed the Agreement on the Reintegration of the Regional Health Sector on 3 December 1997, covering equal treatment, rights of employment for regional health workers, and full financing of the health care sector.[55] It guaranteed equal access to health care to all residents of the Croatian Danube Basin and set a 1 June 1998 deadline for all Croatian citizens to apply for health insurance cards.[56] The health care system outlined in the aforementioned Agreement remains in effect.

Social Integration – Building Trust
Even before the commencement of peaceful reintegration, non-governmental organizations (NGOs) from Croatia and Serbia had started an initiative to reconnect divided families and arranged for their reunions in Mohács, a small city in Hungary very close to the border.[57] After administration of the Danube Basin was taken over by UNTAES, NGOs started to organize these reunions in the area rather than in Hungary, and received strong UNTAES support. At the same time, UNTAES responded positively to the pleas of displaced persons to be allowed to visit cemeteries in the region. For the first time after the cessation of war operations, 1,910 displaced persons visited their family graves on All Saints Day (1 November) 1997. Soon after, 1,030 Serbs from other parts of Croatia who found shelter in the Croatian Danube Basin visited their family graves on Croatian territory.[58] As no incidents were recorded during these organized visits, they helped to strengthen support for peaceful reintegration among displaced persons.

The most important initiative in building trust between ethnic groups was "Klein's Market", named after Jacques Paul Klein,[59] the Transitional Administrator from January 1996 until August 1997, who spearheaded the initiative immediately after successful demilitarization of the area. "Klein's Market" served as a place of trade, coexistence and encounters between different ethnicities.[60] The marketplace project attracted a lot of attention from both Croatian citizens in the free territory and citizens living in the area under Transitional Administration. While the market located between the cities of Osijek

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55 Cf. Croatia – UNTAES, cited above (Note 32).
56 Cf. ibid.
57 Cf. Katarina Kruhonja, Poslijeratna izgradnja mira u istočnoj Hrvatskoj – mirovni timovi kao privremena mirovna sturktura [Post-war peace building in eastern Croatia – Peace teams as an interim peace structure], in: Lana Vego (ed.), *Preporuke za sigurnosnu politiku EU temeljem iskustva izgradnje mira država nastalih dezintegracijom Jugoslavije* [Recommendations for EU Security Policy Based on Peace Building Experience from Countries Formed by the Disintegration of Yugoslavia], Zagreb 2010. p. 66-87; Pavelić, cited above (Note 6), p. 6.
58 Cf. Škare-Ožbolt/Vrkić, cited above (Note 6), p. 402; Pavelić, cited above (Note 6), p. 8.
59 Jacques Paul Klein is a retired United States diplomat who served as Transitional Administrator for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), with the rank of Undersecretary General, 1996-1997.
60 Cf. Škare-Ožbolt/Vrkić, cited above (Note 6), p. 106.

and Vukovar was in existence, more than 140,000 people from both sides passed through it without a single incident, which certainly served to strengthen the trust between ethnic groups.[61] All these symbolic gestures had a common strategic goal: to rebuild trust between ethnic communities as a prerequisite for successful peaceful reintegration. Although the multi-ethnic character of the region was re-established,[62] after the end of the UNTAES mandate, measures for building and encouraging trust between ethnic groups were neglected. Consequently, the desired level of trust between ethnic communities in the Croatian Danube Basin has still not been reached to this day.

Execution of Elections

By signing the Erdut Agreement and by adopting the Letter of Intent, Croatia undertook to promote the highest standards of human rights protection. This also included the execution of free elections in the territory under UNTAES administration according to the highest international democratic standards. Consequently, for the success of the UNTAES mission, it was mandatory not only to secure the return of Croatian displaced persons, but also to hold local elections on 13 April 1997, at the same time as in the rest of Croatia.[63] With the execution of elections, the political system of the region was completely harmonized with that of the rest of the Croatia.

In accordance with the Letter of Intent on the completion of the peaceful reintegration of the territories under the Transitional Administration, members of the local Serb populace were granted the right to vote if they had registered residence in the region at the time of 1991 census, i.e. in the Counties of Osijek-Baranja and Vukovar-Srijem. The same applied to Serbs who had relocated to the UNTAES administered region at a later date, on the condition that they had previously registered residence in some other part of Croatia.[64] The same document guaranteed Serbs representation in both Counties by a deputy prefect, as well as in the other representative and executive bodies of local government. The same guarantee applied to the proportional representation of Serbs within the local health care system, police, and judiciary, including higher positions within these systems, regardless of any administrative divisions that might be introduced in the future.[65] All provisions for local elections and their execution set out in the Letter of Intent were fully implemented.

In the Danube Basin, voters "voted at 193 polling stations including 30 polling locations for absentee voting for the authorities outside the region. Over 56,000 displaced persons elsewhere in Croatia cast absentee ballots in 75

61   Klein,. UNTAES-sažeto izvješće misije (cited above, Note 14), p. 23.
62   Cf. Galbraith, cited above (Note 8), p. 124.
63   Due to technical difficulties, voting in the region was extended to 14 April and until 15 April at one polling station. Cf. Croatia – UNTAES, cited above (Note 32).
64   Cf. Pismo namjere Vlade Republike Hrvatske o dovršenju mirne reintegracije područja pod Prijelaznom upravom, [Letter of Intent of the Government of the Republic of Croatia to complete the peaceful reintegration of the area under the Transitional Administration], Articles 2, 3.
65   Cf. ibid., Article 4.

polling locations with 645 polling stations. The final number of voters inside the UNTAES mandate area was over 71,000 [...]".[66] The election process was overseen by "over 150 UNTAES observers [...] In addition, 30 OSCE observer teams, observers from the Council of Europe and diplomats visited numerous polling stations during the elections."[67]

Following the successful execution of elections in accordance with all democratic standards and without a single incident, the Transitional Administrator certified the elections on 22 April 1997, and the results were accepted by all major parties.[68] The newly formed Independent Democratic Serb Party (SDSS) won an absolute majority in eleven of the 28 municipalities. In the symbolically important city of Vukovar, the SDSS and the Croatian Democratic Union (HDZ) each won twelve out of 26 seats,[69] and as a result, the leading Croatian party and the leading Serb party decided to take joint responsibility for running the city. These elections marked the inclusion of the Danube Basin's Serb populace into the political life of Croatia. Passing the Law on General Amnesty made it possible for officials from the time of the Republic of Serbian Krajina to continue their political activity.[70] The elections paved the way for the rapid progress of the practical aspects of reintegration.

What is UNTAES' Legacy?

Despite the fact that this was one of the United Nations' most successful peace missions, the peaceful reintegration of the Croatian Danube Basin to the constitutional and legal order of the Republic of Croatia has remained a completely neglected research subject. It could serve as a good role model for other similar ethnic conflict situations since it greatly contributed to attaining long-term peace, stability, and security in the Croatian Danube Basin region and on a much broader scale in South-Eastern Europe in general. In Croatia, peaceful reintegration remains overshadowed by the success of the *Bljesak* (1995) and *Oluja* (1995) military operations, despite the fact that it is only since peaceful reintegration was successfully implemented that Croatia has exercised jurisdiction over the whole of its territory. Victory in war seems to be more appealing than victory in peace.

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66   Croatia – UNTAES, cited above (Note 32).
67   Ibid.
68   Cf. Klein, . UNTAES-sažeto izvješće misije, cited above (Note 14), p. 25.
69   Cf. Croatia – UNTAES, cited above (Note 32).
70   "This Law pardons from prosecution perpetrators of criminal act perpetrated in aggression, armed rebellion or armed conflicts, in connection with aggression, armed rebellion and armed conflict in Republic of Croatia. The pardon excludes executions of judgements with final force and effect passed on perpetrators of criminal acts from 1st paragraph of this article. Pardon from prosecution relates to acts perpetrated between 17th August 1990 and 23rd August 1996." Law on General Amnesty (*Zakon o općem oprostu.*) Narodne novine 80/96. Art.1.

In the space of 24 months, UNTAES accomplished all the essential objectives outlined in the Erdut Agreement and other Croatian and international legal and political documents. The clearly outlined objectives, a mandatory timeframe for their implementation, the strong military component of the mission, efficient administrative structure and the involved parties' high level of motivation, both locally and on an international level, contributed to the successful peaceful reintegration of the territory and people without a single fatality, thereby laying the foundations for the long-term peace, security, and stability still in evidence today.

Demilitarization was successfully carried out in the set time limit and local Serbs were given the opportunity to hand in armaments in their possession anonymously through the weapons buy-back programme. One of the first multi-ethnic projects was the Transitional Police force, which was trusted by all ethnical groups because there were officers of their own ethnicity in the force. The further education and professionalization of the police force was another success of UNTAES. At the end of the mission, the Transitional Police forces were fully integrated into the ranks of the Croatian Ministry of the Interior and have not experienced any ethnically-motivated incidents to this day.

In order to facilitate the full reintegration of people as well as territory, Croatia was successful in implementing administrative and jurisdictional reintegration and ensured that all citizens living under the temporary administration of UNTAES had the same rights and obligations as citizens of Croatia not living under transitional administration. Regarding issues of personal status, the most important was issuing Croatian documents to the Serb population of the Danube Basin. This conveyed on them Croatian citizenship, meaning they were able to exercise all their rights, from unhindered residence in Croatia, to the political rights granted to minorities, as well as the right to education, social care, and health care. Within the framework of administrative reintegration, Croatia made public services available to the local population (security of citizens and their property, high-quality social and health protection, high-quality education and minority education programmes, transport, supply of electricity, gas and water, forest management) by reintegrating communal and public companies that existed under UNTAES administration into Croatia's public service system. Since the peaceful reintegration was achieved, the region has been able to boast an equal level of administrative and legal protection, as well as high-quality public services available to the local populace.

As one of the political parties in Croatia that pursues minority interests and protection, the SDSS is now represented at the parliamentary level. Since its founding in 1997, it has won seats in the Croatian Parliament where it can advocate the protection of the political and other rights of the Serbian minority. The SDSS has strong support among the Serbian minority in the Croatian Danube Basin region. However, the HDZ has become the party with the strongest continuous support from Croats living in the region. Consequently, a power-

sharing arrangement between them was to be expected, as foreseen in the Letter of Intent on the completion of the peaceful reintegration of the territories under the Transitional Administration (1996), but also necessitated by everyday life and the reality of the political situation on the local level.

The return of displaced persons to the Croatian Danube Basin was also successfully executed. The region once again acquired a multi-ethnic character, as it had before the war. Croats, Serbs, Hungarians, Roma, Czechs, Slovaks, Ruthenes, Germans, and members of other ethnic groups again live in peaceful coexistence in the region. From time to time, there are some mild ethnic tensions between Croats and Serbs due to everyday political life and media manipulation. Nevertheless, not a single serious inter-ethnic incident has been recorded since UNTAES left the Danube Basin region.

The main challenge facing the Croatian Danube Basin is the absence of a full economic recovery, which is also a challenge for most parts of Croatia. Consequently, this economic situation has led to the depopulation of the area, with many young people leaving for more economically prosperous parts of Croatia or the European Union. With the support of UNTAES, Croatia succeeded in bringing peace, security, and stability to the region and established the conditions for the full restoration of a multi-ethnic community. With the strong support of the international community, houses and infrastructure were rebuilt, but serious measures for the revival of the economy of the region were not implemented. As a result, without a strong and flourishing economy, the Croatian Danube Basin region will remain just one of the regions of Croatia that continue to face depopulation, and without people, there is no future.

Natasha Wunsch

EU Reengagement in the Western Balkans: 2018 as a Missed Opportunity

Introduction

The year 2018 has been hailed as a turning point for the European Union's (EU) engagement in the Western Balkans. Fifteen years after the countries of the region received an explicit membership perspective at the Thessaloniki summit of June 2003, the European Commission and the member states chose to underline that this perspective remains both credible and realistic, provided that the Western Balkan countries meet the remaining conditions set out for their accession. This renewed involvement comes at a crucial moment, with the region at a crossroads between further progress on the path towards EU membership and the rise of authoritarian trends and multiple sources of de-stabilization that put some of the Union's earlier achievements at risk. This contribution provides a critical analysis of the EU's intended reengagement in the Western Balkans. It highlights the current challenges the region faces, ana-lyses the main features and shortcomings of the European Commission's new strategy for the Western Balkans, and points to mixed signals and a lack of member state commitment as the main reasons why 2018 represents a missed opportunity for more forceful, transformative EU involvement in the region.

The Western Balkans at a Crossroads

Following a lengthy period of relative stagnation in EU membership ne-gotiations under the oft-repeated mantra of "enlargement fatigue", the multi-plication of external and internal challenges confronting the Western Balkans has put the region back in Brussels' spotlight. Upon assuming office in July 2014, Commission President Jean-Claude Juncker had prominently declared that no further enlargement would take place under his mandate.[1] Despite being factually accurate – none of the Western Balkan countries could realistically expect to complete negotiations by 2019 at that point – the statement was per-ceived in the region as a strong sign of EU disinterest and disengagement that

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[1] Cf. Jean-Claude Juncker, A new start for Europe, Opening statement in the European Parliament plenary session, Strasbourg, 15 July 2014, at: http://europa.eu/rapid/press-release_SPEECH-14-567_en.htm.

provoked a slowdown in reform efforts and the disillusionment of local populations.[2] Three years on, Juncker saw himself forced to depart quite decisively from the "wait-and-see" attitude towards enlargement that had prevailed since the successful completion of Croatian membership negotiations.[3] In the light of the sudden re-emergence of the Western Balkans as a source of instability, the Commission realized that a more muscular involvement was needed to avoid the unravelling of the positive developments that had been achieved during the previous years of EU engagement in the region. In his 2017 State of the Union address, Juncker responded to the new situation by advocating the extension of a credible enlargement perspective towards the Western Balkan countries in order to promote stability in the EU's neighbourhood.[4] There are several reasons for this sudden policy shift.

In 2015, the Western Balkans became a major transit route for irregular migrants seeking to cross from Greece into EU member states located further north, principally Germany and Sweden. This situation not only placed considerable strain on the region's weak administrations and depleted state budgets, but also highlighted the willingness of local populations to jump in and provide support to people in need, despite their own economic difficulties. The situation was particularly delicate since, in a reversal of the usual pattern of the Balkans as source of instability, the problem in this case arose from the uncoordinated handling of the sudden influx of refugees by EU member states. With Greece incapable of securing its border to Macedonia, and Hungary eager to keep migrants out of its territory, it was the Western Balkans that had to deal with the fallout.[5]

The resulting crisis was compounded by the addition of several thousand Western Balkan citizens who joined the migrants coming through Turkey and Greece on their way to more prosperous countries, swelling the numbers of incoming asylum seekers to a point where many national administrations in Western Europe were overwhelmed by the case load.[6] According to the German Federal Office for Migration and Refugees, initial asylum applications from Albania and Kosovo stood at around 7,000 each in 2014, but soared to

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2   Cf. The western Balkans and the EU: In the queue. The door to membership remains open, but the region must do more to get it, *The Economist*, 27 September 2014, at: https://www.economist.com/europe/2014/09/27/in-the-queue.

3   Cf. Heather Grabbe/Gerald Knaus/Daniel Korski, Beyond wait-and-see: the way forward for EU Balkan policy, in: European Council on Foreign Relations, *Policy Brief*, 27 May 2010, available at: https://www.ecfr.eu/publications/summary/beyond_wait_and_see_the_way_forward_for_eu_balkan_policy.

4   Cf. Zoran Radosavljevic, Juncker waves "credible EU prospects" at Balkans, but no fast membership, *EURACTIV.com*, 13 September 2017 (updated 5 October 2017), at: https://www.euractiv.com/section/enlargement/news/juncker-waves-credible-eu-prospects-at-balkans-but-no-fast-membership/.

5   Cf. Natasha Wunsch, Doppelt unter Druck: Der Westbalkan als Transitroute und Herkunftsregion [Doubly under Pressure: the Western Balkans as a Transit Route and a Region of Origin], *Internationale Politik* 1, January/February 2016, pp. 50-54.

6   Cf. Nikola Dimitrov/Natasha Wunsch, The migrant crisis: a catalyst for EU enlargement? Balkans in Europe Policy Advisory Group, *Policy Brief*, June 2016, at: http://www.balkanfund.org/publib/biepag/The-migrant-crisis-a-catalyst-for-EU-enlargement-web.pdf.

more than 53,000 and over 33,000, respectively, over the course of 2015.[7] This peak in asylum seekers represents only the visible tip of the iceberg of a far greater brain drain phenomenon depriving the Western Balkans of ever larger numbers of citizens seeking a better life outside the region. In view of this dramatic demonstration of the consequences of stagnating or even deteriorating living standards in the Balkans and the resulting disillusionment of local populations, the EU was forced to acknowledge not only the need to co-operate with the region when it comes to managing external migration, but also with regard to ensuring reasonable living conditions on the ground.

Besides outside challenges, the persistence of numerous bilateral disputes in the region has given the EU cause for concern.[8] Despite rhetorical commitments by all parties to resolve outstanding disputes peacefully and swiftly, tensions regularly flare up over specific issues, threatening regional stability and a still only fragile and partial reconciliation. The extensive direct involvement of the European External Action Service and High Representative Federica Mogherini in the dialogue between Serbia and Kosovo has so far only yielded a limited number of technical agreements, while a more comprehensive solution to the former province's contested statehood remains elusive. Even seemingly minor disagreements about the precise drawing of borders hold potential for escalation, as demonstrated by the process of border demarcation between Kosovo and Montenegro only recently concluded.[9]

Finally, the Western Balkans have faced a mounting domestic challenge of creeping authoritarianism.[10] Freedom House scores for 2016 show a regional average decline in democratic performance back to the levels initially achieved in 2004.[11] After Macedonia initially stood out for its surprisingly smooth democratic transition despite the complex ethnic make-up of the country – around a quarter of the population are ethnic Albanians, resulting in frequent tensions over possible irredentist ambitions under the label "Greater Albania" – the country experienced a full-fledged government crisis in 2015/16. Following the release of wiretaps by opposition leader Zoran Zaev

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7   Cf. Bundesamt für Migration und Flüchtlinge [Federal Office for Migration and Refugees], 476.649 Asylanträge im Jahr 2015 [476,649 asylum applications in 2015], 6 January 2016, at: https://www.bamf.de/SharedDocs/Meldungen/DE/2016/201610106-asylgeschaeftsstatistik-dezember.html.

8   Cf. Marika Djolai/Zoran Nechev, Bilateral Disputes Conundrum: Accepting the Past and Finding Solutions for the Western Balkans, Balkans in Europe Policy Advisory Group, *Policy Brief*, 5 April 2018, at: http://www.biepag.eu/wp-content/uploads/2018/04/Bilateral-Disputes-Conundrum-Accepting-the-Past-and-Finding-Solutions-for-the-Western-Balkans.pdf.

9   Cf. Die Morina, Kosovo Parliament Approves Montenegro Border Deal, *BalkanInsight*, 21 March 2018, at: http://www.balkaninsight.com/en/article/xx-kosovo-parliament-approves-montenegro-border-deal-03-21-2018.

10   Cf. Marko Kmezić/Florian Bieber (eds.), The Crisis of Democracy in the Western Balkans: An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion, Balkans in Europe Policy Advisory Group, March 2017, at: http://www.biepag.eu/publications/the-crisis-of-democracy-in-the-western-balkans-authoritarianism-and-eu-stabilitocracy/.

11   Cf. Nate Schenkkan, Europe and Eurasia Brace for Impact, Freedom House, *Nations in Transit 2016*, at: https://freedomhouse.org/report/nations-transit/nations-transit-2016.

and the ensuing mass demonstrations against his government, Prime Minister Nikola Gruevski attempted to ethnicize the political conflict by stoking nationalism among his supporters.[12] In the wake of contested elections brokered by the EU, the Macedonian parliament was stormed by a horde of thugs in April 2017 who, apparently encouraged by the former governing party, attacked and injured several MPs.[13] This scene served as a painful reminder of the fragile state of democracy in the region and, in the light of the stagnation of Macedonia's membership negotiations over the unresolved name dispute with Greece, highlighted the broader destabilizing potential of frustrated expectations once the accession process becomes derailed.

In sum, the Western Balkan states find themselves at a critical juncture. The countries of the region are simultaneously confronted with major external and regional challenges as well as deteriorating domestic governance. Against this backdrop, the Commission, in consultation with the member states, decided to renew its commitment to the region's EU accession.

Towards EU Reengagement: A New Western Balkans Strategy

In February 2018, the Commission adopted a new strategy offering "a credible enlargement perspective for and enhanced EU engagement with the Western Balkans".[14] In the light of the obvious threats to the EU's achievements in the region so far, the strategy represents an attempt to balance a renewed commitment to EU membership for the Western Balkans with an ongoing emphasis on the remaining reforms. Its opening paragraphs confirm that the region is "part of Europe" and that an eventual EU accession is "in the Union's very own political, security and economic interest".[15] For the first time offering a concrete, if conditional, timescale to the current frontrunners in the negotiation process, it opens a cautious perspective for a further round of enlargement as early as 2025. At the same time, it underlines that this perspective is "extremely ambitious" and that EU accession will always be based on the objective merits of each individual country. The opening section ends with a confirmation of the EU's willingness to increase its support to the Western Balkans.

The two main parts of the strategy deal with the remaining challenges to be tackled by the Western Balkans, and the ways in which the EU endeavours to support these efforts. Four main challenges are singled out: the weak rule of

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12   Cf. Besir Ceka, Macedonia: A New Beginning? *Journal of Democracy*, 2/2018, pp. 143-157.

13   Cf. Sinisa Jakov Marusic, Macedonia Shaken by Violence in Parliament, *BalkanInsight*, 28 April 2017, at: http://www.balkaninsight.com/en/article/macedonia-calms-down-after-parliament-violence-04-27-2017.

14   European Commission, A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, COM(2018) 65 final, Strasbourg, 6 February 2018, at: https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.

15   Ibid., p. 1.

law, uncompetitive economies, the persistence of bilateral disputes, and the ambiguous political and societal commitment to EU membership among candidate countries. In unusually explicit terms, the strategy condemns the fact that "the countries show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests".[16] Whereas the term state capture had previously been used only with regard to Macedonia in the 2016 country report, it is now applied to the entire region.

Regarding bilateral relations, the strategy emphasizes the need for leaders in the Western Balkans to take full ownership of regional co-operation and work towards reconciliation with their neighbours. It suggests that border disputes that cannot be resolved bilaterally should be submitted to "binding, final international arbitration".[17] This reference clarifies that the EU sees unresolved bilateral issues as an insurmountable obstacle to accession, but prefers to delegate the arbitration of such disputes to international courts, rather than involving itself directly in such negotiations. Earlier efforts at direct EU mediation, for instance around the disputes between Slovenia and Croatia regarding the status of Piran Bay, had been of limited effectiveness. Given a lack of progress in the EU-facilitated talks, the dispute was eventually taken to the Permanent Court of Arbitration, and remains partially unresolved due to Croatia's refusal to accept the ruling in Slovenia's favour.[18] Moreover, EU involvement becomes particularly sensitive once a dispute involves a member state, which can abuse its asymmetrical power to oppose the other party's progress in the accession talks, as seen in the case of the name dispute between Greece and Macedonia.[19] By underscoring the need for all outstanding disputes to be settled prior to EU accession, the Commission places the burden on the opposing parties to find a permanent solution or seek international arbitration.

Highlighting the need for broader ownership of the accession process, the strategy underlines that "joining the EU is a choice"[20] that must be pursued without ambiguity in order to meet the ambitious timeline set out for the current frontrunners. This puts the ball back in the candidate countries' court and is a barely veiled allusion in particular to Serbia's frequent oscillations between a decisive commitment to EU accession and the maintenance of strong ties to Russia. Besides, it stresses the responsibility of the region's citizens to hold

16   Ibid., p. 3.
17   Ibid., p. 7.
18   Cf. Kait Bolongaro, Slovenia ups stakes in Adriatic border dispute, *Politico*, 19 February 2018 (updated 21 February 2018), at: https://www.politico.eu/article/slovenia-croatia-border-piran-ups-stakes-in-adriatic-fishing-dispute/.
19   Nikola Dimitrov/Marika Djolai/Natasha Wunsch, Removing obstacles to EU accession: Bilateral disputes in the Western Balkans, Balkans in Europe Policy Advisory Group, *Policy brief*, September 2015, at: http://www.balkanfund.org/publib/biepag/BIEPAG-Policy-brief-web.pdf.
20   A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, cited above (Note 14), p. 3.

their leaders accountable and to "judge their own governments on whether or not they are willing and able to deliver on their European ambitions".[21]

With regards to increased support for the countries of the Western Balkans, the strategy promises a "significant enhancement of the EU's engagement".[22] This is to be embodied by six flagship initiatives: strengthened support for the rule of law, reinforced engagement on security and migration, support for socio-economic development, increasing transport and energy connectivity, launching a digital agenda for the Western Balkans, as well as supporting reconciliation and good neighbourly relations. These flagship initiatives pick up on many of the core objectives of the Berlin Process, not least when it comes to connectivity, bilateral disputes, and regional youth co-operation (mentioned under the broader realm of reconciliation). The Berlin Process, initially started as a German diplomatic initiative and supported by several other member states, aimed to complement the fledgling enlargement process by bringing several visible improvements to the Western Balkans. In a sense, the incorporation of these items into the EU's new strategy brings the Berlin Process back into the broader EU fold, thus ending speculation that this parallel track served to replace, rather than support, the Western Balkan countries' membership perspectives. Finally, the strategy mentions the necessary institutional adjustments and financial means required to prepare for the EU accession of the Western Balkan countries, with further details regarding the flagship initiatives outlined in an annexed "Action Plan in Support of the Transformation of the Western Balkans".[23]

Overall, the new strategy is both comprehensive in its reach and rather detailed when it comes to the instruments with which positive changes in key areas should be achieved. It signals a credible desire on the part of the European Commission to reengage in the region and contains specific measures to tackle the remaining challenges and ensure the credible enlargement perspective that the document promises. Nonetheless, it falls behind the expectations triggered in the run-up to its publication, with shortcomings present both in the strategy itself and in the way both the Commission and member states have followed up after its adoption.

The Challenge of Balance: Shortcomings of the Commission's Approach

The Commission's Western Balkans strategy represents an ambitious attempt to upgrade the EU's relations with a difficult region. However, in its efforts to

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21   Ibid.
22   Ibid., p. 9.
23   European Commission, Annex to A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, COM(2018) 65 final, Strasbourg, 6 February 2018, at: https://ec.europa.eu/commission/sites/beta-political/files/annex-communication-credible-enlargement-perspective-western-balkans_en.pdf.

reconcile an encouraging message towards the Western Balkans with a continued emphasis on the remaining challenges in meeting membership requirements, a number of crucial elements are missing or remain underdeveloped, weakening its clout.

First, the strategy remains too cautious about calling out the widespread tendencies towards democratic backsliding in the region. While the reference to state capture as a region-wide challenge is an important signal to authoritarian-leaning leaders across the region, it remains the only mention of such tendencies. This underplays the extent to which democratic backsliding has become an obstacle to the further transformation of the region. The strategy merely laments a lack of progress on the rule of law, fundamental rights and good governance, when the real concern is the actual rollback of political and civil rights, including open attacks on independent media and the work of NGOs as well as the strategic manipulation of elections. Failing to call out these tendencies confirms regional leaders in their expectation that the EU will be willing to tolerate and overlook trends towards "stabilitocracy"[24] as long as the countries maintain relative peace and a semblance of commitment to democratic governance.

The moderate criticism contained in the detailed country reports published by the Commission in April confirms the general reluctance to call out trends towards democratic erosion more forcefully. In the case of Serbia, for instance, the country report highlights concerns raised by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) regarding a tilted playing field during the 2017 elections, and requests that the Serbian government address the recommendations formulated in the OSCE/ODIHR report.[25] However, it omits mentioning the term "state capture" and formulates criticism in mostly technocratic language that makes it amenable to varying interpretations.[26]

Second, the strategy reproduces the conditionality paradigm that has characterized the EU's enlargement policy to date and that has fallen short of fostering the sustainable transformation of candidate countries. In essence, the EU's enlargement policy has been based on the premise that external incentives and the ultimate prospect of EU accession act as a sufficient motivation to foster lasting reforms.[27] In a nutshell, the EU spells out membership conditions, candidate countries adapt their legislation and institutions ac-

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24   Srđa Pavlović, West is best: How "stabilitocracy" undermines democracy building in the Balkans, *LSE EUROPP*, 5 May 2017, at: http://blogs.lse.ac.uk/europpblog/2017/05/05/west-is-best-how-stabilitocracy-undermines-democracy-building-in-the-balkans/.

25   Cf. European Commission, Serbia 2018 Report, SWD(2018) 152 final, Strasbourg, 17 April 2018, pp. 5-6.

26   Cf. Srđan Majstorović, Is Serbia ready to read Progress Report 2018 correctly? *European Policy Centre*, 1 May 2018, at: http://cep.org.rs/en/blogs/is-serbia-ready-to-read-progress-report-2018-correctly/.

27   Cf. Heather Grabbe, The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe, Basingstoke 2006.

cordingly, and the EU limits its role to monitoring the adoption and implementation of accession requirements. The strategy reproduces this approach by emphasizing a credible membership perspective and immediately following up with a detailed list of the remaining reforms countries need to undertake. Most visibly, the flagship initiative on the rule of law highlights the role of existing negotiation tools, such as action plans outlining governments' reform commitments, and emphasizes that the EU will make use of the leverage provided by the negotiating frameworks with Serbia and Montenegro.

Yet, as recent developments in Hungary and Poland signal, conditionality-driven transformation is not sufficient to trigger deep and lasting transformation. Where governments comply with democratic requirements in exchange for progress in membership negotiations, there is a high risk that sustainable conditions for democratic consolidation will not be created. Instead, reforms become a technocratic endeavour and public consultation as well as broader societal dialogue on the political direction of the country are sidelined or fully undercut for the benefit of swift progress on the path towards EU accession.[28]

Finally, the strategy remains overly intergovernmental and fails to reach out to civil society actors and other domestic players in enlargement countries that could supplement the EU's efforts to foster positive changes from below. In this sense, the suggested flagship initiatives represent an upgrade in the degree, but not in the nature of the EU's engagement. Instead, they largely outline measures that target candidate country governments or aim for technical co-operation with executive bodies. While the strategy highlights that EU accession is a "generational choice", it also emphasizes that communication with citizens is "primarily the responsibility of governments".[29] Civil society is mentioned only in the margins, and the strategy signals no intention to expand the EU's co-operation with reform-minded domestic actors inside candidate countries. In doing so, it misses the opportunity to build a bridge between EU institutions and what will eventually become EU citizens. Instead, it leaves the door open to executive-led transformation – or in a pessimistic scenario, the marginalization of societal concerns by ruling elites eager to cement their own benefits rather than to improve their societies for all citizens.

From Strategy to Implementation: Mixed Signals and a Lack of Commitment

The shortcomings of the new strategy itself are problematic enough when it comes to ensuring its coherent and successful implementation. More worrying still are the mixed signals that have prevailed in the aftermath of its publication,

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28   Cf. Anna Grzymala-Busse/Abby Innes, Great Expectations: The EU and Domestic Political Competition in East Central Europe, in: *East European Politics and Societies* 1/2003, pp. 64–73.

29   A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, cited above (Note 14), pp. 2 and 17.

in particular the lack of enthusiasm with which EU member states have backed the strategy's key message. This reluctant endorsement by member states weakens the strategy's transformative potential by casting doubt on the EU's commitment to renewed involvement in the Western Balkans.

The initial plan had been for the Commission to set out the cornerstones for EU reengagement in the region at the beginning of 2018, which member states would confirm and cement by adopting a series of concrete steps towards future enlargements at a dedicated EU-Western Balkans summit in Sofia in May. As a recent EU entrant, Bulgaria seemed particularly well-suited to host this event, and the sequence of events had been adapted to coincide with the Bulgarian Presidency of the Council of the EU. The summit itself, however, fell short of the grand symbolic event that had been envisaged.[30] In the context of the ongoing Catalan crisis, the Spanish Prime Minister Mariano Rajoy decided to attend only the informal dinner before the summit to demonstrate Spanish opposition to Kosovo statehood, which is seen as setting a potential precedent for Spain's own breakaway region.[31] While Rajoy's absence dealt a symbolic blow to the show of EU unity behind a renewed engagement in the Western Balkans, it was France's enlargement-sceptic stance that undermined the substantive message the EU had hoped to send at the summit. Reiterating the traditional French emphasis on "deepening before widening",[32] President Emmanuel Macron suggested that over the past 15 years, enlargement had contributed to weakening Europe, and advocated that any new steps in this direction should be examined with "a lot of prudence and rigor".[33]

As a result of the lack of agreement between member states on further enlargement, the final summit declaration contains only a deliberately vague statement reaffirming the EU's "unequivocal support for the European perspective of the Western Balkans".[34] This weak commitment contrasts with the stronger wording at the Thessaloniki summit of 2003 that "the future of the Balkans is within the European Union"[35] as well as the hope that the Sofia gathering of 2018 would bring concrete progress for individual candidate countries. Concrete measures could have included setting a date for the

30   CF. Martin Dimitrov, Enlargement Stays off Agenda at Sofia Summit, *Balkan Insight*, 17 May 2018, at: http://www.balkaninsight.com/en/article/sofia-summit-balkans-meet-europe-for-the-first-time-in-15-years-05-17-2018.
31   Cf. Sarantis Michalopoulos, Kosovo is not Catalonia, Kosovo's Thaci tells absent Spanish PM Rajoy, *EurActiv*, 18 May 2018, at: https://www.euractiv.com/section/ enlargement/ news/kosovo-is-not-catalonia-kosovos-thaci-tells-absent-spanish-pm-rajoy/.
32   Natasha Wunsch, Between indifference and hesitation: France and EU enlargement towards the Balkans, in: *Journal of South East European and Black Sea Studies* 4/17, 541-554.
33   Andrew Gray, Macron pours cold water on Balkan EU membership hopes, *Politico*, 17 May 2018, at: https://www.politico.eu/article/emmanuel-macron-pours-cold-water-balkans-eu-membership-enlargement/.
34   Sofia declaration of the EU-Western Balkans summit, 17 May 2018, p. 1, available at: http://www.consilium.europa.eu/en/press/press-releases/2018/05/17/sofia-declaration-of-the-eu-western-balkans-summit/.
35   EU-Western Balkans Summit, Thessaloniki, 21 June 2003, Declaration, at: http:// europa.eu/rapid/press-release_PRES-03-163_en.htm.

opening of negotiations with Macedonia and Albania or opening further negotiation chapters with Serbia and Montenegro. None of this happened. The lack of tangible outcomes highlights that the commitment to EU membership for the Western Balkans is no longer shared unanimously among member states. Many leaders of EU countries now fear not only importing instability from the region, but also provoking a backlash from their voters, who have become largely enlargement-sceptic in the meantime.[36] A credible roadmap towards EU accession for the Western Balkans was therefore notably absent from the Sofia summit, undermining the credibility of the message sent by the Commission's new strategy.

The London summit of the Berlin Process, held two months after the Sofia gathering, failed to remedy the impression of a half-hearted commitment to the region on the part of EU member states. The core aim of the Berlin Process had initially been to provide an alternative forum for engagement with the Western Balkans that would bring visible benefits to the region's citizens, for instance in terms of improved infrastructure and an emphasis on youth co-operation. However, its added value as a parallel format complementing the institutionalized enlargement dialogue has become increasingly contested over time.[37] The irony of holding a summit dedicated to future EU enlargement in a country that had chosen to leave the EU did not escape observers and participants alike. It became blatantly obvious when the summit's intended host, UK Foreign Minister Boris Johnson, resigned during the summit itself over his disagreement regarding Prime Minister Theresa May's Brexit plans, all but turning the event into a farce.[38]

The Way Forward

What can we make of the EU's reengagement in the Western Balkans? Despite the deliberate sequencing of high-level events intended to demonstrate a shared EU commitment to further enlargement, a mismatch is obvious between the ambitious stance adopted by the European Commission and the more hesitant manner in which member states have embraced the idea of renewed in-volvement in the region. In this sense, 2018 represents a missed opportunity to reflect critically on the failures of the EU's approach to the Western Balkans so far, and to develop a more comprehensive, but also more locally anchored strategy to enlargement. Such a truly innovative approach would require going

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36 Cf. Rosa Balfour/Corina Stratulat (eds), EU member states and enlargement towards the Balkans, European Policy Centre, *Issue Paper No. 79*, July 2015, at: http://www.epc.eu/documents/uploads/pub_5832_eu_balkans_-issue_paper.pdf?doc_id= 1654.
37 Cf. Florian Bieber, It is time to ditch the Berlin Process, European Western Balkans, 10 July 2018, at: https://europeanwesternbalkans.com/2018/07/10/time-ditch-berlin-process/.
38 Thanks to Boris Johnson, a farcical west-Balkan summit in London, *The Economist,* 11 July 2018, at: https://www.economist.com/europe/2018/07/11/thanks-to-boris-johnson-a-farcical-west-balkan-summit-in-london.

beyond bilateral negotiations with governments to involve future EU citizens in the definition of their countries' political future from an early stage, and to build the conditions for both deep and sustainable political and economic transformation in the region.

II.

Responsibilities, Instruments, Mechanisms, and Procedures

Conflict Prevention and Dispute Settlement

Lukasz Mackiewicz

More than Counting Ceasefire Violations – the Human Dimension within the OSCE Special Monitoring Mission to Ukraine

Introduction

In November 2018, half a decade had passed since protests broke out in Independence Square in Kyiv, which led to a violent response by law enforcement institutions under the command of President Viktor Yanukovych, and finally his resignation in February 2014. In the aftermath of these events, Crimea was annexed by Russia and pro-Russian armed groups seized public buildings in Donbas. Eventually, the Lugansk and Donetsk People's Republics ("LPR" and "DPR") were proclaimed in April 2014.

Against this background, in March 2014 the OSCE Permanent Council (PC) Decision No. 1117 tasked the OSCE Special Monitoring Mission to Ukraine (SMM) with monitoring the security situation, aiming to reduce tensions and foster peace, stability, and security. According to its mandate, the SMM should also "monitor and support respect for human rights and fundamental freedoms". Since then, international monitors (more than 700 deployed in May 2018) continue to operate in the whole of Ukraine, with the predominant focus on reporting ceasefire violations in Donbas.[1]

This article describes the SMM's work in the human dimension and analyses the challenges to the full implementation of its mandate in this area. It particularly focuses on the work of the SMM in eastern Ukraine, acknowledging that eight SMM teams work in other parts of Ukraine. Taking into consideration the sensitivity of certain issues and the "do no harm" principle, this article deliberately does not address the issues of torture, gender-based violence, and missing persons.

The OSCE and the Human Dimension

Although the OSCE was created as a security organization, it is based on a broad concept of security. The Helsinki Final Act acknowledges as one of its ten guiding principles the "respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief". For the first

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1 Cf. OSCE Special Monitoring Mission to Ukraine (SMM), Status Report, 2 May 2018, at: https://www.osce.org/special-monitoring-mission-to-ukraine/379768.

time, human rights principles were included as an explicit and integral element of a regional security framework. This acknowledgement has been reinforced by numerous follow-up documents. In OSCE terminology, the term "human dimension" is therefore used to describe the set of norms and activities related to human rights, democracy, and the rule of law, which is regarded within the OSCE as one of three dimensions of security, together with the politico-military, and the economic and environmental dimensions.[2] Consequently, security is more than merely the absence of war. A fundamental aspect of the OSCE's human dimension is that human rights and pluralistic democracy are not considered the internal affairs of a state. In fact, in the Moscow Document from 1991, the participating States "categorically and irrevocably" declared that the "commitments undertaken in the field of the human dimension of the CSCE [now: OSCE] are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned". Consequently, the OSCE is not only a community of values but also a community of responsibility.

Key Human Dimension Issues in Ukraine

The outbreak of a violent conflict in eastern Ukraine in spring 2014 has so far resulted in over 10,000 deaths, including 2,500 civilians, and the displacement of more than 1.6 million people.[3] Although heavy fighting has decreased and the 457-kilometre "contact line" has not moved much since the signing of the Minsk Agreement in February 2015, the conflict is still "far from frozen."[4] According to the United Nations (UN) Office for the Coordination of Humanitarian Affairs (OCHA) up to 4.4 million people have been directly affected by the continuing hostilities, while 3.4 million needed urgent assistance in 2017.[5]

In 2017, the SMM reported more than 400,000 ceasefire violations.[6] As OCHA points out, 60 per cent of the people living along the contact line are regularly affected by shelling, and almost 40 per cent every day.[7] Consequently, heavy weapons and mines remain the primary cause of civilian casualties and contributed to the death and injury of more than 400 civilians in 2017.[8]

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2 Cf. OSCE ODIHR, OSCE Human Dimension Commitments, Volume 1, Thematic Compilation, 3rd Edition, Warsaw 2011.
3 Cf. UN OCHA, 2018 Humanitarian Response Plan, Ukraine, January-December 2018, Ukraine, December 2017, at: https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_humanitarian_response_plan_2018.pdf.
4 Chase Winter, Interview: Ukraine conflict on the brink, *Deutsche Welle*, 12 November 2016. at: https://www.dw.com/en/interview-ukraine-conflict-on-the-brink/a-36740409.
5 Cf. UN OCHA, 2018 Humanitarian Response Plan, cited above (Note 3), p. 5.
6 Cf. OSCE observers record over 400,000 ceasefire breaches in Donbas in 2017, *Interfax-Ukraine,* 15 February 2018, at: https://en.interfax.com.ua/news/general/485431.html.
7 Cf. UN OCHA, 2018 Humanitarian Needs Overview, Ukraine, November 2017.
8 Cf. Another winter for war-torn eastern Ukraine, *euronews*, 7 December 2017, at: https://www.euronews.com/2017/12/07/another-winter-for-war-torn-eastern-ukraine.

As the violation of the right to life is a fundamental human rights violation, reporting civilian casualties remains a human dimension priority for the SMM. On a daily basis, SMM monitors talk to the victims and witnesses, and visit hospitals and morgues in order to verify the reports regarding wounded and killed civilians. In addition to information about civilian casualties in the SMM Daily Reports, in 2017 the SMM published its first thematic report on "Civilian Casualties in Eastern Ukraine 2016", where it confirmed 442 civilian casualties (88 killed, 354 injured) in the Donetsk and Luhansk regions in 2016, as well as the use of heavy weapons proscribed by the Minsk agreements. The scrupulous corroboration of each case is crucial for reporting facts on the ground, as media outlets on both sides regularly report civilian casualties that never occurred. In this regard, the SMM's freedom of movement, also in the non-government controlled area, remains a prerequisite for their reporting, particularly as other international organizations, such as the UN Office of the High Commissioner for Human Rights (OHCHR), lack the access. However, since autumn 2015 the SMM has not been able to conduct regular visits to hospitals and morgues in the "DPR" and "LPR".

In addition to monitoring cases of civilian casualties, the SMM is closely involved in monitoring and advocating freedom of movement for civilians across the contact line. Every month, over one million people are forced to cross the "no-man's land" through checkpoints, many to access basic humanitarian and social services.[9] The SMM monitors are often present in the vicinity of the checkpoints from the early morning when the checkpoints open, until late evening when they are closed, in order to ensure the ceasefire and safe passage of civilians. However, they experience regular harassment from military personnel at the checkpoints and accusations of "doing nothing" from the frustrated people queuing for hours and trying to cross to the other side. Even though they are not intended to be "human shields", many SMM monitors endanger their lives by staying longer at these hotspots than they should. In addition to monitoring the security situation at the entry/exit points daily, the SMM also facilitates dialogue between the conflicting sides in order to open new checkpoints, to normalize the procedures for crossing, and to improve the facilities at the checkpoints.

However, the suffering in eastern Ukraine is not only related to casualties and restrictions of movement. A whole range of violations of human rights law and international humanitarian law affect the population. In its 2017 "Hardship for conflict-affected civilians in Eastern Ukraine" report, the SMM pointed out several instances when both sides continued to establish military posts in populated areas. The SMM has regularly reported and advocated cases to the military hierarchy where residents have complained of being harassed by members

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9   Cf. United Nations Office for a the Coordination of Humanitarian Affairs, Four Years of Conflict in Ukraine leave 4.4 million people in a dire humanitarian situation, New York, 20 April 2018.

of both sides or made allegations about their misconduct while under the influence of alcohol and their bad behaviour towards the local population. The two sides have also imposed *ad hoc* restrictions that affect civilians' access to their properties. Furthermore, the presence of armed formations in populated areas is often accompanied by the occupation of public buildings. In the run up to 1 September 2016 and the beginning of the new school year, the SMM Daily Reports underlined the military presence in close proximity to schools and kindergartens in order to advocate this issue and improve children's safety and security. Finally, as the clashes continue for the fifth year, much of the crucial infrastructure (water pipes, electricity grids) close to the contact line has been damaged. In 2017 alone, the SMM conducted 715 so-called "mirror patrols" in order to facilitate the repair and maintenance of infrastructure along the contact line.[10] Mirror patrols mean that the SMM conducts simultaneous patrols on both sides of the contact line to monitor a temporary cessation of hostilities, for an agreed "window of silence". For instance, as the Karbonit-Pervomaisk pipeline had been damaged by shelling, in January 2017 the SMM facilitated a window of silence so that repair crews could fix a water pipeline supplying more than 200,000 residents in the Luhansk region.[11]

However, the SMM does not only cover human dimension issues in eastern Ukraine. Out of the ten teams, eight operate in other parts of Ukraine and closely follow developments there. One of the most important aspects is conflict-related displacement. Since 2014, thousands of people have had to leave their homes and seek refuge elsewhere. Two primary factors caused the displacement: firstly, the annexation of Crimea and secondly, the "proclamation of independence" by the "DPR" and "LPR" as well as the intensification of hostilities in eastern Ukraine in mid-2014. On 23rd April 2018, the Ukraine Ministry of Social Policy reported 1.5 million officially registered internally displaced persons (IDPs) from temporarily occupied Crimea and Donbas. In August 2014, the SMM published its first thematic report on internal displacement in Ukraine. Two years later, the SMM monitors spoke to more than 1,600 IDPs and members of host communities across the country in order to assess the impact of the ongoing conflict and long-term displacement on IDPs and their relations with host communities. In its 2016 report "Conflict-related Displacement in Ukraine: Increased Vulnerabilities of Affected Populations and Triggers of Tension within Communities" the SMM underlined that while the findings are not a complete assessment of the IDPs' situation in Ukraine, "many IDPs continue to be exposed to severe hardship and suffer from the protracted displacement".

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10   Cf. 2017 SMM, activities in figures, at: https://www.osce.org/special-monitoring-mission-to-ukraine/368246.
11   OSCE, OSCE mirror patrols: Windows of hope in Eastern Ukraine, 12 April 2017, at: https://www.osce.org/stories/osce-mirror-patrols-windows-of-hope-eastern-ukraine.

As the SMM monitors face all manner of human dimension issues on a daily basis and often do not have a specific human rights background, the Mission rather gives a general overview of the situation in the field. However, there are many well established organizations and NGOs in Donbas that specialize in specific, often narrow, topics such as the legislation regarding pensions and property (e.g. Norwegian Refugee Council), assistance for internally displaced populations (e.g. United Nations High Commissioner for Refugees, UNHCR) or economic recovery (United Nation Development Programme, UNDP). The SMM co-operates with all these actors. The Human Dimension Unit staff work particularly closely with the OHCHR and the International Committee of the Red Cross (ICRC) with regards to the corroboration of civilian casualties, issues related to freedom of movement across the contact line, and specific cases of human rights violations. In the "LPR" and "DPR", where the UN organizations often have only limited access and freedom of movement, the SMM plays an important role in reporting the situation on the ground. Furthermore, civilians regularly approach the SMM monitors requesting humanitarian assistance. In such situations, the SMM passes on the requests to the respective organizations as it does not itself have any capacity to provide humanitarian assistance.

Reaching Its Full Potential

While underlining many achievements, former SMM staff stressed in interviews that the SMM has not so far reached its full potential concerning its work on human dimension issues. There are several reasons for this that can be clustered around three central issues: *first,* lack of strategic orientation, *second,* internal operational challenges, and *third,* external operational challenges.

Lack of Strategic Orientation

On 21st March 2014, the OSCE Permanent Council resolved to establish a monitoring mission to Ukraine, initially composed of 100 civilian monitors throughout the country, to contribute to reducing tensions and fostering peace, stability, and security. The SMM would also "monitor and support respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities" and "facilitate the dialogue on the ground in order to reduce tensions and promote normalization of the situation".

In the aftermath of the escalation of the conflict in summer 2014, the Minsk Protocol was signed on 5 September and complemented on 19 September 2014 by a Memorandum. In effect, the SMM, a civilian mission, was tasked with monitoring the ceasefire and verifying the withdrawal of weapon systems and armed formations, a typical task for military peacekeeping missions. As pointed out in 2014 by Claus Neukirch, the SMM's new tasks were

to be implemented in parallel with its other core activities stated in the mandate.[12] Taking into consideration ongoing heavy fighting along the contact line, the SMM focused heavily on the politico-military aspects of the conflict and, in particular, on monitoring the ceasefire regime and reporting on violations. The SMM's key role in monitoring and verifying the ceasefire and the withdrawal of heavy weapons was further emphasized in the "Package of Measures for the Implementation of the Minsk Agreements".[13] As clearly reflected in the SMM Daily Reports, this prioritization was achieved by improving the SMM's technological capacity to monitor the situation (e.g. use of drones, installation of cameras, video analysis capacity), and most importantly, in setting daily priorities for teams operating along the contact line.

The OSCE Permanent Council has regularly demonstrated an interest in the human dimension issues in Donbas.[14] On several occasions, the Permanent Council's Human Dimension Committee invited the SMM to present its findings. However, this has not resulted in a clear programmatic approach or strategy. Some obstacles were due to the persistent culture of flexibility and adaptability within the Mission, necessary in the constantly changing working environment in Donbas. Others were related to the short duration of the mandate and planning horizon (from six months to one year). The biggest challenges were, however, the heavy reliance on former military staff in the SMM headquarters in Kyiv and the role of the SMM's Operations Unit, which is unusually strong for a civilian mission. Instead of supporting the daily work, the Operations Unit took the lead in setting the agenda. The lack of strategic orientation for the overall Mission meant that the daily tasks for the teams were not set strategically. As a result, regarding the human dimension issues, relatively straightforward topics were partly covered (e.g. humanitarian situation in villages), but more critical issues were not sufficiently addressed (e.g. allegations of human rights violations).

In spring 2016, the SMM Strategic Framework for the Human Dimension – the first serious approach to strategic planning within the SMM – was approved by the Mission's leadership and circulated among teams. Four priorities areas were identified accordingly:

- protection of human rights in situations of conflict, violence, and insecurity (monitoring and reporting of e.g. civilian casualties, access to humanitarian assistance, cases of gender-based violence);

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12 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: p. 193.
13 Cf. Claus Neukirch, The Special Monitoring Mission to Ukraine in Its Second Year: Ongoing OSCE Conflict Management in Ukraine, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 2015, Baden-Baden 2016, pp. 229-239, here: p. 230.
14 Author's interview with a former SMM staff member.

- democratic space (monitoring and reporting of freedom of expression, free media and access to information, freedom of peaceful assembly);
- rule of law (monitoring and reporting of accountability for human rights violations with a focus on high profile conflict-related criminal trials, access to justice for conflict-affected groups, and challenges for justice providers arising from the conflict);
- human rights of specific groups (including ethnic and religious minorities, IDPs).

For the first time, the SMM had clear guidance with clear human dimension priorities to follow, at least on paper. As the following months demonstrated, the implementation of the Framework and shift towards a stronger focus on human dimension issues took longer and required many changes, for example in the way the SMM teams were structured and operated, and what was reported in the SMM Daily Reports. In official statements the SMM's leadership also increasingly started to link ceasefire violations to civilian casualties and the need to protect civilians, calling the conflicting parties to adhere to the ceasefire agreement.

Internal Operational Challenges

It was, however, not only a lack of clear strategy that undermined the SMM's work on human dimension issues. The SMM is divided into ten regional teams, which operate with strong operational independence from the headquarters in Kyiv. This affected aspects such as day-to-day standard operating procedures, knowledge management, and internal team structures. Whereas in some teams there were designated units specializing in human dimension issues, other teams had a primarily regional focus on specific areas of responsibility and covered all the issues in their daily work. Without clearly established official structures within teams in eastern Ukraine, the human dimension work depended heavily on the respective team and hub leaders and their priorities. In 2016, the process of formalizing the structures for the Donetsk and Luhansk teams began, including the creation of Human Dimension Units with designated staff who had gained experience in dealing with human dimension issues in the past. On the one hand, this made human dimension monitoring more professional and provided designated focal points for any questions related to these topics. As a result, the SMM started to gather and process information in a more structured and co-ordinated matter, allowing them to produce "Hardship" and "Civilian Casualties" reports which were well received. In terms of knowledge management, many sensitive cases of human rights violations could be better covered and dealt with in a standardized way, as designated staff were able to follow the cases over a longer period. On the other hand, some SMM monitors initially believed that with a designated Human Dimension Unit they did not have to raise these issues in their daily work and

engage with the civilian population. Furthermore, as some human dimension teams were stronger or simply established more quickly than in other regions, a lot of the information gathered could not be published, as the SMM aims to report in a comprehensive and comparable way across all teams.

Moreover, as the conflict intensified in 2014, most OSCE participating States deployed monitors with a predominantly military background to Ukraine. Neukirch argued that civilian monitors "lack unified training on crucial issues such as mine awareness, identification of military equipment and other techniques crucial for the observation of ceasefires, and driving armoured vehicles".[15] While monitors with a military background often had these skills, they clearly lacked background knowledge in human rights monitoring and reporting on humanitarian situations. The SMM reacted to the skills gaps with several training sessions focusing on "Crater Analysis" and "Identification of Weapon Systems", which were attended by both civilian and military monitors. It was therefore not so much the monitors' background that determined their skills, but rather their experience with and exposure to the Soviet and/or post-Soviet weapon systems. Learning to identify different weapon systems could be achieved within limited period of time, whereas a lack of skills in the monitoring of human rights could not be rectified quickly. Without sufficient staff from a human rights and humanitarian background, or if these monitors are not assigned to designated units, the SMM does not have the capacity to adequately monitor human dimension issues.[16] However, the difficult working environment within the SMM and a somewhat militarized approach to hierarchy and leadership has not created sufficient incentives for longer-term commitment. Consequently, many of the SMM staff left the mission earlier than initially planned.[17] The Human Dimension Unit at the headquarters attempted to create a pool for qualified staff within the SMM and to increase recruitment of monitors with a human rights background, however, for a long time, the ability to drive armoured vehicles and recognize weapon systems remained the key requirement for employment. The situation improved, however, from 2016 onwards, when qualified monitors with a human rights background were internally recruited to the Human Dimension Units.

Furthermore, dealing with sensitive human rights issues requires trust and knowledge of the local environment and culture. Although the SMM hired many dedicated language assistants, the majority of the SMM monitors do not speak Russian or Ukrainian. This resulted in problems dealing with sensitive cases and in following judicial proceedings.

In addition to the structural challenges within teams operating in Donbas, the SMM Human Dimension Unit in the headquarters in Kyiv also faced several challenges. Although the Mission was mandated in March 2014, the

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15   Neukirch, The Special Monitoring Mission to Ukraine: Operational Challenges and New Horizons, cited above (Note 12), p. 195.
16   Author's interview with a former SMM staff member.
17   Author's interview with a former SMM staff member.

first head of the Human Dimension Unit arrived in Ukraine in December 2014. Until then, only one Human Rights Advisor, one Gender Advisor and one National Legal Advisor covered the human dimension issues. As a result, the new head of the Human Dimension Unit had to establish the unit and advocate for the human dimension issues within a structure in which all other units were already operational. This had long-term consequences for the importance of human dimension issues within the SMM.[18]

Finally, the fact that the SMM is composed mostly of military and police staff has an effect on its organizational culture. Besides the obvious affinity to "hard security" topics such as reporting ceasefire violations and movement of military equipment, the multinational staff from various cultural and professional backgrounds have had very different levels of exposure to "soft security" issues, such as human rights violations. Moreover, in comparison with other (peacekeeping) missions, according to many former SMM monitors, the Operations Unit used to exert too much influence on the daily tasks set for each specific team.[19] Although the SMM leadership has always been supportive of human dimension issues, what matters on the ground are the daily tasks set by the Operations Unit. However, particularly since 2016, there has been a growing awareness of human dimension issues, as these aspects have become part of the mainstream induction for all monitors and many new monitors have a civilian background.[20]

External Operational Challenges

A key aspect to monitoring human dimension issues is regular access to state institutions, civil society actors, the media, and individuals. Until autumn 2015, the SMM was able to visit institutions such as schools, hospitals, and courts on a regular basis on both sides of the contact line. This access resulted, for example, in reports on the "Formerly State Financed Institutions" and "Access to Justice" in the non-government controlled area. However, the results, partly critical of the "LPR" and "DPR" institutions, were not warmly welcomed by these authorities and resulted in a restriction of access for the SMM.[21] The "LPR" and "DPR" institutions were prohibited from any interaction with the SMM. Although some informal contacts remained, the SMM has not been able to monitor the situation on the ground comprehensively. Lack of access to official statistical data and rule-of-law actors in particular has a profound effect on the SMM's ability to fulfil its mandate to monitor the humanitarian and human rights situation. Similarly, the SMM faces restrictions regarding official visits to media outlets operating in the temporarily occupied area. These actors'

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18   Author's interview with a former SMM staff member.
19   Author's interview with a former SMM staff member.
20   Author's interview with a former SMM staff member.
21   Author's interview with a former SMM staff member.

interactions with the SMM were also restricted by the "DPR" and "LPR" authorities. The arrests of journalists critical of the "LPR" and "DPR" in 2017 confirmed that freedom of the media is limited. Although the SMM monitors could just turn up and attempt to have a spontaneous conversation at the hospitals or schools, they did not do so frequently to avoid harming their counterparts. Consequently, only informal contacts and official information that is widely available can be accessed.

Besides more structural restrictions to the access described above, the SMM faces regular freedom-of-movement violations imposed by the conflict parties. In 2017, there were more than 2,400 impediments to the fulfilment of the SMM's mandate. These restrictions often occurred in areas where the security situation was tense and limited the possibility to report from these hot spots.[22] In the context of the highly politicized conflict in eastern Ukraine, human dimension findings are often used selectively by the conflict parties for political gains in the "information war". In addition, although the civilian population on both sides of the contact line interacted with the SMM, the monitors often noticed that many people were afraid of doing so.

Last but not least, when a mine exploded on 23 April 2017, damaging an SMM car and resulting in the death of one paramedic and injury of two SMM monitors, the freedom of movement for the SMM patrols along the contact line was further limited according to SMM internal security regulations.[23] Although some of the SMM internal restrictions were lifted, some of the areas, such as the village Krymske in the Luhansk region, were not visited for more than a year. The situation is even worse in Crimea, where the SMM is not able to operate at all.

A Way Forward

The challenges described above cannot be overcome quickly, but there are plenty of options to improve the fulfilment of the mandate with regards to the human dimension. Firstly, in contrast to current practice, where the SMM recruits Monitoring Officers based on very general requirements (with the exception of positions in Kyiv and technical staff such a camera operators), the Mission could start to specifically recruit Human Rights Officers for the eastern Ukraine teams. So far, this approach does not have enough backing at the political level in Vienna, but it would allow the SMM to improve its professionalism. Secondly, the SMM still lacks a clear strategy regarding its reasons for reporting human rights violations and other human dimension

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22 Cf. OSCE Special Monitoring Mission to Ukraine, Thematic Report, Freedom of Movement across the administrative boundary line with Crimea, 19 June 2015, SEC.FR/511/15, 22 June 2015.
23 Cf. OSCE, Annual Report 2017, Vienna 2018, p. 71.

issues. Although there are discussions within international forums about establishing an international tribunal for Donbas, the SMM does not collect the information that could be used in the future for any kind of investigation or transitional justice in a coherent manner. The lack of strategy comes together with an insufficient knowledge management system, further hindered by frequent staff rotations. Thirdly, although the SMM publishes many reports and analyses internally, these are currently not available to the broader public, academia, and journalists. Fourthly and finally, as the Minsk ceasefire agreement is not respected, the OSCE participating States must reconsider whether such a strong focus on ceasefire monitoring and withdrawal of weapons is still the priority or whether the SMM should place more emphasis on its initial mandate.

Summary

Since spring 2014, the SMM has reported the events occurring in Ukraine on a daily basis. As the conflict in Donbas has changed, so has the focus of the work of the SMM. During the military escalation in 2014 and 2015, the SMM dedicated many resources to reporting ceasefire violations, as instructed in the aftermath of the Minsk Protocol and the Minsk Memorandum. As the contact line has not moved much since spring 2015, the SMM has slowly shifted more and more of its focus towards the human dimension of security. With a new strategy, dedicated staff in the Human Dimension Units and incorporating the issues into mainstream daily tasks, the SMM is certainly better equipped to fulfil its obligations as laid out in the mandate. Still, as described above, several factors, both internal and external, hinder its work. It is necessary to continue to further professionalize staff, set a clearer strategy, and adapt the organizational structure to the changes. Consequently, as stated in one of the interviews with staff members, the SMM has not yet reached its full potential with regards to the human dimension.

William H. Hill

Moldova/Transdniestria: Steps Forward, Stumbles Back

Introduction

The Moldova-Transdniestria political settlement process achieved substantial progress over the past year, beginning with significant agreements adopted and implemented in November 2017, and continuing steadily to the time of writing in September 2018. Several long-standing practical disputed issues in the so-called "package of eight" were resolved in November 2017, most notably the opening of the Gura Bîcului Bridge.[1] This key span on the main route through Moldova from the Black Sea towards the Baltic region had been closed since it was damaged in the fighting in June 1992, even after its repair in 2001. A successful meeting of the 5+2 in late November was followed by a strong programmatic statement agreed at the December OSCE Ministerial Council Meeting in Vienna, welcoming the remarkable progress achieved and confirming support of all participating States for the "small-steps" approach adopted by the OSCE under recent Chairmanships. The Italian 2018 OSCE Chairmanship continued along the same line, appointing former Foreign Minister Franco Frattini as Special Representative. Sufficient progress was achieved to hold a formal 5+2 session in late May. The settlement process continued with a high level of activity through the summer, with especially frequent, active contact between Chişinău and Tiraspol. As Special Representative Frattini visited the region in September 2018, most points in the "package of eight" had been agreed and implemented, and participants were examining how and where this remarkable progress in the settlement process might be extended.

This apparently sunny, optimistic horizon, however, was not without significant, potentially threatening clouds. The increasingly contentious nature of Moldova's domestic politics, and difficulties in Chişinău's relations with two key actors in the settlement process – the Russian Federation and the European Union (EU) – continue to pose real dangers to the progress achieved in reducing tensions, resolving contentious practical issues, and moving Chişinău and Tiraspol closer to an eventual settlement. Moldovan governmental institutions were still deeply split between the parliament and government, controlled by an ostensibly pro-Western coalition led by the Democratic Party

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1   For background on the "package of eight" and other issues, cf. William H. Hill, The Moldova-Transdniestria Dilemma: Local Politics and Conflict Resolution, Carnegie Moscow Center, 24 January 2018, at: https://carnegie.ru/commentary/75329; cf. also William H. Hill, Current Trends in Transdniestria: Breathing New Life into the Settlement Process, in: *OSCE Yearbook 2017,* Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), Baden-Baden 2018, pp. 143-154.

(PDM) and its leader, Vladimir Plahotniuc, and the Presidency, held by pro-Russian Socialist Party (PSRM) head Igor Dodon. A large non-parliamentary, pro-Western opposition denounced both Plahotniuc and the PDM as representing oligarchic state capture, and Dodon and the PSRM as being controlled by the Kremlin. The cancellation by the courts of the opposition candidate's victory in a special mayoral election in Chişinău brought large crowds of protesters out into the streets and denunciations from many of Moldova's Western partners. Parliamentary elections are scheduled for February 2019, and many Moldovans have said they expect a fierce and dirty campaign, given the perceived high stakes and uncertain results.

Russia remained unwaveringly and fully within the consensus of the mediators and observers in the settlement process, and thus strongly supportive of the approach and progress achieved. However, bilateral tensions flared repeatedly between Moscow and Chişinău. In early 2018, despite the objections of President Dodon, the Moldovan Parliament and government promulgated a controversial law aimed at restricting Russian media influence. In late spring, Chişinău revived a 2017 initiative and succeeded in gaining passage of a resolution denouncing Russia's continuing military presence in Moldova by the UN General Assembly and calling for the immediate withdrawal of Russian military forces. A similar resolution was also passed by the OSCE Parliamentary Assembly. During the summer, movements of some Russian troop units in the security zone in Transdniestria and the participation of Russian troops in military exercises with Transdniestrian troops prompted fierce Moldovan protests. Russian President Vladimir Putin's appointment of Deputy Prime Minister Dmitry Kozak as Special Representative for economic relations with Moldova evoked both optimism and questions in different quarters in Moldova.

Meanwhile, Chişinău's relations with the European Union grew increasingly troubled. Since mid-2017, the EU had been withholding some 100 million euros of assistance due to Chişinău's failure to satisfy conditionality with respect to anti-corruption and the rule of law. EU criticism of Moldova's refusal to reverse controversial changes in the electoral system was intensified and augmented by the Moldovan courts' annulment of the clear victory of the non-parliamentary opposition candidate in a special mayoral election in Chişinău. An unprecedentedly harsh European Parliament (EP) resolution on Moldova adopted on 5 July 2018 epitomized the growing EU disillusionment with the current Moldovan government's failure to adopt and implement real reforms.

While the settlement process continued to be active and to adhere to the same approach that produced such dramatic progress, both the bitter domestic political competition and troubles in relations with Moscow and Brussels raised significant and troubling questions as to whether this co-operation, consensus, and progress may be at risk.

Several years of work in the Moldova-Transdniestria political settlement process suddenly bore fruit with a spate of agreements reached between Chişinău and Tiraspol in November 2017. The co-ordinated "results-based" approach, developed under the 2014 Swiss and 2015 Serbian OSCE Chairmanships and successfully pursued by the 2016 German and 2017 Austrian Chairmanships, led to the dramatic resolution of a number of long-standing practical issues that had stymied relations between the sides for years.[2] In Berlin and Hamburg in June and December 2016, Moldova, Transdniestria, and the other participants in the 5+2 process (mediators Russia, Ukraine, and the OSCE, and observers EU and US) agreed to concentrate on settling specific issues between Chişinău and Tiraspol as a precondition to holding higher level, plenary negotiating sessions.[3] In subsequent meetings and negotiations, 5+2 participants generally endorsed the basic OSCE position since 1993 – Transdniestria is a part of Moldova, but should have a special political status – but agreed to leave questions of final status aside while pursuing progress on specific, practical issues. The international participants – mediators and observers – showed remarkable cohesion in holding to this general approach, which stressed direct, expert-level contact between the parties to the conflict. Shuttle diplomacy by the OSCE Mission involved senior leaders from Chişinău and Tiraspol as needed, to reach agreement when lower-level experts got stuck.

After many months of relatively unpublicized work by the German and Austrian Chairmanships and the OSCE Mission to Moldova, in early November 2017, negotiators from Chişinău and Tiraspol signed an agreement to open the Gura Bîcului Bridge; the sides followed through and the span actually opened to limited traffic in mid-November.[4] On 25 November 2017, in the old river city of Tighina/Bendery (where Charles XII of Sweden took refuge in 1709 after the battle of Poltava), Transdniestrian and Moldovan negotiators signed four protocols apparently settling the questions regarding the operation of the Moldovan-administered Latin script schools in Transdniestria: recognition of Transdniestrian diplomas; telecommunications licensing and operations; and access for Moldovan farmers to lands under de facto Transdniestrian control.[5] These agreements were generally quite complex, and many specific

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2   Cf. Hill, Current Trends in Transdniestria: Breathing New Life into the Settlement Process, cited above (Note 1).

3   Cf. Protocol of the Official Meeting of the Permanent Conference for Political Questions in the Framework of the Negotiating Process on the Transdniestrian Settlement, 2-3 June 2016, Berlin, available at: www.osce.org/moldova.

4   Cf. OSCE, OSCE Chairmanship welcomes ground-breaking decision to open bridge over Dniester/Nistru River, Vienna/Chisinau, 3 November 2017, at: https://www.osce.org/chairmanship/354711; cf. also Cristi Vlas, Gura Bîcului-Bîcioc bridge over Nistru river opened for vehicles, *Moldova.org,* 18 November 2017, at: http://www.moldova.org/en/gura-bicului-bicioc-bridge-nistru-river-opened-vehicles/.

5   The texts of these agreements are available in Russian and English on the Transdniestrian "foreign ministry" website: http://mfa-pmr.org/documents.

details needed to be worked out, including co-ordination of administrative procedures and legislation. Expert working groups on the requisite subjects met frequently and productively to successfully implement these accords over the subsequent weeks and months.

These steps were followed by a formal meeting of the 5+2 in Vienna on 27-28 November and at the OSCE Ministerial Meeting on 7-8 December, both of which welcomed the recent progress and obligated the participants in the Transdniestrian settlement process to continue their present approach and efforts and to seek further solutions. At the 27-28 November meeting of the 5+2, the participants singled out the next target in the settlement process: reaching an agreement on internationally accepted license plates issued by the Republic of Moldova for vehicles owned and operated by Transdniestrian residents and drivers.[6] The Vienna Protocol also called for settling the remaining issue of the "package of eight" – criminal cases instituted by each side against representatives of the other – by the end of 2018 and committed to strengthening the provisions and procedures of the existing settlement process to ensure the agreements reached were implemented.

This dramatic progress enabled the OSCE participating States to reach consensus on a broad-ranging statement on the Transdniestrian settlement process at the Ministerial Council Meeting in Vienna less than two weeks later.[7] The ministerial statement explicitly endorsed the 5+2 format as "the only mechanism" to achieve a resolution of the conflict and the existing "output-oriented approach" in the settlement process. The mediators (Russia, Ukraine, OSCE) and observers (EU, US) also reiterated their adherence to the basic position for a settlement first iterated by the OSCE in 1993, "to attain a comprehensive, peaceful and sustainable settlement of the Transdniestrian conflict based on the sovereignty and territorial integrity of the Republic of Moldova within its internationally recognized borders with a special status for Transdniestria that fully guarantees the human, political, economic and social rights of its population".[8]

In a demonstration of the limits of the working consensus within the 5+2 format, Transdniestria immediately rejected this basic premise of Moldova's territorial integrity with a special status for Transdniestria. A special commentary from the Transdniestrian "foreign ministry" noted that such declarations taken in the OSCE could not be considered parts of the settlement negotiating

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6   Cf. Protocol of the Official Meeting of the Permanent Conference for Political Questions in the Framework of the Negotiating Process on the Transdniestrian Settlement, 27-28 November 2017, Vienna, at: https://www.osce.org/chairmanship/359196.

7   Cf. Organization for Security and Co-operation in Europe, Ministerial Council, Vienna 2017, Ministerial Statement on the Negotiations on the Transdniestrian Settlement Process in the "5+2" Format, MC.DOC/1/17, Vienna, 8 December 2017, at: https://www.osce.org/chairmanship/361586.

8   Ibid.

process, since Transdniestria was precluded from participating.[9] The Transdniestrian statement also warned that the eventual political settlement could only be decided within the framework of direct dialogue between the sides. The commentary also referred to Transdniestria's 2006 referendum on independence and reiterated Tiraspol's "principled position" calling for international recognition of Transdniestria's independence.

Notwithstanding this shot across the bow from Tiraspol, the settlement process during 2018 continued to produce concrete progress on specific issues. The 2018 OSCE Italian Chairmanship appointed former Foreign Minister Franco Frattini Special Representative, ensuring both high-level support and continuity in the settlement process. As part of a shake-up in the government in Chişinău, Director for International Affairs of the Ministry of the Interior Cristina Lesnic was appointed chief negotiator for Moldova in December 2017.[10] Lesnic first met Transdniestrian negotiator Vitaly Ignatiev on February 15; the two apparently developed a solid working relationship, as shown by continuing productive work on reaching and implementing agreements on specific issues.[11] Work in the settlement process in late winter 2017 and spring 2018 was characterized by frequent meetings, co-ordination, and co-operation in the expert working groups, both to work out steps to implement agreements already reached, and to move towards new accords on other practical issues.

Special Representative Frattini's visit to the region in late March provided further impetus to the settlement process, in particular in moving towards an accord on one of the chief outstanding points cited in the November 2017 Vienna 5+2 Protocol, international registration of Transdniestrian vehicles by Moldovan authorities.[12] Chişinău and Tiraspol successfully worked out and signed a complicated, step-by-step agreement and plan for registering Transdniestrian vehicles on 24 April 2018, which was welcomed at a 5+2 meeting in Rome on 29-30 May 2018.[13] The Rome Protocol welcomed the progress achieved to date, and called for similar efforts in addressing the major remaining issue of criminal cases.

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9   Cf. Ministerstvo Inostrannykh Del Pridnestrovskoj Moldavskoj Respubliki [Foreign Ministry of the Pridnestrovian Moldavian Republic], Kommentarij MID PMR v svyasi c prinyatiem zayavleniya Ministrov inostrannykh del gosudarstv-uchastnikov OBSE po peregovornomu protsessu v formate "5+2" [Comment of the Foreign Ministry of the PMR on the adoption of the statement of the Ministers of Foreign Affairs of the OSCE participating States on the negotiation process in the "5+2" format], 8 December 2017, at: http://mfa-pmr.org/ru/hLN.

10 Cf. Cristina Lesnic, new Deputy Prime Minister for Reintegration, *Publika.MD,* 19 December 2017, at: https://en.publika.md/cristina-lesnic-new-deputy-prime-minister-for-reintegration_2643288.html.

11 Cf. OSCE, Chief Negotiators for the Transdniestrian settlement process outline progress, commit to further steps, 15 February 2018, at: https://www.osce.org/mission-to-moldova/372141.

12 OSCE, OSCE Special Representative confident progress in Transdniestrian Settlement Process will continue, 28 March 2018, at: https://www.osce.org/chairmanship/376393.

13 Cf. Protocol of the Official Meeting of the Permanent Conference for Political Questions in the Framework of the Negotiating Process on the Transdniestrian Settlement, 29-30 May 2018, Rome, available at: https://www.osce.org/chairmanship/382885.

Much of the summer of 2018 was devoted to expert-level working group meetings and government actions by both Chişinău and Tiraspol to implement the agreements reached over the preceding months. Most deadlines were met. Moldovan farmers successfully gained access to their lands on the left bank, the Latin script schools prepared for operations, specific procedures for recognizing diplomas were instituted, and unrestricted traffic across the Gura Bîcului Bridge came closer to being a reality. In an early September 2018 visit to the region, Special Representative Frattini welcomed the 1 September opening of vehicle registration offices in Tiraspol and Rîbnița/Rybnitsa, thereby meeting the deadline set for implementing the April "license plate agreement."[14]

At the time of writing at the end of summer 2018, momentum was strong and there was considerable optimism among participants and observers of the Moldova-Transdniestria settlement process. With a record of over two years of successfully reaching and implementing agreements, both activity and trust among participants in the settlement process are at levels not seen for years, if ever. Personnel changes may also facilitate maintaining forward movement. Head of the OSCE Mission to Moldova Ambassador Michael Scanlan completed a four-year term in August, and was replaced by Dr Claus Neukirch, a veteran German official with extensive experience in the OSCE and in Moldova. (One might also note that this is the first time in over twenty years that the Head of the OSCE Mission to Moldova has not hailed from the United States.) The 2019 OSCE Chairman-in-Office at this point will be Slovak Foreign Minister Miroslav Lajčàk, who served as the EU Special Representative for Moldova almost a decade ago. With the return of Russian Deputy Prime Minister Dmitry Kozak to a Moldova portfolio, there will be a great deal of high-level experience focused on the region, which may also raise hopes for continued progress.

Moldova-Russia Relations: a Stumbling Block?

The appointment of Deputy Prime Minister Dmitry Kozak – Putin's troubleshooter in a number of tough issues and a veteran of the 2003 near-settlement of the conflict – as special representative for Moldova-Russia economic relations might be taken as a sign of Moscow's desire for progress on a number of issues, including resolving the conflict. News of Kozak's appointment broke during a visit to Moscow by Moldovan President Dodon and meeting with Putin on the margins of the Football World Cup final. Speculation immediately mounted in both Moscow and Chişinău about a possible return to the 2003

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14   OSCE, *OSCE Special Representative lauds progress in Transdniestrian Settlement Process, calls for all commitments to become reality,* Tiraspol, 10 September 2018, at: https://www.osce.org/chairmanship/393107.

Kozak Memorandum and federalization of the country as the basis for a settlement of the conflict.[15] In any event, Kozak's appointment seemed to presage increased top-level attention from the Kremlin for Moldova.

However, deep political division and discord within Moldova have made relations with Russia a domestic political football, which has in turn produced considerable, if irregular friction in relations between Chişinău and Moscow. It is not clear whether this friction will be sufficiently frequent or serious to slow or derail the momentum achieved in the settlement process. A year of increasing tensions between Moldova and Russia ended with the recall of Moldova's Ambassador to Moscow, Andrey Neguta, in mid-December.[16] Chişinău explained the move as a response to Russian mistreatment of Moldovan officials; it also may have been a response to Moscow's announcement of a criminal case against Vladimir Plahotniuc, the leading member of the governing coalition. The move may have also been related to the ongoing rivalry between Plahotniuc's PDM and pro-Russian President Dodon and his PSRM, the largest opposition party in Parliament.

In January 2018 Plahotniuc and the PDM resorted to temporary suspension of Dodon to ram through Parliament and promulgate a controversial law aimed at barring retransmission of Russian news and public affairs television and radio programmes in Moldova. The legislation was explained as a measure to protect Moldovan public opinion from manipulation and disinformation.[17] Neguta returned to Moscow in March 2018 only after meetings between the new Moldovan Foreign Minister Tudor Ulianovschi and Russian Foreign Minister Sergey Lavrov in Moscow and Deputy Foreign Minister Grigory Karasin during a visit to Chişinău.[18]

President Dodon has consistently advocated closer, more co-operative relations with Russia, but the Moldovan government, led by the PDM and Plahotniuc, has continued to have run-ins with Moscow, in particular over the perennially troublesome issue of Russia's failure to withdraw its troops and military equipment from Moldova. In June 2018, the UN General Assembly adopted a draft resolution, first floated by Moldova in the autumn of 2017,

15   For example, cf. Universalnyi Kozak. Kak v Kishineve u Tiraspole kommentiruyut naznachenie novogo spetspredstavitelya Putina, 13 July 2018, *newsmaker.md*, at: http://newsmaker.md/rus/novosti/universalnyy-kozak-kak-v-kishineve-i-tiraspole-kommentiruyut-naznachenie-novogo-sp-38276.

16   Cf. Madalin Necsutu, Moldova Risks Russian Retaliation After Withdrawing Ambassador, *BalkanInsight,* 19 December 2017, at: http://www.balkaninsight.com/en/article/moldova-pulls-off-its-ambassador-from-moscow-12-19-2017. For Moldova-Russia tensions during 2017, cf. William H. Hill, More than a Frozen Conflict: Russian Foreign Policy Toward Moldova, Washington, DC, August 2018, at: http://www.atlanticcouncil.org/images/publications/ More_Than_A_Frozen_Conflict_web_final.pdf.

17   On the Moldovan media law, cf., for example, Moldovan Parliament Speaker Passes Law Against Russian Propaganda, *Radio Free Europe/Radio Liberty*, 11 January 2018, at: https://www.rferl.org /a/moldova-parliament-speaker-approves-russia-media-law/28966975.html.

18   Cf. Moldova's ambassador to Russia to return to Moscow on days to come, *Moldpres,* 20 March 2018, at: https://www.moldpres.md/en/news/2018/03/20/18002218.

calling for the immediate and unconditional withdrawal of all troops of the Operative Group of Russian Forces (OGRF) and military equipment from Moldova.[19] Moscow was predictably annoyed by the Moldovan resolution and those countries that voted for it, and the Russian Ambassador to the OSCE denounced the measure as exerting a "destructive influence" and contradicting Moldova's expressed line in the Transdniestrian settlement process and international agreements.[20] Russia reaffirmed its long-standing position that the Russian troop presence remained necessary until the terms of a final settlement could be reached to provide peacekeepers and to guard military equipment in the region.

Similar to incidents during the summer of 2017, unannounced movements in the summer of 2018 by Russian troops in the Transdniestrian region and the participation of troops from the OGRF in joint exercises with Transdniestria military units prompted complaints from Chişinău and caused tension and suspicions which contrasted with and detracted from the positive dynamics of the settlement process. For example, in mid-June, three columns of OGRF trucks and armoured vehicles moved without announcement through a portion of the Security Zone between Dubossary and Rîbniţa/Rybnitsa.[21] Russian representatives explained the movement as routine rotation of units at the ammunition depot in Cobasna/Kolbasna; Moldovan officials pointed to it as yet another in a long series of violations of the basic 1992 ceasefire agreement. In mid-August, the OGRF and Transdniestrian troops conducted a joint river-crossing exercise, which drew criticism from both Moldovan authorities and the OSCE Mission.[22]

In general, security issues have remained largely unaddressed in the recent progress in the settlement process. The continuing presence of Russian troops, and Russian co-operation with and apparent support for the Transdniestrian military remain exceptionally sensitive points for Moldovan officials. At the same time, Moldova's military co-operation with NATO in the Partnership for Peace (PfP) and bilateral military co-operation with the US have from time

19   Cf. United Nations, General Assembly Adopts Texts Urging Troop Withdraw from Republic of Moldova, Strengthening Cooperation in Central Asia, 22 June 2018, at: https://www.un.org/press/en/2018/ga12030.doc.htm.

20   Ministerstvo inostrannykh del Rossijskoj Federatsii [The Ministry of Foreign Affairs of the Russian Federation], Remarks by Permanent Representative of Russia to the OSCE Alexander Lukashevich at a meeting of the OSCE Permanent Council in response to the report of the Head of the OSCE mission to Moldova, Vienna, 12 July 2018, 13 July 2018, at: http://www.mid.ru/web/guest/maps/md/-/asset_publisher/dfOotO3QvCij/content/id/3294212?p_p_id=101_INSTANCE_dfOotO3QvCij&_101_INSTANCE_dfOotO3QvCij_languageId=en_GB.

21   Cf. OSCE Mission in Moldova notified about unauthorized movement of columns of military equipment in Security Zone, Moldpres, 15 June 2018, at: https://www.moldpres.md/en/news/2018/06/15/18005119.

22   Cf. OSCE, OSCE Mission to Moldova concerned about unsanctioned military exercises in the Security Zone, Chisinau, 15 August 2018, at: https://www.osce.org/mission-to-moldova/390644. Cf. also Madalin Necsutu, Russian Military Games on Dniester Anger Moldova, BalkanInsight, 15 August 2018, at: http://www.balkaninsight.com/en/article/russian-soldiers-forced-the-dniester-river-from-transnistria-08-15-2018.

to time drawn criticism from Moscow. In recent years, the participants in the 5+2 negotiations have been able to avoid the injection of geopolitical disputes and rivalries that trouble other regions of Europe, and to maintain co-operation and consensus on key questions. As steady progress is made towards an eventual resolution of the conflict, security issues will constitute one of the greatest challenges facing the settlement process.

Moldova's Deepening Political Crisis

Moldova is increasingly beset by deep socio-political divisions, which have hindered or blocked political reforms and economic growth and which threaten to become more extreme and dangerous as the country faces a crucial national election in February 2019.[23] The government is divided both by party and geopolitical orientation. The parliament and cabinet of ministers are controlled by a self-professed pro-Western coalition led by the PDM, under the effective control of oligarch Plahotniuc. The presidency is held by the pro-Russian PSRM's Igor Dodon; the PSRM is the leading opposition party in parliament and boasts the consistently highest numbers in domestic political polls. However, there is a significant extra-parliamentary opposition movement made up of two pro-Western groups, Dignity and Truth (PPDA) and Solidarity and Action (PAS), which, since 2016, has conducted mass protests against both the government's alleged abandonment of pro-European principles and the PSRM's pro-Moscow leanings.

Over the past two years, Moldova's government has been increasingly at odds with some of its most ardent supporters in Europe and North America. In July 2017, against the explicit advice of the Council of Europe's Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Moldovan Parliament adopted a controversial reform of the country's electoral system, with half of the deputies to be elected in single mandate districts and half remaining in the existing countrywide single electoral district. The measure was supported by both the PDM and PSRM; it was widely criticized as prone to corruption and manipulation. Later in 2017, the European Union suspended payment of an upcoming tranche of economic assistance to Moldova because of failure to make progress in agreed reforms in the justice system and the rule of law.[24]

Western disillusionment with the government in Chişinău came to a head in mid-2018. After Chişinău Mayor Dorin Chirtoacă resigned in February 2018

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23 For background and a review of Moldovan domestic political parties, groups, and orientations at the beginning of 2018, cf. Hill, The Moldova-Transdniestria Dilemma: Local Politics and Conflict Resolution, cited above (Note 1).

24 Cf. Sara Sandström, Bad Neighbor? How the European Neighborhood Policy Has Failed in Moldova, Center for Strategic and International Studies (CSIS), 18 March 2018, at: https://www.csis.org/npfp/bad-neighbor-how-european-neighborhood-policy-has-failed-moldova.

under pressure of pending criminal charges, a special election to replace him became a three-way contest between candidates backed by the PDM, the PSRM, and the major non-parliamentary opposition parties.[25] DA leader Andrei Năstase, backed by PAS leader Maia Sandu, won a decisive victory in a run-off election over Socialist Party candidate Ion Ceban; independent candidate and acting mayor Silvia Radu, backed by the PDM, did not make the second round. The results of the Chişinău vote demonstrated the clear satisfaction of the voting public with the country's major parties and were widely seen as an indication of the possible outcome of the upcoming national elections.

A political firestorm ensued when a Chişinău court annulled the results of the election, arguing that Năstase had engaged in political campaigning after the deadline for ceasing such activity before the election. (The impermissible activity cited was a social media post on election day urging citizens to vote, as most candidates had done in previous Moldovan elections.) The decision was subsequently upheld by appellate courts, and the results of the election were voided, with the acting officials remaining in place in Chişinău until the next scheduled election in 2019. Mass protests erupted in the capital and continued through the summer.[26] International reactions were also harsh. On 5 July 2018, the European Parliament adopted a wide-ranging resolution that not only criticized the courts for undermining the integrity of the electoral process, but also cited other recent failings of reform and the rule of law in Moldova, including the controversial electoral reform, and the massive bank fraud in 2014. The EP resolution called on the European Commission to suspend budgetary support for Moldova and halt any pending payments, until the results of the Chişinău elections were recognized and the country's deficiencies in reform and the rule of law were properly addressed.[27]

The response of the Moldovan government to these events was mixed. Prime Minister Pavel Filip immediately argued that annulment of the Chişinău vote was not something the government wanted or had prompted. However, neither the government nor the parliament took any action to appeal or reverse the court's decision. Moreover, just before adjourning for the summer, Parliament adopted controversial fiscal reform legislation including a provision to legalize previously undeclared assets and income with only a minimal (three

25   Cf. Mihai Popșoi, Mayoral Campaigns in Moldova's Two Largest Cities: A Preview of Next Parliamentary Election, in: Eurasia Daily Monitor, 17 May 2018, at: https://jamestown.org/program/mayoral-campaigns-in-moldovas-two-largest-cities-a-preview-of-next-parliamentary-election.
26   Cf. Protest în capitală: "Năstase e primarul!" [Protest in the capital: "Năstase is the mayor!"], IPN, 20 June 2018, at http://www.ipn.md/ro/arhiva/91891. Local press summaries from the OSCE Mission to Moldova during the summer provide a survey of local coverage of these events and popular reactions.
27   Cf. European Parliament resolution of 5 July 2018 on the political crisis in Moldova following the invalidation of the mayoral elections in Chişinău, 2018/2783(RSP), Strasbourg, 5 July 2018, at: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0303+0+DOC+XML+V0//EN.

per cent) tax.[28] Opponents of the legislation argued that it would turn Moldova into a "haven for money laundering", while both the US and the World Bank sharply criticized the measure as inconsistent with Moldova's programme of economic and judicial reform. By the end of the summer, popular indignation once again erupted, as large competing protests rocked the capital over Moldova's Independence-Day weekend on 26-27 August.[29]

Electoral, fiscal, and judicial reforms were not the only casualties of the ongoing political turmoil in Moldova. The OSCE Mission to Moldova had worked closely with representatives of the Moldovan government and parliament to develop legislation to harmonize Moldovan legislation with the 1994 agreement on a special status for the autonomous region of Gagauzia.[30] Key pieces of legislation developed in this process subsequently were watered down with substantive reservations added by opponents in parliament, and have since languished without legislative action. Moldovan negotiators have acknowledged the importance of making the Gagauz autonomy agreement work as an important element in building confidence in the Transdniestrian settlement process. However, prospects for action on the Gagauz issue remain clouded, as the parliament's setting of national elections on 24 February 2019 would seem to ensure a partisan political coloration for almost any action during this parliament's final session in autumn 2018.[31]

Moldova's Cloudy Future

Over most of the past year, Moldova has been a study in contrasts. On the one hand, the remarkable progress in the Transdniestrian settlement process, marked by an astonishing array of agreements reached and implemented since November 2017, has raised legitimate hopes that real progress might be made towards final resolution of the conflict. On the other hand, Moldova's widening social and political divisions, its sharpening political crisis, and the increasing disillusionment of some of its most ardent international supporters all call into question the country's future direction, stability, and well-being. The upcoming political election campaign may have significant, but unpredictable

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28   Cf. Madalin Necsutu, Moldova's President Gives Green Light for Controversial Fiscal Reform, *BalkanInsight,* 3 August 2018, at http://www.balkaninsight.com/en/article/dodon-gives-green-light-for-controversial-fiscal-reform-in-moldova-08-09-2018.

29   Cf. Rezoluție protestului ACUM: Cerem demisia Guvernului Filip [Resolution of the protest NOW: We request the resignation of the Government of Filip], *IPN,* 26 August 2018 at: http://www.ipn.md/ro/arhiva/93223; cf. other stories on the IPN site around this date for coverage of the protests.

30   For background on this issue, cf. Hill, Current Trends in Transdniestria: Breathing New Life into the Settlement Process, cited above (Note 1), pp. 147-149.

31   Cf. Madalin Necsutu, Moldova Delays Parliamentary Elections Until 2019, *BalkanInsight,* 27 July 2018, at: http://www.balkaninsight.com/en/article/moldovan-parliament-rescheduled-the-parliamentary-elections-for-2019-07-27-2018.

effects on Moldova's international relations and orientation, and the settlement process.

Since independence, Moldova has had a generally impressive record of holding relatively free and fair elections and respecting the results. The controversial 2017 electoral reform and the court intervention in the 2018 Chişinău mayoral election raise significant questions about Moldova's future adherence to this previous high standard. Furthermore, the massive street protests since 2016, and the sizeable popular support for extra-parliamentary parties critical of the pro-Russian and pro-European parties currently in power, suggest that far-reaching changes in Moldova's domestic political context could be in store. However, the events and developments of the past year provide little insight into what the eventual outcomes, the nature and direction of such possible changes might be.

Meanwhile, geopolitical division and turmoil in Europe, in particular the ongoing war in eastern Ukraine, has had considerably less effect on the Moldova-Transdniestria settlement process than one might have expected, especially considering that the Russian Federation and Ukraine are co-mediators. One can only welcome the fact that the US, the EU, Russia, Ukraine, and the OSCE have been able to co-operate so harmoniously and effectively in the 5+2 forum, and hope that such co-operation may continue. However, the upcoming election campaign in Moldova could very possibly play out as a contest over Chişinău's geopolitical orientation. This in turn could put great strain on the current comity among the major international actors in the 5+2. Such an outcome does not have to happen, but it cannot be dismissed. The current political uncertainty in Moldova jeopardizes not only the recent remarkable progress in the settlement process, but a great deal more.

Mir Mubashir/Engjellushe Morina/Luxshi Vimalarajah

Broadening the OSCE's Mediation Scope: A Case for Engaging in Insider Mediation

Introduction

As an influential regional diplomatic entity, the OSCE enjoys a mandate from its participating States for track I intervention into conflicts in the OSCE area, from conflict prevention, through crisis prevention and crisis management, to dispute settlement and conflict resolution. To this end, mediation, mediation support, trust/confidence building, and dialogue facilitation have become part of the OSCE's repertoire. In recent decades in particular, the OSCE has strengthened mediation as an important instrument, and as a cost-effective mode of intervention in and prevention of (violent) conflict. The Mediation Support Team at the Conflict Prevention Centre (CPC) in Vienna supports and advises ongoing mediation processes. It offers request-based, targeted assistance to OSCE special representatives, heads of field operations, and other mediators. Many OSCE staff, both in the field missions and in Vienna, have years of mediation expertise. Some of the OSCE field operations have mediation and dialogue facilitation in their mandates.

The OSCE's mediation (support) capacity has proved useful to mitigate and/or manage violent conflicts in various contexts in the OSCE area. Nonetheless, recurring violent conflict in the OSCE area indicates that there are limitations to the effectiveness of track I interventions in sustaining peace. This has been a growing realization in the broader field of international peacebuilding regarding "outsider"/international diplomatic, mediation, and dialogue efforts.[1] There is a recognition that a more inclusive whole-of-society perspective on conflict prevention and peacebuilding can inform a move away from power mediation to dialogue support and multi-track diplomacy. Along these lines, the OSCE has been advised to enhance the coherence of and the interplay between different tracks of mediation and to interlink mediation activities with other political processes and reform efforts.[2] This is where deliberation on "insider mediation" becomes relevant for the OSCE, since there could be potential for complementarity between insider processes and outsider track I interventions.

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1   Cf. Karin Göldner-Ebenthal/Véronique Dudouet, From Power Mediation to Dialogue Support? Assessing the European Union's Capabilities for Multi-Track Diplomacy, Berghof Foundation, Berlin 2017, at: https://www.berghof-foundation.org/fileadmin/redaktion/Publications/Papers/Berghof_Woscap_MTD_Goeldner-Ebenthal_Dudouet.pdf.
2   Cf. Federal Foreign Office/Initiative Mediation Support Germany (IMSD), The OSCE as Mediator. Instruments – Challenges – Potentials. German OSCE Chairmanship 2016 Conference, Berlin, 6 July 2016, Conference Report, at: http://www.peacemediation.de/uploads/7/3/9/1/73911539/aa-imsd_conference_report_2016_the_osce_as_mediator.pdf.

This article reflects on ways in which the OSCE's mediation scope could be broadened through engagement in insider mediation. The following first unpacks the term "insider mediation" and articulates the rationale for engagement in it. Second, it analyses a few OSCE field operation projects on conflict prevention and resolution, as well as peacebuilding, to highlight how they may have already contributed to insider mediation. Finally, some deliberations are made on considerations for sustained engagement in insider mediation.[3]

Recognizing and Engaging in Insider Mediation

Recognition

The "insider" in insider mediation denotes the entity or individual who owns and leads the mediation. Outsider mediation is led by international and/or regional track I actors, such as diplomats, politicians, or state officials. Outsiders may indeed engage in insider mediation at times, but they tend to play the role of technical and process supporters, advisors or act as a sounding board. "Insider mediation", however, substantially differs in scope from the professional field of mediation, or the conceptual and practical framework of mediation within which OSCE operates.[4] The following elaborates on these nuances.

Insiders. Simply speaking, these are actors "intrinsic" to the conflict context, i.e. they are part of the social fabric of the conflict, their life is directly affected by it, and therefore they have a stake in it. They will also continue to live in the area when outsiders have left, which is their primary distinction from outsiders. Of course, not all insiders of a conflict would play a constructive role in the conflict. Those involved in insider mediation prefer constructive and non-violent means of addressing conflict and act accordingly. A member of OSCE field mission staff can in fact be such an insider, and may, in a personal capacity, be involved in insider mediation and perhaps endeavour to feed their experience into the mission's work.

Legitimacy and access. International mediation assumes a need for outsider-neutral mediators who have a physical and emotional distance from the conflict context. In many cultures, however, local people would rather confide in insiders who may be partial, but whom they already trust because of their social standing or function, and their "fairness" and long-term commitment to peacemaking.[5] Their personal connection to the conflict, and their

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3   The authors are grateful to Dr Christina Stenner (OSCE) for her feedback, edits and suggestions on this contribution.

4   Cf. OSCE, Mediation and Dialogue Facilitation in the OSCE, Reference Guide, Vienna 2014, available at: https://www.osce.org/secretariat/126646.

5   Cf. Paul Wehr/John Paul Lederach, Mediating Conflict in Central America, Journal of Peace Research 1/1991, pp 85–98, at: http://www.colorado.edu/conflict/5025/lederach.htm.

cultural, religious, ethnic, and linguistic proximity to the conflict actors, render them legitimate to these actors. Insiders have access to and influence over them, and can therefore attempt to build bridges between them, both horizontally (between actors on one track) and vertically (between actors on different tracks). Their legitimacy is not necessarily based on impartiality but on the fact that they are rooted in the context. Their strongest resource is their inside knowledge of the conflict context and of subtleties in mood and the positions of actors within or across constituencies. Insiders are thereby able to reach out to a wide spectrum of conflict stakeholders, especially in engaging with difficult yet crucial actors, such as hardliners and violent non-state armed actors, often taking dire personal risks. Outsiders, in most cases, cannot (or would not want to) access these hard-to-reach actors. Indeed, a great number of examples in armed intrastate conflicts around the world demonstrate the crucial role played by insiders who risk their lives to talk to armed non-state actors. This is a crucial aspect, since the OSCE has legal restrictions around engaging in certain contexts and with certain actors.

Background. An insider can be a state or non-state individual or entity from a variety of backgrounds and societal functions, e.g. a politician, public servant, ministry, semi-formal court, community leader, CSO, artist, educator, celebrity, traditional/religious/spiritual leader,[6] elder, entrepreneur, ex-combatant, youth[7] or women's group, a civil society or community-based (including faith-based and non-governmental) organization, or labour union. They are generally not professionally trained mediators (although some are). "Insider mediator" is a term commonly used for these actors; however, it is not a profession or function but rather an analytical label.

Goal and approach. Insider mediation is less about reaching agreements and resolving conflicts with a short-term goal, and more about (re-)building intra- and inter-group trust and relationships through dialogue The long-term goal is to sustain peace by transforming conflict (i.e. working on interests, needs, fears, and root causes of conflict). Insider mediation takes place in both inter-group and intra-group settings. Indeed, some insiders play a crucial role in diffusing intra-group tensions and divisions to prepare groups for inter-group dialogue. The OSCE has limited operational capacity and resource for dealing directly with entrenched local issues in protracted conflict contexts over a long period. In addition, the OSCE's self-imposed political constraints mean it is not able to delve into all the complicated socio-political layers of conflict contexts. Insiders often employ cultural, traditional and religious

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6   Cf. for example, Mir Mubashir/Luxshi Vimalarajah, Tradition- and Faith-Oriented Insider Mediators (TFIMs) as Crucial Actors in Conflict Transformation. Potential, Constraints, and Opportunities for Collaborative Support, The Network for Religious and Traditional Peacemakers, Baseline Study, Finland 2016, at: http://image.berghof-foundation.org/-fileadmin/redaktion/Publications/Other_Resources/TFIM_FullReport_final.pdf.

7   Cf., for example, Mir Mubashir/Irena Grizelj, The Youth Space of Dialogue and Mediation: An Exploration, Berlin 2018, at: https://www.berghof-foundation.org/publications/publication/the-youth-space-of-dialogue-and-mediation-an-exploration.

resources, either strategically or on principle, to build rapport with, pursue, convince, or empower conflict actors – something outsiders may be neither aware of nor equipped to do.

Process and modality. Insider mediation is a continuous socio-political process rather than a time- and resource-bound endeavour. It is informal or semi-formal and multi-layered. It tends to be less structured than outsider mediation, evolving organically and holistically. It also comprises the "every-day" of mediation in socio-political life.[8]

"Mediative" roles. With the above goal in mind, insider mediation does not typically involve a primary mediator or mediation teams as such, but it comprises dynamic and diverse "mediative" roles and functions that insiders perform within a mediation space. These include roles such as negotiator, inter-locutor, conciliator, facilitator, enabler, dialogue facilitator, messenger, go-between, bridge-builder, and mentor. It may be argued that some of these roles (and the goal mentioned above) are not mediation in the professional sense, but rather peacebuilding work in general. Mediation is, however, in the true sense of its etymological root, a *dialogic* and *relational* endeavour, which is not necessarily true of all peacebuilding work (e.g. education, governance, eco-nomic development, advocacy, security sector work, etc.). These relational and dialogic roles help break deadlocks, catalyse change by moving things for-ward, and keep mediation processes alive. Insiders play the crucial role of con-tinuing their mediative efforts to sustain peace after formal processes are wrapped up and the outsiders have left the scene.

Mediative efforts. Insider mediation comprises efforts by insiders in vio-lence prevention, early warning, and early action. In contexts of (protracted) armed conflict, insiders constitute driving forces to facilitate peace processes from various angles. In other conflict contexts, such as societal violence, systemic/structural violence, and tension between social groups, insiders' ef-forts in awareness raising, advocacy and non-formal dialogue often form the cornerstone of constructive manifestation of conflict (i.e. dealing with conflict non-violently) to ensure just peace and engender peaceful coexistence.

Engagement

Over the last decade, "insider mediation" has been an increasingly important part of international peace-building and policy-making. UN agencies and the EU have supported insider mediation as an extension of their mediation sup-port activities, complementing their high-level engagement. A UNDP Guid-ance Note in 2014 built on the experience of the UNDP and the EU in sup-porting national counterparts in preventing and resolving violent tensions.[9]

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8   Cf. ibid., pp. 20-25.
9   UNDP, Supporting Insider Mediation: Strengthening Resilience to Conflict and Tur-bulence. Guidance Note, New York 2014, at: http://www.undp.org/content/dam/undp/ library/crisis%20prevention/Supporting-Insider-Mediation---Strengthening-Resilience-to-Conflict-and-Turbulence--EU%20Guidance%20Note.pdf.

Among other non-state international organizations, the Berghof Foundation (Berlin) and the Centre for Humanitarian Dialogue (Geneva), for example, have long been immersed in this discourse.[10] Within the OSCE, there is also a growing appreciation of the fact that a holistic approach is required in its mediation (support) efforts, engaging with a diverse range societal actors to ensure sustainable, nationally-owned peace. This is exemplified by the fact that the OSCE commissioned a study by the Berghof Foundation in 2015-2016 to situate the insider mediation discourse within the OSCE, and further by the discussions that have taken place around this study at the OSCE premises.[11] The OSCE acknowledges the need not only to strengthen existing mediation processes but also to identify new entry-points and untapped mediative potential.[12]

The Berghof Foundation study highlighted the need for extending the OSCE's mediation support to insider mediation, building on existing insider mediation structures and processes, providing needs-based capacity development, facilitating networking, and finding potential for complementarity. These measures constitute a framework of long-term *engagement between insiders and outsiders*, rather than short term, ad hoc *support from outsiders to insiders*. This can be regarded as dialogic and interactive engagement, nurturing joint learning, methodological exchange, knowledge building, and problem solving. In some cases, outsiders simply act as a sounding board or as advisors. All this goes hand in hand with the crucial shift in terminology that has gained prominence in recent years: that outsiders need to "engage in" rather than "support" insider mediation. While "support" may (inadvertently) imply that insiders cannot do without outsider support, "engagement" implies taking into account the knowledge, agency, and strength of insiders, and building on what already exists in order to strengthen it further. An upcoming revision of the aforementioned UNDP Guidance Note is also likely to make a case for this shift, drawing on their continued experience of engaging in insider mediation in a number of conflict contexts worldwide.

For the OSCE, engaging in insider mediation is particularly relevant for the prevention of violent conflict by narrowing the gap between early warning and early action. The OSCE has been actively seeking strategies to deal with the growing need for information, procedures, and actors that facilitate the translation of early warning into political action. Insiders have the most knowledge regarding when and how to take timely action, and how to channel the

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10   Cf, Berghof Foundation, Feature: Insider Mediators, at: https://www.berghof-foundation.org/featured-topics/insider-mediators, and Centre for Humanitarian Dialogue, New Publications depicts the pivotal role of insider mediators in peacemaking, 30 June 2017, at: https://www.hdcentre.org/updates/new-publication-depicts-the-pivotal-role-of-insider-mediators-in-peacemaking.

11   Cf. Mir Mubashir/Engjellushe Morina/Luxshi Vimalarajah, OSCE support to Insider Mediation. Strengthening mediation capacities, networking and complementarity, OSCE, Vienna 2016, available at: http://www.osce.org/support-to-insider-mediation.

12   Cf. Christina Stenner, Teaming up with Insider Mediators, Security Community 3/2016, pp. 14–15, available at: https://www.osce.org/magazine/285616.

information to actors who have the resources and mandate to take further action. It is important to note that it is practically impossible or even unwise for an outsider to engage in the everyday monitoring of conflict or to take instinctual action. Working strategically with insiders may fare better in this respect.

Engaging in insider mediation is not merely a matter of supporting certain insiders and their efforts, but also involves recognizing this social engine as a whole – the actors involved, their resources and networks. It is about collaborating on how to strengthen this engine by identifying and addressing gaps in resources, connections, support, and political will. Engagement should put insider mediation at the centre and build around it, and not pull insiders into an outsider process. For the sake of complementarity, it is crucial to get a sense of which insider mediation efforts are affecting and influencing mediation efforts at the high levels. It is equally important to understand which actors and their efforts have the capacity but not yet the leverage to influence sociopolitical processes. Engaging in insider mediation is therefore about recognizing what *is*, and what *could be*.

Finally, it is important to be aware of red lines and constraining factors. When there is high-level tension between state and society (e.g. the state perceiving insiders as a threat to its authority), or when insiders impose patriarchal and exclusive values on societies, the engagement has to be cautiously strategized. There are also cases of extreme polarization and mistrust where outsiders become preferable to insiders. In other cases, insiders may be vulnerable to losing their legitimacy in their constituencies if they are seen to be engaging with outsiders. In all these cases, care needs to be taken to ensure that the mode of engagement is conflict-sensitive.

Analysing OSCE Projects as Engagement in Insider Mediation

The OSCE's field operation projects have not yet been (officially) framed as support to – or engagement in – insider mediation. This, however, does not mean that there are no elements in some projects that are conducive to insider mediation. The following looks at four cases with an insider mediation lens. In some of the cases, the OSCE attempted to build the capacities of a group of potential changemakers to function as multipliers for enabling ethnic harmony and reconciliation (Kosovo), to prevent and mitigate conflict (Kyrgyzstan), and to manage crises (Ukraine).[13] In Bosnia and Herzegovina, the OSCE Conflict Prevention Centre (CPC) has started a process of identifying insider mediation processes to engage in.[14]

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13 Based on research mentioned in: Mubashir/Morina/Vimalarajah, cited above Note 11. Disclaimer: The field studies were conducted during the period March-June 2016; assessments from the interviewees pertain to this period.

14 Based on ongoing deliberations between the OSCE and the Berghof Foundation on potential collaboration in Bosnia and Herzegovina.

Kyrgyzstan: Leveraging Local Knowledge and Capacities

Following the conflict in 2010 and other events in Osh in southern Kyrgyzstan, it was imperative to support the efforts of local mediators or informal leaders and other peacemakers. The OSCE's idea of support – through its Peace Messengers (Kyrgyz: *Yntymak Jarchylary*, Russian: *Vestniki Mira*) project, which ran from 2011-2014 – was to equip these leaders to disseminate valid information in order to prevent further and potentially violent conflict at the local level. The then OSCE Centre in Bishkek (renamed the OSCE Programme Office in 2017) collaborated with NGOs, executive partners, and state authorities in different regions of the country, and signed a three-way memorandum of cooperation supporting 34 Peace Messenger teams of 748 individuals.

The project's format was designed to include local decision makers and existing institutional structures, such as courts of elders *(aksakal)*, women's committees, religious leaders, informal neighbourhood leaders *(mahalla)*, head teachers, housing committees *(domkom)*, and subdistrict committees. Young people, NGO workers and activists, law enforcement agencies, teachers, representatives of the media and local authorities were also included in the teams. Team members were an integral and respected part of their communities and as such, they had been involved in conflict mitigation in their daily life.

The mediation carried out by local traditional leaders in southern Kyrgyzstan was crucial in helping communities cope with social instability and maintain order. As such, these traditional practices of mediation were valued immensely as they contributed to fostering the peaceful co-existence of different groups by implementing local notions of harmony *(yntymak)*, arbitration *(sot)*, reconciliation *(dostoshuu)*, forgiveness *(kechirimduu),* and resolution. All these rituals were practised actively by Peace Messengers in the aftermath of the conflict in Osh and Jalal-Abad.

The tasks of Peace Messengers encompassed a broad scope: carrying out educational work together with local authorities, identifying reasons for conflict, conducting preventive activities, responding to emergencies together with state and law enforcement bodies, mediating to decrease tensions, and providing information to decrease provocative rumours. Peace messengers prevented the escalation of conflict by actively interacting across ethnic lines. They not only mediated in existing conflicts and disputes among various people and groups, but also assisted in the prevention of conflict at an early stage and mitigated tensions in specific localities, such as places where there were water disputes, disputes between state and societies, or disputes in border villages. Peace Messengers were unique in many ways: they were in close contact with local people and at the same time were able to deal with state authorities – they served as a bridge between communities and the state by facilitating dialogue and establishing order in their communities.

Peace Messengers were also actively engaged in creating different platforms for dialogue. In many instances, the state authorities approached Peace Messengers for assistance in resolving local disputes. Local people also approached Peace Messengers in many instances, for example in Kara-Suu, people would approach Peace Messengers first in cases where they did not trust state authorities.

Gender also played a major role in contributing to inter-ethnic reconciliation and conflict prevention in Kyrgyzstan, especially since many of the disputes were handled along gendered lines in this particular local context, where everyday life and economic activities are gendered. This is best illustrated by the fact that conflicts around property rights, access to irrigation water, and land disputes are usually dealt with by men, whilst women focus mainly on dealing with family-related disputes like misunderstandings between husbands and wives, mothers- and daughters-in-law, and the like. This is because men are perceived to better understand technicalities and the usage of authoritative language, while women are believed to understand the importance of soft language and intricacies of local knowledge.

The Peace Messengers project had a strong impact in communities, mainly because it was rooted in the local context and built on existing informal and local structures, such as courts of elders, women's committees, informal neighbourhood leaders, house committees, local authorities and police and law enforcement personnel. The project participants were cognizant of local cultures and practices and informal decision making. By building on these structures, the OSCE contributed to empowering Peace Messengers to act on pressing and sensitive issues. Through this project, the OSCE also offered a space for communication, interaction, networking, peer coaching, and peer exchange. Moreover, the OSCE assisted the Peace Messengers in building their capacity for the prevention and resolution of violence in different ways: i) training for skills development on mediation and communication; ii) simulating exercises to prepare for handling crises; iii) raising awareness of the existence and activity of Peace Messengers; and iv) providing technical infrastructure for transportation, communication, and co-operation between teams based in different territories, for immediate action in crisis situations.

The Peace Messengers praised the project and its approach and pointed out the benefits of OSCE support. Through the project, they not only learned to appreciate the importance of gathering accurate information (conflict analysis) before entering into mediation, but they also realized the importance of being impartial and engaging in active listening. However, the Peace Messengers also noted the following shortcomings. Regional differences in the conflict context, mainly the north-south divide, were not adequately reflected in the project strategies. The local needs and fears of the Peace Messengers were not sufficiently taken into account, nor was there clear and proactive communication regarding negative perceptions about the OSCE (e.g. around the apparent "secrecy" of meetings). Most importantly, in view of sustainability,

the project was brought abruptly to an end without a clearly communicated exit strategy, and without a strategy for how the Peace Messengers could carry on their work without further support.

Ukraine: Renewing and Strengthening Dialogue

Mediation has been present and practiced in Ukraine since the 1990s, mainly revolving around the rule of law and justice reform. As such, the process of mediation was mainly regarded as co-operation with courts, police, and prosecutorial services. However, after the beginning of the crisis in 2014, it was evident that a structure was needed to address the conflict at different levels. As a result, many dialogue initiatives were introduced, and, in addition to professional mediators, others such as NGO leaders, journalists, politicians, representatives of faith-based organizations, business people, and state officials began to show heightened interest.

Since 2014, the OSCE Project Co-ordinator in Ukraine has been assisting the Ukrainian government in facilitating the "Reconstruction Through Dialogue" initiative – an exchange between decision makers in Kyiv and representatives of communities affected by the crisis in eastern Ukraine. While this initiative has included internally displaced persons, no attempts have been made to establish dialogue across the line of contact.

The initiative consisted of forums that aimed at consolidating the community of mediators and facilitators and established conditions for exchanging experiences. The forums brought together more than 200 participants, including central government representatives, officials from the regions, Members of Parliament and local council deputies, representatives of diplomatic missions, NGOs, and leading experts on dialogue, mediation, and facilitation. The forums proved to be a crucial instrument for renewing and strengthening dialogue in eastern Ukraine. On the flip side, the beneficiaries of the project mentioned a lack of training initiatives and a short-term project mind-set. [15]

Kosovo: Creating Safe Space for Engagement

In the aftermath of the 1998-1999 Kosovo conflict, many efforts were made to normalize relationships between Kosovo Albanians and Kosovo Serbs. Despite these efforts, inter-ethnic and inter-faith relations remained weak. Against this background, in 2013, The OSCE Mission in Kosovo initiated and supported an Inter-faith Dialogue project with the objective of mitigating existing tensions drawn along ethno-political and religious lines. It encouraged dialogue between different religious communities and promoted tolerance and reconciliation among the Albanian and Serb population. The project involved religious leaders from the Islamic community, Serbian Orthodox Church,

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15   See Note 13.

Catholic Church, Jewish community, Protestant Church and smaller communities, such as the Tarikate/Tariqats community in Kosovo. These leaders from different parts of Kosovo met regularly, sometimes with institutional officials, to discuss joint concerns of the different religious communities. For example, in Peja, religious leaders met with the local authorities to discuss illegal construction and its consequences. In the aftermath of the meeting, religious leaders explained the problem to their congregation, which in turn helped reduce tensions and resistance in addressing this particular issue, which is widespread in Kosovo. Another project called the "Follow Us" Initiative addressed the ethno-political conflict with a cross-border approach. Facilitated and supported jointly by the OSCE Mission to Serbia and the OSCE Mission in Kosovo, the project was launched in 2012. It involved prominent women from Kosovo and Serbia in dialogue forums, aiming to promote confidence building and reconciliation. The women had diverse socio-political and professional backgrounds, including parliamentarians, civil society representatives, academics, and journalists. The forums were also used to discuss the role of women in politics and the issues of economic empowerment.

The OSCE contribution to both of these projects has been considerable. The projects brought together groups from different backgrounds to discuss issues of joint concerns and to build bridges in the process. The OSCE facilitated communication and networking among community leaders, authorities, and other community actors. This helped in nurturing the groups of influential women and religious leaders by motivating them to communicate and work on different levels and to build capacities in the field of conflict prevention and resolution. The OSCE provided safe and neutral space, without which these projects could not have been realized. In terms of room for improvement, more thought should have been put into developing strategies to sustain the impact of the projects. In terms of reach, there were not enough youth-oriented initiatives (Inter-faith Dialogue), and only a small group of people were targeted (Follow Us).

Bosnia and Herzegovina: "Being" an Insider

The current security situation in Bosnia and Herzegovina is considered "stable", but unaddressed root causes of the conflict, fragile interethnic relations between Serbs and Bosniaks, structural violence, and a pervasive, deep-rooted lack of trust are a recipe for future outbreaks of violent conflict. The OSCE Mission to Bosnia and Herzegovina has conflict prevention and resolution, especially reconciliation, at the centre of its work. The Mission engages with government institutions and civil society to reduce potential drivers and sources of conflict, for example hate crimes and bias-motivated incidents. It also mediates between various political and civic actors to increase communication to support greater community cohesion, especially in returnee areas and divided communities.

This is therefore an interesting case where OSCE field operation staff (local and international) have in some cases assumed a mediative role, as the representatives of all three constituencies in Bosnia and Herzegovina, the majority of NGOs, and local authorities recognize the Mission (and its field offices) as an impartial and trustworthy partner. Some of the Mission staff, local staff in particular, think of themselves as contributing to insider mediation as part of their OSCE work, as well as through their personal efforts in their own communities.

For example, hate crime has diminished in Banja Luka over the last few years due to the OSCE's work. The OSCE has helped de-escalate – and curb spillover of – conflict. In sustaining a strong collaborative network of civil society actors, political parties, and institutions, the OSCE has raised the critical mass that is adept at early warning and prevention. It has also improved dialogue between marginalized groups and city authorities, reconciliation between ethnicities, and strengthened social cohesion.

Analysis

The different roles of insiders in the above cases had not been specifically cast as mediation roles, as is usually the case in insider mediation; likewise, the OSCE's role as insider mediation support or engagement. It is, however, interesting to see how the characteristics of insiders and the roles played by insiders and the OSCE contribute to mediation. In terms of access, influence, and legitimacy, insiders in all four cases are locally rooted, which gains them trust and legitimacy across ethnic and religious lines and across different sectors. In some cases, they can influence state actors and facilitate dialogue on issues of social concern, and even have the power and courage to challenge authorities regarding the status quo. In other cases, civil society actors tend to earn respect through their commitment to social engagement. They are active, passionate, and committed to building bridges across divides. An interesting mélange is also observed in some cases, with the diverse capacities of teachers, the elderly, young people, women, religious organizations, and journalists. The OSCE nurtured a group of influential figures by motivating them to communicate. It brought together prominent insiders to further develop their capacity and helped turn informal initiatives into structured formats, in most cases building on existing and informal local structures. The OSCE provided safe and neutral space for dialogue to take place, especially in some cases where the OSCE has the legitimacy and power to convene groups for dialogue. Last but not least, OSCE field operation staff themselves took on the role of insiders.

These insights, together with the considerations for engagement discussed earlier, are useful starting points for deliberating the ways in which the OSCE can broaden its mediation scope by engaging in insider mediation. This may mean looking at current projects with an insider mediation lens and seeing how the projects could be improved or extended so that they could connect to

existing insider mediation processes and involved actors. It may also mean finding options for engagement, particularly in contexts where it is difficult for the OSCE to intervene. It also begs the consideration of actors the OSCE is not yet engaging with, i.e. those who are already playing a role in insider mediation and those who have the potential but not the leverage to do so. At least in the cases mentioned above, there are examples of both kinds of actors the OSCE has not engaged with, e.g. in Ukraine, there are professional mediators whose efforts were crucial in the aftermath of the 2014 crisis.[16] There is also a large body of civil society actors with various functions, especially young people, whose efforts are worth engaging with. It should be kept in mind that the usual "project" modality of the OSCE may not be suitable for engaging in insider mediation. Projects demand concrete results within a certain timeframe, which may not allow much flexibility and resources for sustained engagement with insider mediation. Engaging with insider mediation would require a long-term and phased approach to building relationships and trust with the insiders. The following section makes some deliberations in this regard.

Ensuring Sustained Engagement in Insider Mediation

As indicated earlier, the difference between "support" and "engagement" is not merely a linguistic one. Mediation support provided by international actors predominantly revolves around developing the capacity of insiders through training and facilitating peer exchange. Engagement, on the other hand, additionally implies *sustained collaboration between insiders and outsiders*. It is ideally a *dialogic and interactive mutual learning process*. Different creative formats could be envisaged in this regard, such as peer-support or peer-advice between insiders and OSCE mediators. Insiders could also be involved from early on in OSCE processes by inviting them for joint conflict analysis and briefing. It should essentially be a long-term endeavour, with particular emphasis on facilitating networking. In this regard, the following considerations are deemed useful for the OSCE.

Attuning to insider knowledge. To be able to engage in insider mediation, the OSCE should acknowledge and learn about existing insider mediation structures and processes, and build trust with the actors involved. In cases where the acknowledgement is already there, such as in Bosnia and Herzegovina, the OSCE should find ways to refer more strongly to insider knowledge. In this way, the OSCE and insiders can jointly work out the options for and modalities of complementary efforts towards addressing obstacles in the conflict context. It is also important to be aware of informal power structures, which play a critical role in influencing policies and decision making in traditional communities.

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16   In Ukraine, the OSCE's "Reconstruction Through Dialogue" forum had some engagement with local mediators.

Respecting and leveraging informal processes. Insider mediation processes are often most effective when they operate informally, under the radar of official institutions. While insiders sometimes seek legal recognition of their mediation efforts to gain physical and legal protection, particularly when dealing with proscribed non-state armed actors, they often choose to remain in informal networks and loose associations. If the OSCE's engagement might require formalizing these processes, it should be carefully assessed and strategized in order to avoid negative effects. Formalization may increase actors' visibility, limit their space for manoeuvring and make them vulnerable to becoming instrumentalized and politicized.

Thinking beyond projects. Projects are usually limited in scope, mandate, duration, and resources. While log frames and indicators of success often portray a romanticized picture of projects, and a lot of good does indeed come out of such projects, it is difficult to ensure their long-term impact and continuity. Insider mediation, in contrast with outsider mediation, can be a slow process whose impact over a shorter period may not be observable. It therefore requires patience and openness to organic evolvement. Taking into account the limits to the political and financial sustainability of OSCE field operation projects, engagement could be as simple as a loose advisory and collaboration mechanism or a stand-by mediation support structure, which could be part of a larger support network, even with a regional scope. Creating a sustainable structure beyond projects would additionally require a change of mind-set in the donor participating States as to how they could potentially invest with a long-term vision.

Providing safe space for peer-exchange and networking. The OSCE could create co-learning, mentoring and coaching opportunities by bringing together insiders from various regions. Learning from the lived experiences of peers from similar or different socio-political contexts is often more valuable than knowledge or capacity development provided by international/external experts.

Evolving inside out. Even if it is time-consuming, it is important not to underestimate the need to work intensively on intra-group mediation in order to sensitize groups for inter-group mediation (e.g. intra-faith mediation as a basis for inter-faith mediation). To avoid appearing biased, the OSCE would need to engage with different groups and their insiders in parallel.

Being strategic. The OSCE needs to maintain full compliance with its own norms and principles as well as transparency in all its activities, especially with participating State actors. Engaging with insider mediation may be seen by state actors as a threat to their status quo (as was the case in Kyrgyzstan). In such cases, the OSCE would need to use its expertise and creativity to find effective strategic approaches to frame and translate insider mediation engagement into acceptable programmes.

Being flexible. Insiders' roles, scope, and legitimacy depend on the conflict dynamics. To the outsider's eye, insiders may appear to be doing contradictory things. It is, however, important to be patient and flexible about such dynamics when engaging in insider mediation. Here too, a networked style of engagement would prove more workable than project-based intervention.

Concluding Reflections

Despite the rigidity and limitations that may characterize the OSCE structure, it has time and again proved its creativity in intervening in crisis and conflict. By engaging in insider mediation, there is certainly much potential for the OSCE to further nurture its creativity. While it cannot afford to be as flexible and have as much access to conflict contexts as certain international NGOs, there are some successful models with which it can experiment.

With regard to the sustained engagement in insider mediation elaborated above, there is one simple example of good practice that could prove useful to international actors such as the OSCE: the Berghof Foundation's dialogue work in the Caucasus. Since 2009, the Foundation has nurtured a space where a group of young people have empowered themselves to exercise their agency in addressing the conflicts in the region with a dialogic, transgenerational, and transregional approach. It was a slow but steady process – not without obstacles – evolving organically and therefore effectively. This model is currently being employed in other parts of the Caucasus and in the Balkans. The OSCE certainly has the means to attune to such an approach. Given the right conditions and political will, OSCE engagement in insider mediation could create dividends in reducing tensions and fostering peace, stability and security across the OSCE area.[17]

As a final note, insider mediation is not to be seen as a panacea, but as an integral part of a larger peacemaking and peacebuilding architecture, in which insiders and outsiders play complementary and co-ordinated roles to create synergies for the holistic transformation of conflict.

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17   Understandably, in the particular case of the Caucasus, the OSCE is represented by little to no mission, and as such, its leverage on the ground is very limited. Its efforts on track I, however, have been crucial.

Kaan Sahin

The Status-Neutral Approach as a New Impetus for the Conflicts in Eastern Ukraine and in Transdniestria

Introduction

Protracted or frozen conflicts still represent one of the greatest security concerns in the wider European context: The conflict between Moldova and Transdniestria, the unsettled question around Nagorno-Karabakh, and the independence aspirations of Abkhazia and South Ossetia are all shaped by hardened fronts and decades of limited progress between the parties. The outbreak of the conflict in eastern Ukraine in 2014 even increased the number of disputes of this kind. Therefore, it is hardly surprising that there is still a need for new approaches to conflict resolution, or at least for first steps in this direction.

What all these conflicts have in common is that a possible solution is directly interconnected with the unresolved question regarding the status of the so-called de facto regimes and their integration into the framework of conflict settlement negotiations, whether on a large-scale or only in relation to selected issues. De facto regimes can be described as "quasi-states that exert effective control over a certain geographic area, but are not recognized as states by the majority of states."[1] In conflicts where one side is an internationally recognized state that does not recognize the seceding regime on the other side, the fundamental condition for the successful resolution of the conflict, or even confidence and security building measures (CSBMs) – the mutual recognition as equals by both sides – is not met.

However, CSBMs in particular are generally the major preconditions for sustainable pacification and later resolution of these conflicts. The *status-neutral confidence- and security-building measures* approach has been proposed as a useful basis for the solution of frozen conflicts and dealing with de facto regimes. Simply put, a status-neutral approach suggests that CSBMs should be implemented before the status of the secessionist entities is discussed. This would be an alternative to CSBMs that are tailored to internationally recognized state actors, like the *Treaty on Conventional Armed Forces in Europe* (CFE) or the *Vienna Document* (VD).

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1   Sergi Kapanadze/Ulrich Kühn/Wolfgang Richter/Wolfgang Zellner, Status-Neutral Security, Confidence-Building and Arms Control Measures in the Georgian Context, CORE Working Paper 28, Hamburg 2017, p. 7.

The initial step towards applying this status-neutral approach was the *Stabilizing Measures for Localized Crisis Situations*[2] document adopted in 1993 by the Conference on Security and Co-operation in Europe (CSCE, since 1995: Organization for Security and Co-operation in Europe, OSCE). However, it seems that it took over 20 years for the concept to be taken up again. In 2017, the Centre for OSCE Research (CORE) published the working paper "Status-Neutral Security, Confidence-Building and Arms Control Measures in the Georgian Context", which recommended the application of the concept in the Georgian context.

This chapter provides a follow-up by outlining the feasibility of the status-neutral approach for the conflicts in eastern Ukraine and between Moldova and Transdniestria. It analyses the potential utility of the approach for protracted conflicts. Both case studies also tackle the lingering question regarding the incorporation of de facto regimes in conflict settlement negotiations.

The 1993 CSCE Document: Stabilizing Measures for Localized Crisis Situations

The only multilateral security document referring to a status-neutral approach in conflict situations was adopted on 25 November 1993 at the 49th plenary meeting of the Special Committee of the CSCE (OSCE) Forum for Security Co-operation in Vienna (FSC). The politically binding document, titled *Stabilizing Measures for Localized Crisis Situations*, proposes a catalogue of stabilizing measures for localized crisis situations.

The document consists of a section entitled "Concept and Principles of Application" and the "Catalogue" of specific measures. The "Concept and Principles of Application" section explains that the document is intended to facilitate decision-making processes in the OSCE context, even though it does not claim to offer an all-encompassing list of measures. Furthermore, it is not intended to rule out any other measures, which might be considered in particular cases (paras 1 and 2). The document also emphasizes that it does not oblige OSCE participating States to automatically implement the measures contained in the document in a situation of localized conflict. Nonetheless, OSCE participating States should consider the proposed measures in conflict situations of this kind (para. 3). In paragraph nine, the document touches upon the crucial nature of the status issue:

> The parties involved in a particular crisis situation will be identified in each case in accordance with the relevant norms of international law and CSCE provisions. When such parties are not States, their identification

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2   Organization for Security and Co-operation in Europe, Stabilizing Measures for Localized Crisis Situations, DOC.FSC/2/96, 25 November 1993, at: https://www.osce.org/fsc/41316.

and subsequent participation in a crisis prevention, management and/or settlement process does not affect their status.

In essence, this paragraph suggests that status-neutral arms control can still be conducted in conflicts between states and de facto regimes whose status is debated. However, this can only be achieved if all conflict parties follow such an approach. In the next paragraph, the document states that the "implementation of some of the measures may require the good offices or the mediating function of a third party, trusted by all the parties involved in a particular crisis situation". According to the document, the third party role could be assumed by the OSCE, a state or group of states or other organizations.

The "Catalogue" presents a set of measures:[3]

"A. Measures of Transparency":
1) extraordinary information exchange
2) notification of certain military activities
3) notification of plans for acquisition and development of major weapon and equipment systems

"B. Measures of Constraint":
1) introduction and support of a ceasefire
2) establishment of demilitarized zones
3) cessation of military flights
4) deactivation of certain weapon systems
5) treatment of irregular forces
6) constraints on certain military activities

"C. Measures to Reinforce Confidence":
1) public statements on matters relevant to a particular crisis situation
2) observation of certain military activities
3) liaison teams
4) establishment of direct lines of communication
5) joint expert teams in support of crisis management
6) joint coordination commissions or teams

"D. Measures for Monitoring of Compliance and Evaluation":
1) evaluation of data provided under extraordinary information exchange
2) inspections
3) observation of compliance with demilitarized zones
4) verification of heavy weapons
5) challenge inspections
6) aerial observation regime

Source: Kapanadze et al. 2017, pp. 14-15.

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3   The measures are presented in a shortened form. Cf. Kapanadze/Kühn/Richter/Zellner, cited above (Note 1), pp.14-15.

Overall, the catalogue avoids almost any status-related language; the only exception is the reference – twice – to irregular forces, which are defined as "forces not under the command of the regular forces". This, however, could constitute a problem for de facto regimes who are unlikely to be satisfied with the description of their military formations as "irregular". Furthermore, Kapanadze et al. also point to the problematic wording of the 1993 document, which remains problematic and could lead to de facto regimes rejecting the application of these "Stabilizing Measures":

> There are reasons why the "Stabilizing Measures" instrument has never been used. The explicit recognition that a party "is not a state" already has a status-related implication and would probably not be accepted by the entity in question.[4]

This is an important indication of how delicate the issue of appropriate wording can be in this context and how difficult it is to find the right conceptual or geographical terms, even if a document attempts to avoid status-related definitions. In sum, the document does not go into great detail and should be understood as a starting point for a status-neutral approach. Nonetheless, this is advantageous for the actual implementation of this approach because the document does not alienate conflict parties from the outset. However, the *Stabilizing Measures for Localized Crisis Situations* document is referred to as an "almost forgotten document",[5] and for good reason, since most of the OSCE participating States are not even aware it exists.[6]

The Status-Neutral Approach and Protracted Conflicts in Europe

Against this backdrop, Kapanadze et al. apply this approach to the entangled situation in Georgia between the Russian-backed entities in Abkhazia and South Ossetia on the one side and the central government in Tbilisi on the other. In contrast to state-centric arms control and CSBM agreements, the status-neutral approach has certain advantages for protracted conflicts like that in Georgia:[7]

- It avoids any "problematic" language such as "States Parties" and "participating States" (terms which are used, for instance, in the CFE Treaty or the VD) or conceptual terms (e.g. "region", "side/party to the conflict", "border", etc.). Instead, it uses status-neutral terms (e.g. using the name

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4   Kapanadze/Kühn/Richter/Zellner, cited above (Note 1), p. 15.
5   Sergi Kapanadze/Uli Kühn/Wolfgang Richter/Wolfgang Zellner, Status-neutral Arms Control: Promises and Pitfalls, *Security Community* 3/2016, at: http://www.osce.org/magazine/285606.
6   Author's interview with a former OSCE officer, 24 February 2017.
7   The points listed are selected from Kapanadze/Kühn/Richter/Zellner.

of the capital instead of the name of the state) in order to achieve an agreeable common language.

- Since the status-neutral approach is not state-centric, it also tackles the problem of dealing with arms control and CSBMs in the context of paramilitary, irregular, and armed police forces in disputed territories, often used by de facto regimes. By leaving the status issue aside, certain obstacles can be evaded. For instance, after declaring independence, de facto regimes often argue that they are not obliged to adhere to certain arms control agreements or CSBMs since they have never signed them. Conversely, internationally recognized states decline to acknowledge de facto regimes as equal negotiation partners and are not willing to give them "the role, rights and responsibilities of a State Party to international agreements".[8]
- By avoiding a state-centric approach, the area of application for arms control and CSBM mechanisms can also be more restricted and does not have to cover complete territories. By covering the whole territory, the internationally recognized state could consider this as a move to confer the de facto regime a kind of state sovereignty. The status-neutral approach avoids this.

Theoretically, there are three key areas where status-neutrality can be beneficial: promoting CSBMs without pre-empting the result of status talks; avoiding status-related terminology; and a status-neutral third party facilitating discussions. A status-neutral approach thus has three major features: The communication aspect, finding a "common language"; separation between "CSBM"/"security-related", and "politically related" formats or documents; and the replacement of status-related facilitators by status-neutral facilitators.

Since the above issues represent obstacles to conflict resolution in the Georgian conflict, and the existing state-centric measures are not helpful for providing a remedy, Kapanadze et al. see the status-neutral approach as a new impetus for the parties involved in the dispute. Other protracted conflicts in Europe also feature similar issues, namely dealings with de facto regimes/ breakaway regions and the lingering question regarding how to achieve progress without delicate and unresolved status deliberations automatically causing delays. Hence, it is useful to examine whether the status-neutral approach could be also beneficial in other contexts. This contribution therefore examines the feasibility of the approach for the conflicts in eastern Ukraine and in Transdniestria.

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8   Ibid., p. 17.

In the aftermath of the Russian annexation of Crimea in March 2014, clashes between Ukrainian forces and Russian-backed separatists broke out in the Donbas region, situated in eastern Ukraine. The self-proclaimed Lugansk People's Republic (LPR) and Donetsk People's Republic (DPR) emerged as a result, and both are at the point of becoming de facto regimes. Although the LPR and DPR are backed by the Russian Federation, the Kremlin has not recognized them as states.

As a reaction to the hostilities, the Trilateral Contact Group (TCG), established in June 2014 and consisting of representatives from Ukraine, the Russian Federation and the OSCE, agreed on the so-called Minsk Protocol, which was signed on 5 September 2014, to halt the fighting in the Donbas; it was complemented on 19 September by a Memorandum specifying some of the steps agreed in the Protocol. The agreed ceasefire collapsed in January 2015 due to newly erupted clashes. In order to revitalize the measures agreed under the Minsk Protocol, the "Package of Measures for the Implementation of the Minsk Agreements" (also known as "Minsk II"), was signed on 12 February 2015. This features a 13 point plan which comprises issues ranging from CSBM measures to decentralization plans, which would give Luhansk and Donetsk special status. In other words, the document contains political issues, as well as issues relevant to security.

The Minsk Agreements are, however, still a long way from being implemented: None of the 13 stipulations contained in the "Package of Measures" have been successfully realized. For instance, according to Alexander Hug, the Principal Deputy Chief Monitor of the OSCE Special Monitoring Mission to Ukraine, the ceasefire violations were three-digits on every day in June 2018. In the same month, the UN Security Council condemned the continuous ceasefire violations in the eastern part of the country and their severe impact on civilians in a presidential statement.[9] Consequently, on 22 August 2018, the TCG agreed on a ceasefire mechanism, the so-called "school ceasefire", which guaranteed that students could attend classes safely at the start of the school year. However, as soon as the school ceasefire came into effect, "more than 70 ceasefire violations"[10] were recorded by the OSCE the following day.

Since June 2014, the prime negotiation frame for this conflict has been the so-called "Normandy Format", which consists of senior representatives from Ukraine, Russia, France, and Germany. The last meeting was convened on 11 June 2018, after a break of 16 months. Below the Normandy Format,

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9   Cf. United Nations, Security Council, Condemning Continuous Ceasefire Violations in Eastern Ukraine, Security Council Presidential Statement Expresses Grave Concern about Severe Impact on Civilians, SC/13367, 6 June 2018, at: https://www.un.org/press/en/2018/sc13367.doc.htm.

10   Ukraine "school truce" ceasefire allows students back to class, *Deutsche Welle*, 29 August 2018, at: https://www.dw.com/en/ukraine-school-truce-ceasefire-allows-students-back-to-class/a-45263736.

and interlinked with it, is the TCG, "in which representatives of Ukraine, Russia and the OSCE consult one another and negotiate concrete steps towards implementation of the Minsk agreements".[11] In the former, the interests of the LPR and DPR are advocated by the Russian Federation, in the latter they negotiate with members of the TCG. Subsequently, the Minsk Agreements, which resulted from the negotiations, were signed by representatives of the OSCE, Ukraine, and Russia, as well as by representatives of the LPR and DPR.[12]

The OSCE Special Monitoring Mission to Ukraine (SMM) monitors the ceasefire agreements and the withdrawal of heavy weapons as well as the withdrawal of all foreign armed forces, military equipment, and mercenaries from Ukraine, even though these tasks are not explicitly mentioned in the SMM mandate. The SMM just assumes these monitoring functions since no actor has raised objections to this.

In contrast to most other protracted conflicts in the European context, the status question in this conflict is quite different in nature. In fact, the question of whether the breakaway regions should be completely independent or not is, on paper, beyond discussion. Paragraph nine of the "Package of Measures for the Implementation of the Minsk Agreements" postulates:

> 9. Reinstatement of full control of the state border by the government of Ukraine throughout the conflict area, starting on day 1 after the local elections and ending after the comprehensive political settlement (local elections in certain areas of the Donetsk and Luhansk regions on the basis of the Law of Ukraine and constitutional reform) to be finalized by the end of 2015, provided that paragraph 11 has been implemented in consultation with and upon agreement by representatives of certain areas of the Donetsk and Luhansk regions in the framework of the Trilateral Contact Group.[13]

The local elections mentioned envisage a decentralization reform described in paragraph eleven of the document:

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11   Federal Foreign Office,: OSCE crisis management in Ukraine, 9 January 2017, at: http://www.auswaertiges-amt.de/EN/Aussenpolitik/Laender/Aktuelle_Artikel/Ukraine/OSZE_node.html.

12   The Package of Measures for the Implementation of the Minsk Agreements was signed by Swiss diplomat and then OSCE representative, Heidi Tagliavini, former president of Ukraine and Ukrainian representative, Leonid Kuchma, Russian Ambassador to Ukraine and Russian representative Mikhail Zurabov, as well as the DPR and LPR leaders Alexander Zakharchenko and Igor Plotnitskiy.

13   Package of Measures for Implementation of the Minsk Agreements, Minsk, 12 February 2015, para. 9, in: Bundeszentrale für politische Bildung [Federal Agency for Civic Education], *Dokumentation: Das Minsker Abkommen vom 12. Februar 2015* [Documentation: The Minsk Agreement of 12 February 2015], 26 February 2017, at: http://www.bpb.de/internationales/europa/ukraine/201881/dokumentation-das-minsker-abkommen-vom-12-februar-2015.

11. Carrying out constitutional reform in Ukraine with a new constitution entering into force by the end of 2015 providing for decentralization as a key element (including a reference to the specificities of certain areas in the Donetsk and Luhansk regions, agreed with the representatives of these areas), as well as adopting permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions in line with measures as set out in the footnote until the end of 2015.[14]

Both paragraphs clearly state that – despite the self-declaration as "People's Republics" by the de facto authorities in Donetsk and Luhansk – the aim is to incorporate Luhansk and Donetsk into a unified, but, to some extent, federalized Ukrainian state.

However, in practice, the situation is quite different. There is still disagreement over how the special status of these two entities should look. Thus, it is no surprise that the decentralization steps scheduled for completion by the end of 2015 never materialized. The local elections were postponed several times and a concrete date for holding the elections is still not foreseeable today. The current limbo situation is characterized by a lack of perspective, so the status question is subject to interpretation, and potentially gradual change.

The leaders of the self-declared "People's Republics" of Luhansk and Donetsk regularly declare that they see their future exclusively with Russia and only pay lip service to the Minsk agreement. […] Three years later [after the signing of the Minsk agreement], the "People's Republics," despite being recognized by nobody except separatist South Ossetia, are on their way to becoming de-facto states with their own governments (Luhansk alone boasts 19 ministries), passports, vehicle number plates, school curriculums, diplomas, and so on. Their currency is the Russian ruble, and clocks are set according to Moscow time.[15]

Furthermore, the Ukrainian side is unlikely to signal any concessions concerning the status question since politicians will tend to shy away from such risky endeavors due to the presidential and parliamentary elections in 2019. In the past, certain moves have had the potential to undermine the substance of the Minsk Agreements, for instance the temporary imposition of a trade blockade on the two eastern breakaway regions by the authorities in Kiev back in 2017.

When it comes to arms control measures, including CSBMs, the Package of Measures does not go into detail. The document only mentions the following measures:

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14   Ibid., para. 11.
15   Nikolaus von Twickel, Shadow States, *Berlin Policy Journal*, 28 June 2018, at: https://berlinpolicyjournal.com/shadow-states/.

2. Withdrawal of all heavy weapons by both sides by equal distances in order to create a security zone of at least 50 km wide from each other for the artillery systems of caliber of 100 and more, a security zone of 70 km wide for MLRS and 140 km wide for MLRS "Tornado-S", Uragan, Smerch and Tactical Missile Systems (Tochka, Tochka U):
- for the Ukrainian troops: from the de facto line of contact;
- for the armed formations from certain areas of the Donetsk and Luhansk regions of Ukraine: from the line of contact according to the Minsk Memorandum of Sept. 19th, 2014;
The withdrawal of the heavy weapons as specified above is to start on day 2 of the ceasefire at the latest and be completed within 14 days.
The process shall be facilitated by the OSCE and supported by the Trilateral Contact Group.
3. Ensure effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons by the OSCE from day 1 of the withdrawal, using all technical equipment necessary, including satellites, drones, radar equipment, etc.[16]

The document remains too vague and provides opportunities for the conflicting parties to use other equipment beyond "heavy weapons". However, even the withdrawal of heavy weapons has never been realized, since "they have been deployed nearly every time fighting has escalated since 2015".[17] As the agreement mentions "the armed formations from certain areas of the Donetsk and Luhansk regions of Ukraine", it also includes the breakaway regions in CSBM arrangements. Therefore, the CSBMs in the Package of Measures are, strictly speaking, status-neutral. Furthermore, the question of using the right wording, acceptable for all sides, does not appear to play a major role.

The Status-Neutral Approach and the Ukrainian Conflict

Even though the de facto authorities in Luhansk and Donetsk have named themselves "People's Republics", all conflict parties have, at least rhetorically, agreed that these two regions remain integral parts of the Ukrainian state. Therefore, there is a basic common understanding concerning the status question, at least on paper. As mentioned before, the disagreements concerning status issues lie more in the detail. Even though the de facto authorities in Luhansk and Donetsk are not part of the Normandy Format or the Trilateral Contact Group, they signed the Minsk Agreements, which include CSBMs. Therefore, status-neutral arms control measures and CSBMs are, in a limited fashion, already employed in the conflict constellation in eastern Ukraine.

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16   Package of Measures for Implementation of the Minsk Agreements, cited above (Note 14), paras 2 and 3.
17   Von Twickel, cited above (Note 15).

However, the CSBMs provided by the Minsk Agreements are not sufficiently comprehensive and, to a large extent, have not been implemented. Furthermore, as the conflict in eastern Ukraine does involve de facto regimes, it is not a typical dispute between two states. Thus, the application of state-centric arms control and CSBM arrangements, such as the CFE Treaty or the VD, would not be suitable and could even cause confusion between the conflict parties. In addition, Russia, as the protecting power, has suspended the CFE Treaty. Consequently, a status-neutral CSBM arrangement could be a useful alternative. Furthermore, with a more comprehensive and detailed list of instruments, it could give fresh impetus for conflict facilitation and could substantiate the relatively vague regulations of the Minsk Agreements. This is especially important since there has been little progress made with respect to compliance with the CSBM elements (e.g. the withdrawal of heavy weapons) and the proposed decentralization stipulations of the Package of Measures. In addition, it could help to prevent the status issues of the Minsk Agreements being further undermined by the conflict parties. Since a political solution is not achievable in the medium-term, it is particularly important to stabilize the security situation in eastern Ukraine. A status-neutral CSBM approach could contribute to this. Another advantage is that a CSBM arrangement could provide for increased inspection quotas.[18]

Nevertheless, there are also some pitfalls in terms of the applicability of a status-neutral CSBM arrangement to the conflict in eastern Ukraine. One precondition of the status-neutral approach is to separate CSBM agreements from agreements aiming at the political resolution of the conflict. However, the Minsk Agreements comprise both elements, if not in detail. This leads to the current situation that the two elements are pitted against each other by the parties to the conflict; this is especially evident with the question of which elements should be implemented first in order to implement the others.

Furthermore, the conflict in eastern Ukraine is characterized by hybrid forces that blur the differentiation between military, paramilitary, and even stationed forces.[19] The "little green men" stemming from neighbouring Russia are symbolic of this. On the other side, the Ukrainian security forces consist of volunteer units, such as the Azov and Donbas battalions, which also elude classification. This situation hampers the implementation of CSBMs, since it gives the parties to the conflict the possibility of undermining the agreement by turning militias or unmarked fighters into members of the regular army and vice versa for their purposes. However, drawing up a status-neutral CSBM arrangement would be the most appropriate way to deal with this challenge. In

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18   Cf. Ulrich Kühn, Three Crises Threatening the European Security Architecture, *European Leadership Network*, 24 February 2015, at: http://www.europeanleadershipnetwork.org/commentary/three-crises-threatening-the-european-security-architecture.

19   Cf. Wolfgang Richter, Rüstungskontrolle und militärische Transparenz im Ukraine-Konflikt [Arms Control and Military Transparency in the Ukraine Conflict], Stiftung Wissenschaft und Politik (SWP), SWP-Aktuell 59, September 2014, at: http://www.swp-berlin.org/fileadmin/contents/products/aktuell/2014A59_rrw.pdf.

addition, it is difficult for the conflict parties to agree on a trusted third party. The Russian Federation and the pro-Russian separatists are especially skeptical about the role of the OSCE. For instance, Russia has repeatedly blocked the expansion of the OSCE's observation activities on the Ukrainian border.[20]

Further disagreements between the two sides could be seen in the context of the Russian proposal made in September 2017 concerning the dispatch of a lightly armed UN peacekeeping mission to eastern Ukraine to assure the safety of the OSCE monitors. The Russian side would only agree to the deployment of peacekeeping forces along the demarcation line between Kiev-controlled Ukraine and the Russian-backed separatist areas of Donbass – at least an indirect recognition of this separation line as a border. The Ukrainian side, however, argued that the UN forces should assume their observation tasks throughout the whole of the eastern area of the country, including the Russian-Ukrainian border, which would underline the territorial integrity of Ukraine.[21]

Against this backdrop, a status-neutral initiative could constitute an effective remedy, with one significant advantage: the Minsk Agreements have already created a basic understanding about the status question. However, activities conducted by both sides that undermine the stipulations of Minsk II are steadily progressing. The latest of these developments was the incident in the Crimean port of Azov near the Black Sea in November 2018, when Russian vessels opened fire at and seized Ukrainian ships.[22] As a response, the Ukraine Parliament decided to bring in martial law which lasted 30 days. In this context, a more comprehensive and detailed status-neutral arrangement could help to push back these developments.

The Conflict in Transdniestria

During the dissolution of the Soviet Union, the military conflict between Transdniestrian forces, supported by the Russian 14th Army, and Moldovan troops started in November 1990. The hostilities reached their peak in spring 1992. A ceasefire agreement, the so-called "Moscow Agreement", was signed on 21 July 1992 and has held ever since. The signing parties were the presidents of Russia, Boris Yeltsin, and Moldova, Mircea Snegur. In contrast to other protracted conflicts in the region, the dispute in the early 1990s was shaped by rather low-level hostilities without severe ethnic or religious grievances between the conflict parties.

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20   Cf. U.S. Mission to the OSCE, Russia Blocks Expansion of OSCE Observation on Ukraine Border, 30 August 2018, at: https://osce.usmission.gov/russia-blocks-expansion-of-osce-observation-on-ukraine-border-2/.
21   Cf. Mathieu Boulègue, Putin's Plan for a Ukraine UN Force is a Poison Pill, *Newsweek*, 17 October 2017, at: http://www.newsweek.com/putins-plan-un-force-ukraine-devious-ruse-687077.
22   Russia claimed that these ships illegally entered its territorial waters. However, this was denounced by the Ukrainian side.

As a consequence of the conflict, the "Pridnestrovian Moldavian Republic" (PMR) declared independence in 1990. In 2006, the authorities in the PMR held a referendum on formally joining Russia, which was approved by 97 per cent of the population. However, no United Nations member state, including Russia, has ever recognized the sovereignty of the PMR.[23]

As a result of the ceasefire agreement, a Joint Control Commission was established between Russia, Moldova, and the Transdniestrian authorities. The purpose of the Commission is to monitor a trilateral peacekeeping force that includes Russian, Moldovan, and Transdniestrian battalions under a joint military command structure and controls posts at the main crossing points of the river Dniester. Since 2005, the prime negotiation platform has been the so-called 5+2 format, officially titled the "Permanent Conference for Political Questions in the Framework of the Negotiating Process on the Transdniestrian Settlement". The participating parties are Moldova, Transdniestria, Russia, Ukraine, and the OSCE, as well as the United States and the European Union as observers. The talks stalled in 2006, but were resumed in 2011. The latest round of negotiations concluded shortly before the 2017 Vienna Ministerial Council Meeting and led to "agreements on five of the priority issues: apostilization of educational documents issued in Transdniestria; interaction in the fields of telecommunications; functioning of the Latin Script Schools; use of farmlands in Dubasari region; and the opening of the bridge across the Dniester/Nistru River between the villages of Gura Bicilui and Bychok".[24]

The OSCE Mission to Moldova, established in 1993, is an additional measure aimed at resolving the conflict. The goal of the mission "is to help achieve a lasting, comprehensive political settlement of the Transdniestrian conflict based on the territorial integrity and sovereignty of the Republic of Moldova, within its internationally recognized borders, with a special status for Transdniestria within Moldova".[25] At the OSCE Summit in Istanbul in 1999, the mandate of the mission was extended to cover arms control measures. Part of this is ensuring "transparency of the removal and destruction of Russian ammunition and armaments and the co-ordination of financial and technical assistance for this."[26]

The status issue in this conflict is less thorny than in the other protracted conflicts since "the Transdniestrian authorities are fully recognized as a party to the conflict in the 5+2 negotiations".[27] Furthermore, the region is characterized by a relatively open border with "hundreds, perhaps thousands cross[ing] from one side to the other every day for tourism, shopping, transit, education,

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23   In 2011, only the de facto regimes of Abkhazia, Nagorno-Karabakh, and South Ossetia recognized its independence.
24   Organization for Security and Co-operation in Europe, Ministerial Council, Vienna 2017, Ministerial Statement on the Negotiations on the Transdniestrian Settlement Process in the "5+2" Format, MC.DOC/1/17, 8 December 2017, p. 1, at: https://www.osce.org/chairmanship/361586.
25   OSCE Mission to Moldova, Mandate, at: http://www.osce.org/moldova/105894.
26   Ibid.
27   Kapanadze/Kühn/Richter/Zellner, cited above (Note 1), p. 9.

business or family visits".[28] A solution to the status issue is connected to the question regarding whether Transdniestria should be granted a special status, integrated on this basis into a somehow federalized Moldavan state and, if so, how deep the integration should be. This is also reflected in the mandate of the OSCE Mission to Moldova when it comes to state the aims of the mission:

> Consolidation of the independence and sovereignty of the Republic of Moldova within its current borders and reinforcement of the territorial integrity of the State along with an understanding about a special status for the Trans-Dniester region.[29]

Nevertheless, the authorities of the self-proclaimed PMR hoped, after the outbreak of the Ukraine conflict, that incorporating Transdniestria into the Russian Federation would be feasible in the near-term. In 2016, the then president of the self-proclaimed PMR, Yevgeny Shevchuk, signed a law that foresaw the implementation of the referendum result, to accede to Russia, in 2006. Nevertheless, in "view of the frequent calls [by the PMR] to join the Russian Federation […] a real will to pursue a permanent existence as an independent state is not discernible in Transdniestrian politics and society".[30] Against that background, as Klemens Büscher puts it, reintegrating the breakaway region of Transdniestrian into the Moldovan state is not unrealistic:

> "There are neither unbridgeable differences of mentality between the societies nor deeply-rooted hatred between the two sides of the Dniester. For an autonomy arrangement a compromise based on existing federal or autonomy models is conceivable."[31]

However, this does not mean that there are no disagreements with regard to the status issue. This is apparent when it comes to the issue of arms control measures and CSBMs. The OSCE Mission to Moldova has conducted a number of arms control measures in the past. In 2000 and 2001, "the Russian Federation withdrew 141 self-propelled artillery and other armoured vehicles by rail and destroyed locally 108 T-64 tanks and 139 other pieces of military equipment limited by the Treaty on Conventional Armed Forces in Europe

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28 Philip Remler (Principal Drafter) et al., Protracted Conflicts in the OSCE Area. Innovative Approaches for Co-operation in the Conflict Zones, OSCE Network of Think Tanks and Academic Institutions, Hamburg 2016, p. 13, at: http://osce-network.net/file-OSCE-Network/documents/ Protracted_Conflicts_OSCE_WEB.pdf.

29 CSCE Mission to the Republic of Moldova, CSCE/19-CSO/Journal No. 3, 4 February 1993, Annex 3, available at: https://www.osce.org/mission-to-moldova/105894.

30 Klemens Büscher, The Transnistria Conflict in Light of the Crisis over Ukraine, in: Sabine Fischer (ed.), Not Frozen! The Unresolved Conflicts over Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh in Light of the Crisis over Ukraine, SWP Research Paper, RP 9, September 2016, pp. 25-42, here: p. 39, at: https://www.swpberlin.org/en/ publication/not-frozen-conflicts-in-the-post-soviet-area/.

31 Ibid., p. 41.

(CFE)."[32] These withdrawals were observed and verified by the OSCE Mission. However, since March 2004, there have been no further withdrawals, and 20,000 tons of ammunition and some military equipment still remain in Moldova. Furthermore, there are still 2,000 Russian troops stationed in Transdniestria that are not part of the official tripartite peacekeeping force.[33]

In 2004/2005, the OSCE Mission to Moldova, with the support of Russian and Ukrainian experts, elaborated a detailed and individualized package of arms control measures and CSBMs. However, this package was never implemented, "partly because the equal application of the measures throughout the entire territory of Moldova (including Transdniestria) led to Moldovan concerns about the appearance of status equality for Transdniestria, and thus allowed the status question to intrude".[34] Furthermore, the Transdniestrian side was reluctant to share military-related information with the other side because this was seen as too sensitive. A third important reason for the failure of this CSBM proposal was the "Kozak Memorandum", an unsuccessful attempt to resolve the conflict tabled by the Russian side in November 2003. The failure of the Memorandum has hardened the dispute and Transdniestria even temporarily cut off political contacts with Chişinău.

However, it seems that discussion of the status issue has gained a new dynamism recently. During a meeting with the then OSCE Chairperson-in-Office, Sebastian Kurz, in February 2017, the Moldovan side committed itself to creating a policy and vision for a special status for Transdniestria.[35] This is especially important because, prior to this announcement, there was "little sign of a clear Moldovan vision as there is a realistic strategy for reintegrating the eastern part of the country".[36] In June 2018, the UN General Assembly even adopted Resolution GA/12030, urging the Russian side to undertake an immediate withdrawal of all its troops and armaments from the territory of the Republic of Moldova.[37] This resolution was strongly rebuked by the Russian Federation, questioning the reputation of the UN General Assembly.[38]

32   OSCE Mission to Moldova, Factsheet. p. 2, at: http://www.osce.org/moldova/85681?download=true.

33   Cf. Transnistrien als zweite Krim? [Transdniestria – the Second Crimea?], *IPG*. at: http://www.ipg-journal.de/aus-dem-netz/artikel/transnistrien-als-zweite-krim-348/; Stefan Wolff, The Transnistrian Issue: Moving beyond the Status-Quo, European Parliament, Directorate-General for External Policies of the Union, Directorate B, Policy Department, 2012, pp. 16-17, at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/224472/evidence-stefan-wolff-the-transnistrian-issue.pdf.

34   Remler et al., cited above (Note 28), p. 18.

35   Cf. OSCE, Transdniestrian Settlement Process a priority for Austrian Chairmanship in 2017, 6 February 2017, at: http://www.osce.org/cio/297981.

36   Büscher, cited above (Note 29), p. 37 (author's translation).

37   Cf. United Nations, General Assembly, General Assembly Adopts Texts Urging Troop Withdraw from Republic of Moldova, Strengthening Cooperation in Central Asia, GA/12030, 22 June 2018, at: https://www.un.org/press/en/2018/ga12030.doc.htm.

38   Cf. Moldova's president criticizes UN resolution on Russian troops' pullout from Transnistria, *TASS*, 15 July 2018, at: http://tass.com/world/1013208.

In general, however, the main stumbling blocks for progress in the overall talks are still status issues.[39] It also remains to be seen how the domestic friction between the pro-Russian Moldovan President Igor Dodon and Chişinău's pro-European government will develop. Dodon, who, in January 2017, even handed the Russian authorities a road map for 2017-2019 setting out a plan for resolving the conflict, criticized the UN resolution on the pullout of Russian troops from Transdniestria.[40]

The Status-Neutral Approach and the Transdniestrian Conflict

Even though the dispute between Moldova and Transdniestria is almost a textbook example of a frozen conflict (in terms of the lack of ongoing hostilities), the implementation of CSBMs has not yet been successful. Thus, before initiating a new CSBM package in this conflict, it is important to understand the political environment and the mistakes made in the 2004/2005 attempt by the OSCE Mission to Moldova. First, the political situation was not ripe at that time because the Kozak Memorandum had failed shortly before in 2003, leading to a demoralization of the conflict parties. Second, the plan included the whole area of Moldova and Transdniestria, which represented equal treatment of both entities. It was precisely this that was opposed by the central government in Chişinău.

Against this backdrop, the recent developments concerning the conflict could provide the appropriate "ripeness" to make headway. To enhance trust between the two sides, a new CSBM package could contribute to further facilitation. In that context, there are four reasons why the status-neutral CSBM arrangement could be beneficial for this conflict: *First,* the conflict between Moldova and Trasndniestria is not a conflict between internationally recognized states. *Second,* in contrast to the package in 2004/2005, a status-neutral approach should include a clear definition of a limited area of application, which could be tailored to the satisfaction of all parties involved. *Third,* a status-neutral approach could have a positive impact on the Transdniestrian conflict setting since it could also cover military units beyond standard conventional armed forces. This is of primary importance because the military potential of Transdniestria's army contains a wide range of paramilitary units.[41] In addition, a status-neutral CSBM arrangement could also cover the Russian troops stationed in Transdniestria. Furthermore, a comprehensive CSBM package is relevant because the PMR is itself capable of manufacturing small arms, mortars, and multiple rocket launchers, which could be used in a

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39   Cf. Thomas de Waal, Enhancing the EU's Engagement with Separate Territories, *Carnegie Europe*, 17 January 2017.
40   Cf. Moldova's president criticizes UN resolution on Russian troops' pullout from Transnistria, cited above (Note 38).
41   Cf. Büscher, cited above (Note 30), p. 31.

future conflict.[42] *Fourth,* status-neutral CSBMs could enhance the chances for progress by building trust between the sides.

Another advantage is that, as in eastern Ukraine, the third state party that exerts special influence on a de facto regime, namely Russia, has not recognized the PMR. In addition, state-centric arms control measures, such as the CFE Treaty, only had an impact for a limited time (1999-2004) and were only related to Russian withdrawals, because the Transdniestrian authorities did not see themselves as being part of the CFE.

However, since the last hostilities between the two sides occurred back in 1992, this raises the question as to whether there is an urgent need for CSBMs. The parties to the conflict could be reluctant to consider this approach since they may have difficulties seeing the immediate benefits. In addition, it would be a challenge to persuade the Russian Federation to participate in this kind of arms control activity. Russia would still be reluctant to accept conflict resolution and a new CSBM package unless Moldova were to abandon potential NATO membership.

Nevertheless, there is still a need for arms control and CSBMs since the stationed forces and the military devices constitute an obstacle to potential conflict resolution. Therefore, it could be useful to encourage the parties to accept a status-neutral approach, as there have been signs of a possible momentum in the conflict since 2016/2017. Furthermore, despite the disagreement between the parties, the recent UN Resolution GA/12030 can be used as an impetus for new arms control talks. In addition, even though the resolution was only adopted with a relatively small majority and the sides in the conflict are not in agreement, it can be concluded that this "frozen conflict" received global attention recently. If skillfully framed and handled by third-party facilitators, the UN resolution can be taken up as a new starting point for a new mechanism for taking steps towards reconciliation.

The Status-Neutral Approach as a New Impetus for the Conflicts in Eastern Ukraine and Transdniestria

The aim of status-neutral approaches is to provide an effective alternative to existing state-centric arms control and CSBM arrangements to deal with de facto regimes or breakaway regions. Concerning the principles of status-neutral approaches, two distinctive features stand out: the promotion of CSBMs without pre-empting the results of status talks, and the avoidance of status-related terminology.

Interestingly, when it comes to the cases of eastern Ukraine und Transdniestria, the terminology aspect does not play an obstructive role. Since

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42   Cf. Bernard Aussedat, How Can Confidence and Security Be Restored in Moldova? In: Institute for Peace Research and Security Policy/IFSH (ed.), *OSCE Yearbook 2009,* Baden-Baden 2010, pp. 191-199, here: p. 192.

the positions on status do not differ greatly between the conflict parties, it was relatively straightforward to find common language. However, both cases also show that the issue of CSBMs and the question of political status are still tightly interconnected. In the Minsk Agreements, both are mentioned in the same document without providing clarity on the order in which the stipulations should be implemented. In the Transdniestrian context, the CSBM proposals of 2004/2005 failed due to the status question and the unfortunate political environment.

Nevertheless, the desires for state independence or joining the Russian Federation on the part of the DPR and LPR in eastern Ukraine and the PMR in Transdniestria are unrealistic. Since neither conflict is characterized by a state-to-state constellation, state-centric CSBMs are not optimal for creating tailor-made arms control packages. A status-neutral CSBM arrangement would therefore be a more suitable alternative. Yet, irrespective of the more or less favorable political environments for a status-neutral approach, if the conflict parties have no greater interest in creating more trust and a stable environment than insisting on status questions, this approach cannot yield fruit. Or, in the words of the authors of the CORE Working Paper, "the instrument itself is always tied to the political interests that frame the overall situation."[43]

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43   Kapanadze/Kühn/Richter/Zellner, cited above (Note 1), p. 35.

Comprehensive Security: The Three Dimensions and
Cross-Dimensional Challenges

Claudio Formisano/Valiant Richey

From Policy to Practice – Tackling Human Trafficking in Large-Scale Movements of Migrants and Refugees

Introduction

B. was a Nigerian girl aged just over 18 years old when we met her in a shelter run by a southern Italian NGO that provides assistance and social reintegration for victims of human trafficking. She had been brought to Italy under the false promise of a job. Her traffickers turned the assurance of a better life into a nightmare of sexual exploitation.

B. is not the only one. It is a sad reality that increasingly large numbers of migrants, after having survived a perilous and often life-threatening journey, simply disappear from asylum and reception centres into the hands of traffickers seeking to exploit them for a variety of purposes, such as sexual exploitation, forced labour, and sham marriages. A study by the International Organization for Migration (IOM) concluded that more than 80 per cent of the Nigerian women arriving by boat in Italy are trafficked into prostitution across Europe.[1] Salvatore Vella, Deputy Chief Prosecutor in Agrigento, Sicily, lamented the fact that many asylum and reception centres were actually acting as "a sort of warehouse where girls are temporarily stocked […] before being picked up by mobsters".[2]

Since the onset of the 2015 surge in migrants and refugees in and around the OSCE region, the Office of the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings (OSR/CTHB) has focused on the perilous risks of human trafficking in mixed migratory flows. Capitalizing on its comprehensive methodology, the OSR/CTHB invested in research, policy, and pioneering capacity-building programmes to help national authorities to better recognize and counter the trafficking of asylum seekers and migrants across the OSCE region.

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1   Cf. International Organization for Migration, UN Migration Agency issues Report on Arrivals of Sexually Exploited Migrants, Chiefly from Nigeria, 21 July 2017, at: https://www.iom.int/news/un-migration-agency-issues-report-arrivals-sexually-exploited-migrants-chiefly-nigeria.
2   Trafficking of Nigerian women into prostitution in Europe 'at crisis level', The Guardian, 8 August 2016 (corrected on 9 August 2016), at: https://www.theguardian.com/global-development/2016/aug/08/trafficking-of-nigerian-women-into-prostitution-in-europe-at-crisis-level.

Background

There is an internationally binding definition of human trafficking that is, to various degrees, largely transposed into domestic legal frameworks. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking in Persons Protocol), provides the following definition of trafficking in persons:

> "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.[3]

Three elements are thus considered instrumental to the crime of trafficking: (a) a process or an action (recruitment, transportation, transfer, harbouring or receipt of persons); (b) a particular "means" by which that action is achieved (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve consent of a person having control over another person); (c) for a particular "purpose" of exploitation, regardless of what type (e.g. sexual exploitation, forced labour, or forced begging). When the victim is a child, the "means" element is not required; it follows that any act committed for an exploitative purpose is sufficient to establish the trafficking of a child as an offence.

Human trafficking in and around the OSCE region increases as a consequence of crisis situations such as large-scale conflict, displacement, or humanitarian emergencies. Traffickers, from cross-border organized crime syndicates to a wide array of intermediaries and individual perpetrators, thrive on trafficked persons' lack of meaningful alternatives in terms of economic opportunities, poverty, and access to health and education. Even though the forms of exploitation that may occur along migratory routes also occur in other contexts, people on the move are often more likely to suffer such exploitation due to their heightened vulnerability.

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3   United Nations Human Rights Office of the High Commissioner, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3(a), 15 November 2000, at: https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx.

The Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) was created in 2006 through the OSCE Ministerial Council (MC) Decision No. 03/06. By establishing an OSCE Special Representative, the 57 OSCE participating States entrusted the Organization with a powerful voice to advance the anti-trafficking agenda at the regional and international levels. As part of the OSCE Secretariat, the OSR/CTHB's activities address the full spectrum of anti-trafficking work, including programmes to enhance protection and prevention mechanisms for victims, hold perpetrators accountable, and build partnerships among stakeholders.

As the OSR/CTHB's activities are conceived in response to the trafficking and migration nexus as part of a broader anti-trafficking strategy, and for the OSR/CTHB, the *how* of the Office's work forms the basis of *what* the Office does, it is important to lay out how the Office performs its work generally before discussing its engagement on migration specifically. In its almost 15 years of existence, the OSR/CTHB has successfully formed a coherent methodology for its work. A sound working methodology, especially when dealing with the complexity of human trafficking, ensures that activities are not undertaken in a vacuum without considering their impact or relevance.

At the highest level, the OSR/CTHB serves to help participating States implement the OSCE commitments against trafficking, in particular those contained in the OSCE Action Plan to Combat Trafficking in Human Beings.[4] More specifically, the OSR/CTHB pursues three primary targets:

-   *Raising general awareness* of, and drawing political attention to countering trafficking in human beings in all its forms, including through representing the OSCE at the highest political and diplomatic level;
-   *Ensuring co-ordination of all OSCE work* in combating trafficking in human beings across all three OSCE dimensions, OSCE structures, and OSCE field operations, as well as vis-à-vis external partners;
-   *Identifying and elevating promising practices* in addressing the crime, by making them accessible and implementable across countries and regions.

To accomplish these objectives, the OSR/CTHB has a number of tools at its disposal:

-   *High-level dialogue with government leaders and national authorities*, which is conducted, *inter alia*, through country visits, whose primary aim

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4   Adopted by OSCE, Permanent Council, Decision No. 557, OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557, 24 July 2003, available at: https://www.osce.org/actionplan, and endorsed by OSCE, Ministerial Council, Maastricht 2003, Decision No. 2/03, Combating Trafficking in Human Beings, MC.DEC/2/03, 2 December 2003, available at: https://www.osce.org/odihr/23866.

is to learn about best practices and opportunities for participating States; as well as by the regular exchange of expertise with national co-ordinators and rapporteurs on trafficking in persons in the OSCE area and beyond;
- *Targeted research into emerging patterns of human trafficking* to provide informed policy guidance (trafficking is an ever-evolving crime that features diverse forms of exploitation, and traffickers develop different modi operandi that become all the more sophisticated over time);
- *Workshops, training courses, and regional events* with the two-pronged objectives of, on the one hand, obtaining expert input via round tables and seminars (including through specialized anti-trafficking and cyber-crime law enforcement units, NGOs, and the private sector); and, on the other hand, promoting the implementation of new tools and piloting them on the ground;
- *The Alliance against Trafficking in Persons*[5] and its expert meetings as a multidisciplinary forum for exchange and expert consultation with governments, private sector, academia, and the civil society, as well as the OSR/CTHB's membership in the United Nations Inter-agency Co-ordination Group against Trafficking in Persons (ICAT), a policy forum mandated by the UN to strengthen collaborative and cooperative anti-trafficking work within the international community.

These goals and tools are at the heart of the OSR/CTHB's methodology: Upon identifying a specific issue of concern – for example, technology as both a liability and an asset in combating human trafficking or trafficking for forced criminality – the OSR/CTHB's approach moves from research to technical assistance; or, in other words, from policy to practice. First, by studying new trends in trafficking at the national and regional level, the OSR/CTHB concentrates on understanding them through research. Second, the office strives to develop sound policy recommendations and guidelines to address them. Finally, it helps communicate this information at the ground level with an array of technical assistance and capacity-building activities, so that it can be put into practice.

Given its partnership-oriented, focused, and innovative vision, the OSR/CTHB promotes inclusive and multi-pronged responses to tackle persistent and emerging forms of human trafficking. The ultimate goal is building sustainable anti-trafficking frameworks based on human rights principles that can be adequately and effectively implemented.

In response to the exceptional large-scale movement of migrants and refugees that erupted in 2015, the OSR/CTHB's toolbox was once again able to prove its relevance in articulating meaningful responses to the inherent risks of trafficking of migrants and refugees.

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5   For more information, see: OSCE, Alliance against Trafficking in Persons, at: https://www.osce.org/secretariat/107221.

In 2015, Frontex, the European Union's external border agency, calculated more than 1.8 million illegal entries, associated with an estimated one million individuals – more than 4.5 times the total number of arrivals for 2014, according to the UN High Commissioner for Refugees (UNHCR). To put this figure into perspective: It corresponds to the entire population of Vienna. Although migration figures in Europe drastically abated after the peak of arrivals in Europe registered in the following two years, the European Statistical Office (Eurostat) still recorded over three million first-time asylum applicants between 2015 and 2017, and 649,855 in the year 2017 alone.[6]

Human trafficking often intersects with the issue of migration. Although the crime can occur domestically, i.e. within the boundaries of a country, nearly half of all documented trafficked persons are foreign migrants, predominantly ending up in situations of prostitution and forced labour. The crossing of a border may result from lack of meaningful socio-economic alternatives, reasonable options for survival, or distress caused by humanitarian crises. Many individuals are forced or deceived into embarking on an exploitative journey; others may be exploited along their way as a result of their inherent vulnerability, and deprived of basic protections and rights (as in the recent examples of migrants *en route* to and in Libya). In other instances, refugee camps populated by asylum seekers in countries of registration are a common source of recruitment for traffickers.[7]

Women, children, and young adults are particularly at risk of being coerced into complying with the demands of those promising them safe passage to a better life. With regard to migrant children, the European Migrant Smuggling Centre (EMSC) estimated in January 2016 that over 10,000 migrant children were unaccounted for. According to Věra Jourová, the European Commissioner for Justice, Consumers, and Gender Equality, they run a high risk of being trafficked and exploited by criminal gangs. At the 17th Alliance against Trafficking in Persons Conference in 2017, speakers emphasized that crises in and beyond the OSCE region dramatically heighten vulnerability to human trafficking, with numerous children representing soft targets for criminal networks and individual traffickers. Once again, in the 2018 Supplementary Human Dimension Meeting, on 28-29 May in Vienna, entitled "Child Trafficking: From Prevention to Protection", experts underlined the need to ensure the protection of all unaccompanied minors with prompt identification and immediate assistance, taking into account their specific needs and the best interests of the child. These recommendations were highlighted in the adoption of OSCE Ministerial Council Decision 6/2018 in Milan,

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6   Cf., Asylum in the EU Member States, 650,000 first-time asylum seekers registered in 2017, eurostat newsrelease 47/2018, 20 March 2018, at: https://ec.europa.eu/eurostat/documents/ 2995521/8754388/3-20032018-AP-EN.pdf/50c2b5a5-3e6a-4732-82d0-1caf244549e3.

7   Cf. Siddharth Kara, *Modern Slavery. A Global Perspective*, Columbia University press, 2017, pp. 30-31.

where OSCE participating States noted with concern the large numbers of un-accompanied children vulnerable to human trafficking in recent years.[8]

All too often in times of crisis, profiteers emerge who seek to exploit the misery and vulnerability of others. Traffickers prey on individuals desperately lacking in security and opportunity, using threats and deception to control them for profit. With the tightening of immigration policies, migration routes are now often longer, more expensive and life-threatening. Furthermore, limitations on opportunities for legal migration have inadvertently aided both human smugglers and human traffickers.

For many, human trafficking is so common in migration flows that the terms *human smuggling* and *human trafficking* have become blurred. Yet, as pointed out repeatedly by international organizations and practitioners in the field, they are separate crimes. Smuggling always involves the crossing of an international border and individuals who pay a smuggler to gain entry into a state do so voluntarily, at least in principle. Human trafficking involves some form of coercion, physical or psychological, for the purpose of exploiting the victim, as laid out in the trafficking definition in Article 3 of the UN Protocol. Unlike smuggling, it may very well occur within national borders too.[9]

Although in theory the relationship between smuggler and migrant ends once the individual has crossed into another country, there is considerable evidence that smugglers exploit illegal migrants after arrival through threats and demands for additional fees. Human trafficking is thus often a direct consequence of human smuggling among mixed migration flows.

Asylum may also be linked with human trafficking. While not all victims of trafficking are refugees, depending on the circumstances, some victims of trafficking may qualify for refugee status under the 1951 Refugee Convention or regional refugee instruments. Article 1A(2) of the Refugee Convention defines a refugee as 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".[10] The UNHCR's Guidelines on International Protection No. 7, which are intended to provide guidance on the application of Article 1A(2) to victims or potential victims of trafficking, set out when the 1951 Convention refugee definition applies to victims of trafficking and persons at risk of being trafficked. According to the Guidelines, victims of trafficking or persons who

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8   Organization for Security and Co-operation in Europe, Ministerial Council, Milan 2018, Decision No. 6/18, Strengthening Efforts to Prevent and Combat Child Trafficking, Including of Unaccompanied Minors, MC.DEC/6/18, 7 December 2018, at: https://www.osce.org/chairmanship/406745.

9   For more information on the nexus between trafficking and smuggling, cf. Madina Jarbussynova, An Inextricable Link, *Security Community* 3/2016, pp. 28-30, at: https://www.osce.org/magazine/285641.

10   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.

fear being trafficked are refugees if all elements of the refugee definition in Article 1A(2) of the Refugee Convention are satisfied, i.e. if they have a well-founded fear of persecution in their country of origin where the state is unable or unwilling to protect them.[11]

In some instances, immigration authorities or courts may fail to identify victims of trafficking as also eligible for protection as refugees or a subsidiary or complementary protection status. To ensure that international protection as a refugee is available to victims of trafficking who need it, international practitioners strongly emphasize how asylum authorities must be able to identify links between trafficking and refugee protection needs. In turn, this form of legal protection helps reduce people's vulnerability to being trafficked in their new location. It also indicates that states have a responsibility to prevent refugees and asylum-seekers in their jurisdiction from falling victim to trafficking.[12]

As we have seen, categories as defined in international law sometimes blur before the complexities of contemporary migration. Yet, as widely pointed out in numerous debates, the way persons on the move are categorised, and how these categories are applied, are of vital importance as this may result in very different responses ranging from deportation to entitlement to international protection, assistance, and reintegration measures.[13]

Against this backdrop, the OSCE investigated the complex phenomena of human trafficking and large movements of migrants and refugees. Only when the link between the two is recognized, understood, and analysed will it be possible for governmental and non-governmental actors to better respond to them. Since the outbreak of the migration crisis, the OSR/CTHB has led the OSCE's efforts in this direction.

The OSR/CTHB's Migration Programme

Effective responses start with sound research. In line with the methodological path outlined above, the OSR/CTHB launched fact-finding visits to countries most affected by large movements of migrants and refugees from 2015 through 2017. These needs assessments took the Office through reception, identification, and transit centres across the southern Mediterranean region, in Turkey,

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11   Cf. UNHCR, Guidelines on International Protection. The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/0, 7 April 2006, p. 3, point 6, and p. 6, point 13, at: https://www.unhcr.org/publications/legal/443b626b2/guidelines-international-protection-7-application-article-1a2-1951-convention.html.

12   For more information regarding the links between trafficking and refugees, cf. Trafficking in Persons and Refugee Status, ICAT issue brief no. 3, September 2017, at: http://icat.network/sites/default/files/publications/documents/ICAT-IB-03-V.2.pdf.

13   Cf. Claus K. Meyer/Sebastian Boll, Editorial: Categorising Migrants: Standards, complexities, and politics, *anti-trafficking review* 11/2018, pp. 1–14, available at: http://www.antitraffickingreview.org.

Italy, Greece, as well as along the so-called Balkan route through Serbia, the former Yugoslav Republic of Macedonia, and Bulgaria. An in-depth, expert needs assessment was conducted in the summer of 2017 in selected first identification and reception facilities in southern Sicily, at Lampedusa, Pozzallo, Ragusa, and Catania.

Observing the situation on the ground across the OSCE region proved invaluable in witnessing the sheer scale of the challenges local authorities were facing to provide food, shelter, and accommodation for large flows of persons in distress. In refugee camps in Gaziantep, Turkey, across the island of Lesvos in Greece, and elsewhere, work is conducted by first responders in often difficult circumstances to assist and give protection to migrants and asylum seekers. Similarly, exemplary practices were collected by coming into contact with dedicated first responders whose diligent work on the ground often goes unreported.

Moreover, such informative visits enabled the OSCE to experience firsthand the progress made by authorities in identifying potential victims among mixed flows of migrants and refugees. Findings confirmed that, while considerable efforts were made and excellent practices exist at the local level, there was still potential for improving the capacity of frontline operators to screen such flows to promptly identify victims of trafficking. These findings formed the basis of the OSR/CTHB report published in January 2018 and entitled "From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows Office, a focus on First Identification and Reception Facilities Refugees and Migrants in the OSCE Region".[14] The OSR/CTHB explored all stages of a typical migrant's journey from disembarkation towards the final determination of status, as it is often during these critical operations that victims can be identified and adequately referred for assistance.

First and foremost, the report found that a harmonized, multi-agency architecture is necessary to address the needs of trafficking victims and to mitigate the risk of human trafficking to potential victims amongst the migrant population, irrespective of their status or claims. Failure to implement this approach risks neglecting the vulnerabilities of a significant proportion of people who may very well fall prey to human trafficking practices as a result. Indeed, the presence of unidentified and unprotected victims of human trafficking allows criminal activities to flourish, adversely affecting the rule of law.

The key lies in better screening at entry points. Due to the reluctance of victims to come forward, identification must be proactive, not reactive. Adequate time and tools are vital in identifying vulnerabilities and special needs,

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14 OSCE, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows*, 18 January 2018, at: https://www.osce.org/secretariat/367061.

particularly with persons attempting to remain invisible or undeclared. Currently, such vulnerabilities are not appropriately recognized, either because time does not permit this, or, because the appropriate tools are not in place, are not widely harmonized or, in some instances, are simply not applied. Furthermore, the mandate of all agencies involved in identification and registration procedures should embrace a strong focus on human trafficking risks at all stages of the process.

The report argues that such an inclusive mechanism should be regulated by formalized protocols and guidelines at both central and local levels; delegating clear roles to all actors operating in reception facilities, including medical personnel, social workers, and law enforcement agencies, with a supra coordination oversight assigned to local authorities. Cross-sectoral co-operation between prosecutor offices, immigration authorities, and specialized anti-trafficking NGOs should be legislatively formalized to become the norm.

In the spirit of developing such multi-agency co-operation, the OSR/CTHB moved into policy development and is finalizing guidelines for frontline operators to help them overcome obstacles in the identification and protection of trafficked persons. Harmonized, standard procedures can make a difference in facilitating the adoption of effective multi-agency work in combating trafficking of migrants from the early stages of first identification and migrant reception. Excellent practices exist, but they are all too often confined to a specific locality or single region. These are captured in the OSCE guidelines to be elevated and applied more widely.

Looking ahead, it will be possible to adapt the upcoming OSCE guidelines for the identification of trafficked persons within mixed migratory flows to any national context, as their underlying principles of collaborative work are universal. They will undoubtedly be used as an important tool and vehicle to train frontline responders across the OSCE. It is only by applying uniform standards of co-operation and by adopting the same anti-trafficking principles, in fact, that it will be possible to prevent victims falling between the cracks of the system.

A Pioneering Frontier of Anti-Trafficking Training: Building Multi-Agency Co-operation

Another example of the OSR/CTHB's engagement with the anti-trafficking effort in relation to migration is its ground-breaking simulation-based training programme. Thanks to the Italian government, its Carabinieri Force, and a vast number of local, regional, and international partners, the OSCE has invested in practical, hands-on technical assistance. Launched at the Center of Excellence of Stability Police Units (CoESPU) in Vicenza as an innovative training project to combat human trafficking along migration routes, the simulation-based

exercise was designed to enhance transnational responses to trafficking in human beings in a migratory context.

After a day of intense discussion of theoretical, methodological, and technical aspects of anti-trafficking action, practitioners participate in a four-day simulation exercise on the grounds of the Center. The goal of the exercise is to promote practical co-operation and joint solutions for victim identification and criminal prosecution. It highlights the role of financial investigation as a best practice for dismantling complex criminal organizations. Reality-based scripts read out by actors assure the realism of the simulations. Experts coach the participants on how best to respond to situations as they unfolded before them.

Over 300 criminal and financial investigators, prosecutors, labour inspectors, social service providers, and journalists from nearly every OSCE participating State have been trained so far on building a multi-agency approach to identify victims of sex trafficking and forced labour among migration flows. A regional exercise for Russian speaking practitioners was also delivered in Astana, Kazakhstan, in September 2018. The ability to respond swiftly with such a practical and results-oriented initiative is proof of the comparative advantage of the OSCE in this respect. Plans are already underway to offer an expansion of what is now considered a role model in anti-trafficking training to engage the OSCE Partners for Co-operation across the Mediterranean region.[15]

Conclusion

Within the safety of the Sicilian home which offers her temporary shelter, B. reflects on the importance of security and confidentiality as a fundamental prerequisite for migrants to come forward and denounce their traffickers. B. found the strength to do so, and collaborates with law enforcement. She also benefits from long-term assistance and social inclusion in compliance with the law. Many voices, however, go unheard, and too many stories go unreported. Wracked by memories of terrible experiences they are desperate to put behind them, other girls such as B. will only share their experiences if they feel safe, and know that their exploiters are not watching them, trying to threaten them. Proactive investigations, human-rights compliant criminal justice responses, and trauma-informed reception measures can create the necessary conditions for many trafficked migrants to help authorities identify traffickers and receive assistance.

In a quest to raise awareness of trafficking risks in migration, as well as to make these voices heard, the OSR/CTHB has visited some of the most critical migration transit and reception hubs in the OSCE region. By speaking with dozens of experts on the ground and learning where common challenges in

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15 For more information, see: OSCE, Combating Human Trafficking along Migration Routes, at: https://www.osce.org/projects/cthblivex.

combating human trafficking fundamentally lie, it put effort into providing tailored policy advice and technical assistance to national authorities to overcome some of the obstacles in the identification of victims and of perpetrators.

Despite the scale and breadth of the challenges the OSCE region is facing in this domain, thanks to the OSCE's comprehensive toolbox for advancing security and the OSR/CTHB's partnership-oriented approach, a significant contribution has been made to highlighting and mitigating the scourge of human trafficking. We owe this, first and foremost, to the many individuals such as B. who are victims of this serious crime.

Stefano Volpicelli

Counteracting the Witch Hunt in Managing the Reception of People Seeking Protection: The "Trieste Model"

Introduction

The large flow of migrants fleeing their countries and heading to Europe as a consequence of armed conflict, internal turmoil, economic crisis, or terrorism is a phenomenon dating back to the early nineties.

It started with the collapse of the Soviet Union at the beginning of the 1990s, followed by the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) in the same decade.

That first wave of destitute people rose further at the beginning of the millennium with the concomitant Greater Middle East crisis in Afghanistan and Iraq along with the sub-Saharan African diaspora, triggered by a mixture of extreme poverty, internal turmoil, and the evolution of terrorist groups.

The phenomenon was exacerbated at the end of 2010, sparked by the "Arab Spring" that ignited in the eastern and northern part of Mediterranean coasts.

Lately, the opening of the so-called Balkan route in 2015 that channelled hundreds of thousands of people from the Greater Middle East to the European Union (EU) through the Balkan countries, started a vicious circle of politically heated debate that continues to shake the very foundations of the EU and its human rights oriented heritage.

As a consequence, in 2015, at the peak of the humanitarian crisis, the issue of immigration surged on the list as one of the top concerns of European citizens – 58 per cent of Europeans said that immigration was the most important issue facing the EU.[1]

Since then, migration has become the main and sometimes the only topic in the political arena across Europe and abroad, influencing crucial votes such as the UK's referendum on Brexit, recent elections in Austria, France, Germany, the Czech Republic, Hungary, and Italy, with anti-immigration parties gaining ground and mainstream parties often jumping on the bandwagon for more restrictive migration policies.

Although the waves of newcomers were mainly people seeking protection, many EU member states switched their migratory approaches from integration to repression in order to meet the pressure of manipulated public

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1   Cf. European Commission, European Political Strategy Centre, 10 Trends Shaping Migration, p. 20, available at: https://ec.europa.eu/epsc/publications/other-publications/10-trends-shaping-migration_en.

opinion,[2] redirecting it from many social and economic concerns related to the economic recession and progressive impoverishment of the middle class.[3]

Fortress Europe[4] further tightened both its eastern and southern borders, paving the way to an all-against-all combat that has been informally threatening the Schengen Agreement.

Eastern borders were protected by setting up kilometres of barbed wire, suspending the right to claim protection, while NGOs' search and rescue operation ships roamed the Mediterranean Sea, waiting for authorization to disembark the migrants on board.

What is clear in this scenario is that sound and fair policies to manage the inflows of migrants, both economic and those seeking refuge, are still lacking, but they are clearly needed.

Each European country plans and acts in the short term, only considering the needs of their population. Political leaders are proposing policies often reduced to buzzwords, where the apparently progressive slogan "help them at their home" is countered by the curt "push them all back", both forgetting the complexity of a phenomenon that requires a solid, determined and long-term strategy if it is to be properly managed.

All this is taking place in Europe as a whole, not only within the EU, which, over the last 25 years, has displayed the resilience of a civil society untiringly welcoming the flows of people long before the intervention of local institutions or international humanitarian aid. Civil society organizations have introduced and piloted innovative methods of managing the presence of newcomers on a voluntary basis, contributing to and refining the existing ones. Such experiences re-shaped and improved the rules, regulations, and laws drafted by sensitized policymakers, establishing a formal system of protection and support.

Against this background, this article considers the case of Trieste, an Italian town where a local NGO, the Italian Consortium of Solidarity (ICS) has been implementing a model for welcoming, hosting and integrating asylum seekers and refugees since 1998, from the time of Yugoslavian crisis.

The "Trieste Model" had primarily influenced the development of the Italian System for the Protection of Asylum Seekers and Refugees (*Sistema di*

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2   According to the UNHCR, the irregular sea arrivals have dropped to 102,800 in 2017 and 48,300 as of 30 June 2018. Cf. UNHCR, Refugees & Migrants, Arrivals to Europe in 2018 (Mediterranean), January-June 2018, at: https://data2.unhcr.org/es/documents/download/64891.

3   Cf. Stefano Volpicelli, Who's Afraid of ... Migration? A New Narrative of Migration, IAI Working Papers 15/32, September 2015, p. 2.

4   "Fortress Europe" was a military propaganda term used by both sides during the Second World War to refer to the areas of Continental Europe occupied by Nazi Germany, as opposed to the United Kingdom across the Channel. Currently, within Europe, the term is used as a pejorative description of the state of immigration into the European Union. This can be in reference either to attitudes towards immigration, or to the system of border patrols and detention centres that are used to help prevent illegal immigration into the European Union. Cf. Autonomous rear Entrances to Fortress Europe?! *Indymedia UK*, 1 October 2006, at: https://www.indymedia.org.uk/en/2006/10/352363.html.

Protezione per Richiedenti Asilo e Rifugiati, SPRAR), a system based on decentralized accommodation in small premises (apartments). This system contrasted with standard accommodation in camps. Then, when the flows increased in 2011 and the SPRAR projects could not accommodate all the incoming people, Trieste coped successfully with the emergency by reviving the same model of reception. This experience served as a basis for the formal inclusion of the model as part of the Italian asylum policy, "Centres of Extraordinary Reception" (*Centri di Accoglienza Straordinaria*, CAS).

This chapter expands the discussion and analysis of the benefits and positive impact of decentralized accommodation in times of political distress and impotence in relation to a phenomenon that will reshape the European demographical composition.

This contribution comprises this introduction, two main chapters and conclusive remarks. Chapter one introduces the historical and social context that led to the creation of the Italian system for the protection of asylum seekers and refugees. Chapter two digs into the Trieste Model, an example of good practice where the collaboration of local civil society and institutions has been moving out of the emergency situation, successfully taking an extraordinary solution into the mainstream. Conclusive remarks will stimulate discussion about practices for the reception of those who will become, temporarily or permanently, European residents.

The Italian System for the Protection of Asylum Seekers

Italy, due to its geographically strategic position, has become the main gateway for migrants coming from Africa, Eastern Europe, and the Greater Middle East.

Italy received the first flows from the Balkan Peninsula in the early 1990s and then massive influxes from North African shores from the early 2000s.

The sea routes were the main focus of attention from the media, but in reality, the Balkan route has always been active, with thousands of migrants crossing the Balkans from Greece to Italy, Slovenia, and Austria.

Although generating legitimate concerns for the autochthone Italian population directly affected, before 2014 neither the authorities nor public opinion ever generally considered these southern or eastern flows a national priority. This was probably because, for many years, Italy perceived itself as a country of transit rather than a destination. In fact, out of the hundreds of thousands who arrived, very few remained on Italian territory, preferring to move northbound towards other European destinations such as France, Germany, Sweden, and the UK.

To summarize briefly, it can be said that after the initial improvisation in the 1990's, in the new millennium, Italy moved towards a more regulated system for the protection of asylum seekers.

Admittedly, before 2000, it was possible to draw a clear distinction between asylum seekers and refugees on one side, and migrants[5] on the other. Not all the newcomers were asking for protection, but rather became invisible after being registered by the authorities at the port of landing.

Over the years, with the increase of instability in many regions of Africa, Asia, and the Greater Middle East, the number of asylum seekers grew at a steady rate[6] and "there is little to suggest that the dramatic rise in asylum seekers seen in 2015 and 2016 will soon abate. In part this is due to ongoing persecution, conflict, and human rights violations in numerous countries of origin."[7]

Therefore, the protection system in Italy was modeled following these sudden changes, and it was designed as follows:

1) Accommodation in hotspots at arrival, at the point of registration. Introduced as entry accommodation points for all migrants aiming to divide asylum seekers from migrants, in reality the hotspots are located only in the South of Italy (Lampedusa, Pozzallo, Trapani, Augusta, Taranto Crotone, Reggio Calabria, Palermo, Messina, and Cosenza). The juridical nature of these centres has never been completely framed by the law and many wrongdoings in their management (violence, maltreatment, lack of proper information for asylum applicants, careless handling of applications etc.) were denounced by NGOs dealing with the protection of migrants.[8]

2) Transfer to nearest accommodation premises for those claiming asylum protection, usually in big camps called CARA (*Centri di Accoglienza per Richiedenti Asilo/*Centers of Accommodation for Asylum Seekers) that

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5 An asylum seeker is an individual who is seeking international or country protection (refugee status, subsidiary or humanitarian protection). An economic migrant is someone who leaves his or her country of origin in order to find a better life and not fleeing persecution. Although they do not fall within the criteria for refugee status and are not entitled to receive international protection, nowadays many people are fleeing countries run by repressive regimes where injustice and inequalities do not allow for the full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law.

6 According to UNHCR the number of forcibly displaced people has increased by over 50 per cent from 2007 to 2017. Today this population is 68.5 million people worldwide. Cf. UNHCR, Global Trends. Forced Displacement in 2017, p. 4 and 2, at: https://www.unhcr.org/5b27be547.pdf.

7 Michael Kegels, Getting the balance right: Strengthening asylum reception capacity at national and EU levels, Migration Policy Institute Europe, Brussels 2016, p. 4, available at: https://www.migrationpolicy.org/research/getting-balance-right-strengthening-asylum-reception-capacity-national-and-eu-levels. Cf. also United Nations High Commissioner for Refugees (UNHCR), Worldwide displacement hits all-time high as war and persecution increase, 18 June 2015, at: https://www.unhcr.org/558193896.html.

8 For more insights, cf. Amnesty International, Rapporto Hotspot Italia, 3 November 2016 at: https://www.amnesty.it/rapporto-hotspot-italia/, and the ASGI press release "Hotspot di Lampedusa: violati i diritti dei migranti" (Hotspot in Lampedusa: migrants' rights violated), issued on 6 July 2018, at: https://www.asgi.it/allontamento-espulsione/hotspot-di-lampedusa-violati-i-diritti-dei-migranti/.

are still operative, even though they should have been suppressed and replaced by SPRAR projects.

2b) Transfer to a centre for identification and expulsion for those not claiming asylum protection. These centres are very limited. The majority of migrants whose asylum requests have been rejected in the hotspots receive a decree of expulsion and are supposed to leave the country within seven days.

3) Gradual decentralization in SPRAR projects for integration of asylum seekers on Italian (and European) territory.

The SPRAR system was conceived in 1999, starting with bottom-up initiatives of decentralized or widespread accommodation in small structures such as apartments and small communities implemented by local NGOs. The system became more formalized in 2001 through an agreement between the minister of interior (MOI) and the Association of the Italian Municipalities (*Associazione Nazionale Comuni Italiani*/Association of the Italian Municipalities, ANCI) and formally institutionalized in 2002, when the SPRAR system was recognized by Law no. 189/2002 and the programmes were co-ordinated centrally.

The decision to set up a SPRAR project relies on the municipalities, which are financially supported by funds from the Ministry of Interior. The projects depend on proactive collaboration between central (MOI) and local (municipality) governmental authorities together with non-profit organizations (NGOs, CSOs, social co-operatives) that are responsible for the management of the project and its activities.

The co-decision-making between national, regional, and local levels of government has made local authorities partners in the distribution of asylum seekers, rather than (potentially reluctant) executors of national decisions.[9]

The SPRAR projects are flexible and open to the creativity of local partners but must be implemented in line with the principle of "integrated reception" which is the backbone of the whole system. It implies the setting up of a local network where agencies involved in social, educational, labour, and health fields put their efforts together, aiming at the social inclusion and long-term integration of the beneficiaries.

Although visionary for its time (in the following years similar systems were implemented in Germany, the Netherlands, UK, and Norway) and expected to become the only model for asylum seekers' accommodation, this approach has not yet achieved this goal.

Not all Italian municipalities implemented a SPRAR project, because until 2011, the available places were sufficient to accommodate the asylum

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9   Cf. Ministero dell'Interno, Gruppo di studio sul sistema di accoglienza, [Ministry of the Interior, Study Group on the Reception System], Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi [Report on the accommodation of migrants and refugees in Italy. Aspects, procedures, problems], Rome, October 2015, p. 32.

seekers. Today, out of 7,954 municipalities, only 754 run SPRAR projects for a total of 35,881 beneficiaries.[10]

The other centres are still operating, thus creating an imbalance in the protection mechanisms and further steps from arrival to protection being granted that are provided in different territories.

Furthermore, the increase in instability in many African, Asian, and Greater Middle Eastern countries generated a large inflow of asylum seekers, thus putting the protection system under stress, considering that it was not yet fully operational.

In order to bypass these drawbacks and accommodate legitimate requests for asylum, Italian institutions had to find an "emergency" solution: the Centres of Extraordinary Reception (CAS). These centres, created in 2015[11] as a temporary response to the sudden and unexpected arrivals of asylum seekers, soon became the ordinary accommodation of asylum seekers awaiting vacant places within the SPRAR system.[12] Just like SPRAR projects, the CAS projects are funded through the "National Fund for asylum policies and services",[13] but the similarities end here. Indeed, attempts to enforce the introduction of such projects was repeatedly refused by the authorities, backed up by the local population.

Politically speaking, the decision to start-up a CAS relies on the central authorities, through their local representative, the *Prefettura* (the territorial office of the central government), opening calls for tenders to agencies that can be *non* as well as *for* profit. This undermines the pact of mutual co-operation between governmental organisations' local and central agencies and the civil society established with the SPRAR project, and leads to social conflict among the autochthones, who perceive the decision as being imposed by the central authorities.

Another critical point represented by the CAS system is that, unlike in the SPRAR system, there are no guidelines for the accommodation of asylum seekers. This means that the standards of accommodation in CAS are inconsistent. In some locations, asylum seekers are hosted in big, isolated camps, left alone waiting for the Asylum Commission's decision on their asylum claim. This form of reception, usually run by big NGOs or private companies,

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10 Data available on the SPRAR website at: https://www.sprar.it/i-numeri-dello-sprar.
11 Decreto Legislativo 18 agosto 2015, n. 142 [Legislative Decree no.142 of 18 August 2015] (the so-called Reception Decree), in: *Gazzetta Ufficiale della Repubblica Italiana*, at: http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg.
12 As of 23 January 2017, the Italian Protection System (as a whole) accommodated 175,550 persons, of which 14,750 (1.8 per cent) in structures of first accommodation, 136,978 (78 per cent) in CAS, and 23,822 (14 per cent) in SPRAR.
13 Agencies managing the CAS and SPRAR projects receive approximately 35 euros for each person accommodated. In some cases, the CAS projects receive less, but this mostly depends on the tender. The 35 euros must cover all the costs of the provision: accommodation, clothing, food, vocational training, transport, etc. The beneficiaries receive a daily allowance ranging from 1.5 to 3 euros.

often exacerbates the tension of both residents of the camps and the local population. Violence, due to the extreme level of frustration of inactive people literally wasting their lives, is reported inside and outside the premises. Those who do get out wander around in groups and are confronted with hostility from the locals in a climate of distrust, fear, and concern. As a result, the process of integration in the recipient society is heavily hindered.

It is easy to understand that populism is gaining ground as a result of this limbo, negatively influencing current and future integration. A clash between the two groups, as a self-fulfilling prophecy, is only a matter of time.

In other territories, asylum seekers are accommodated in small structures or apartments and benefit from the same services envisaged by the SPRAR system. Most of the time these projects are managed by CSOs integrated into the territories, thus investing the resources in serious integration and social inclusion-oriented projects. This virtuous and ethical approach, often financially backed up by the same CSOs through fund-raising campaigns, allows the implementation of a concrete integration process involving the whole social fabric.

This is the case of Trieste where, thanks to the commitment of the Italian Consortium of Solidarity (ICS) and local CSOs managing both CAS and SPRAR projects, it has been possible to set up a virtuous circle involving other CSOs and many local agencies as partners, networking to welcome and accommodate asylum seekers; a commitment that, over the past 20 years, has turned into a positive model for the reception of asylum seekers and the integration of refugees.

From Good Will to Practice: Welcoming Asylum Seekers in Trieste

Trieste is a town of approximately 200,000 inhabitants. It is located a few kilometres from the Slovenian – once Yugoslavian – border, and has always been a crossing point to northern Europe.

The tolerance and openness of the local population, charismatic leadership, and the political base were the most important aspects in the foundation of Trieste's open model of mental health hospital wards aimed at the full integration of psychiatric patients. Since the early 1970s, such social innovation played an international benchmark role in community mental health care.

In 1993, during the war involving the members of the SRFY, the ICS started providing hospitality to refugees coming from Bosnia and Herzegovina and other areas of conflict. In 1998, in the aftermath of the Kosovo crisis, Trieste faced the arrival of thousands of refugees. The municipality of Trieste reacted by setting up temporary accommodation in an unused school, handing over the management to the ICS. That experience would become one of the first projects influencing the foundation of the future SPRAR system.

Since the inception of the SPRAR system in 2002, the ICS has been managing the SPRAR project in Trieste. It has a capacity of 120 places for the reception of asylum seekers and refugees arriving in Italy through the Balkans.

As discussed in the previous chapter, over the years and with an increased number of asylum seekers, the SPRAR system was not able to accommodate all those seeking refuge, imposing the search for other solutions.

Once again, the ICS was ahead of its time. In 2011, during the "North Africa Emergency" and long before the formal foundation of the CAS projects in 2015, ICS provided decentralized accommodation for refuge seekers in small structures. The model was similar to the SPRAR project, avoiding accommodating beneficiaries in camps or big hotels, as was the case in many other Italian territories.

This allowed them to avoid double standards of accommodation, with refuge seekers benefitting from the SPRAR provisions while others received just basic forms of shelter.

Over the following years, when the unexpected flows of asylum seekers consolidated, the experienced collaboration between the ICS, the municipality of Trieste and the *Prefettura* allowed the territory to overcome the emergency and respond in an orderly fashion.

From 2016, the municipality of Trieste, after a political reshuffle resulting from the municipal elections, moved to more conservative positions and abandoned its collaboration with the established network of institutions. It also reduced the places in the SPRAR project from 120 to 90.

However, the ICS's collaboration with the *Prefettura* continued, the existing network was slightly modified and further expanded, including a faith-based organization (Caritas Foundation) and three social co-operatives (2001 Agenzia Sociale, La Collina, and Lybra). The places lost in the SPRAR system were replaced by an expansion of the places available through the CAS system.

The current CAS project run by the ICS and its partners is again revolutionary. In addition to shelter, health care, food, and clothing, all the asylum seekers also benefit from legal support, language courses, formal education, and vocational training, which is important for their access to the job market.

Furthermore, the ICS model of CAS envisages the involvement of a large number of volunteers for leisure initiatives (always aimed at integration with the autochthone population) and of agencies for education, health, and labour in the territory, both non-profit and governmental. These are included in a wide and dedicated network where citizens have an active role and feel a greater sense of ownership for the project.

Designed in this way, instead of remaining in a dystopian limbo, the CAS project turned into a preliminary step prior to the enrollment of beneficiaries to the SPRAR project. This proved to be a good strategic move, as the former asylum seekers, when granted a form of protection, could prolong their stay by joining the SPRAR project and moving forward in their integration process. In

this way, Trieste became the only place where asylum seekers could be gradually integrated into the social fabric through a unique system combining CAS and SPRAR potentialities, as originally planned by the institutions.

The other entirely new aspect of the CAS project designed by the ICS resulted in accommodation of the beneficiaries in a number of small structures such as apartments and small hostels in the city centre. The majority of the other CAS projects still accommodate beneficiaries in former barracks or converted warehouses, usually on the outskirts of town.

This choice was made on the basis of a simple principle, already observed through the management of the SPRAR project. The benefits of accommodating asylum seekers in small structures, located in the city centre, are threefold:

1) Tensions that generally trigger violence and aggression commonly observed in the big camps are reduced when beneficiaries live in small communities and are responsible for cleaning their accommodation, shopping for their food, and cooking. They are in control of simple daily activities unlike in the big camps, where residents passively spend their days while other, paid staff are fulfilling their needs, cleaning the facility, cooking, or more often distributing meals cooked elsewhere.

2) The social fabric, with beneficiaries forced to get in contact with the local population and their everyday habits, is enhanced. Beneficiaries learn how to relate to their neighbours, and how to buy food, cleaning and hygiene items in the same local shops. The local population, by meeting refuge seekers coming from different countries with different traditions, habits, and customs, might modify their "original" prejudice and diffidence,[14] which is largely the product of unscrupulous politicians and media.

3) The whole economy of the city benefits, since all the money invested in the ICS-run CAS and SPRAR projects is funneled into the local economy. The apartments are rented from local citizens, and food and cleaning items are bought in local shops, while in the camps, large subcontractor agencies usually provide cleaning, food, and security, bypassing the community and channeling funds directly to the agency. The ICS personnel are not employed to do what the guests can do for themselves. Instead, they are dedicated to promoting their social inclusion by facilitating, sometimes even negotiating, a relationship with the local community for the various administrative procedures that they

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14 This has also been observed in Germany, another country where accommodation is decentralized. In the words of Andreas Germershausen, Commissioner of the Berlin Senate for Integration and Migration: "We see that wherever there is no contact with asylum seekers, the opposition to asylum seekers is stronger than where people already have personal contact." Does housing asylum seekers apart from locals increase tensions? *Debating Europe,* Started 15 March 2017, at: https://www.debatingeurope.eu/2017/03/15 /housing-asylum-seekers-apart-locals-increase-tensions/#.W3cumS1aa34.

have to undergo, assisting beneficiaries with the choice of language courses and vocational training and providing general assistance with daily living, including how to spend leisure time.

Finally, the ICS model privileges the use of the local educational, health and, leisure agencies. Unlike many CAS projects carried out in big camps, where each service is provided in-house, in Trieste the guests are enrolled in already existing schools or training agencies that serve the local population. They are registered with a family doctor[15] where they have to report their health problems. They enroll in local clubs to participate in their preferred sports.

All important aspects of living are shaped in order to bring protection seekers as close as possible to the local population. The figures presented demonstrate the impact of such an initiative.

The Trieste reception systems, SPRAR and CAS together, can accommodate a maximum of 1,250-1,300 people. The has increased by approximately 400 places during the last two years with the gradual rise of accommodation for families, which now represents 30 per cent of the total number of newcomers. Opening the system to families has proved a good strategic move since families, especially those with children, are usually accepted more readily by demographically older local populations.

One thousand three hundred protection seekers are conspicuous in a city the size of Trieste. Notwithstanding the number, their presence has gone unnoticed since the inception of the CAS project.

The decentralized accommodation system is organized in two types of premises: emergency and operational.

The former comprises medium-sized premises that could host 95 people, and two hotels. These facilities work as mini-hotspots, not in the sense of segregating asylum seekers from migrants, but for understanding which structure can better accommodate them for their successful integration.

The latter are small communities and apartments planned for those who have initially spent a few weeks in the former.

Small communities are necessary, because many guests need an adaptation period to familiarize themselves with the new habits and customs of the local community. The ability to take care of themselves in a new environment is the main objective of the reception programme, and this is achieved with time. Furthermore, some beneficiaries need the constant presence of staff because they might be in need of more attention due to trauma experienced along the journey to Europe or in their country due of origin, or because they are young (one third of the guests are 18-25 years old).

Apartments are suitable for guests who are progressing their integration process. They have achieved a good level of autonomy and just need to be

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15   General practitioner in Italy.

supported by the ICS staff in planning their future and facilitating their relationship with local authority agencies for administrative and bureaucratic procedures.

The existing operational system, which has 116 apartments and 13 small collective premises, is trying to meet as many needs as possible. Even the apartments are not considered the same. Accommodation for each new guest is carefully considered based on the location, number of guests, nationalities, and staffing capacity. The profile of staff members is also different, from age to qualifications. Both men and women work with the guests and, on some occasions, the gender of the staff member makes the difference. Some guests fit better with more experienced support staff; others need the energy and the "camaraderie" of younger staff. Some staff are more competent in dealing with young people, others with people with health problems or psychological fragility.

However, neither the apartments nor the small collective premises host guests who are all the same. They are mixed as much as possible in terms of nationality, age, and vulnerabilities. The model of ethnically coherent settings, tailored to young people or those with psychological vulnerabilities, is not considered a good basis for an integration-oriented project.

The system is economically very effective, given that out of the annual budget of approximately 17 million euros, almost 100 per cent goes back into the local economy.

For example, the budget for the year 2017 was as follows:

- Renting apartments from local landlords, including housing utilities and maintenance, amounted to 17 per cent of the total budget. In a city where hundreds of apartments are vacant, this represents an important component of many families' income;
- Daily life expenditures, including food, clothing, linen, personal hygiene, and house cleaning, amounted to 20 per cent of the budget. As already mentioned, that money is managed and spent directly by the guests in the local shops;
- Transportation amounts to six per cent of the budget. Guests receive a monthly ticket for the local transport service – an important source of support to the local system that operates for the whole community;
- Integration-oriented expenditures, including schooling, internships, labour probation, initial rent contribution for those leaving the reception system and becoming autonomous, health care and cultural mediators amounted to ten per cent;
- Salaries of 240 regularly employed workers amounted to 32 per cent of the budget. The money remains in the local economies, as the workers are members of local society, living and contributing locally and paying taxes;

- Administrative office costs such as bank, mail, stamps, renting, maintenance, or taxes amounted to 15 per cent.

However, the budget spent for either SPRAR or CAS, managed in a decentralized manner, fuelled the grimmest political speculation and consequently the manipulation of public opinion. Populists claim that asylum seekers receive 35 euros per day, negatively affecting the Italian economy.

However, the 35 euros they receive per day is not their allowance, it is the total amount per person given by authorities to the agencies managing SPRAR or CAS projects. On the contrary, migrants financially support the local population that largely benefits from their presence.

As has been demonstrated, apart from the most important humanitarian reasons, decentralized reception is economically effective, which is why it should be prioritized over the big camp solution where, in recent years, many scandals of mismanagement and corruption came to the surface.

It would be unfair, after having praised the Trieste model, not to mention some critical issues that are still affecting the reception and integration of the protection seekers.

Most of these issues are more political than operational.

Firstly, the imbalance between SPRAR and CAS has been mentioned already. Although the services provided in Trieste are more or less the same, what makes a significant difference is the period that a person can receive benefits from the system. In SPRAR projects, guests can rely on six months of accommodation and support that can be extended for another six. In the CAS project, beneficiaries can stay until they receive all the documents (identity card, residence permit, health card, passport) needed to live and move autonomously throughout the EU territory. In Trieste, the decision has been taken to provide six months of accommodation and support automatically after issuing protection to all the CAS guests, otherwise it would be difficult for a person to attain the necessary "tools" to live an independent life in such a short period of time. The best outcome would be achieved through the combination of the two projects, CAS and SPRAR, but the shortage of places makes it impossible for the majority of protection seekers.

Another significant hindrance is the scarcity of special premises for people with psychological or psychiatric vulnerabilities. During the last six months, the number of people with post-traumatic stress disorders (of any kind, but mainly due to the violence they were exposed to at home and from the hardships experienced during the trip) increased. These people are in need of specific, long-lasting, specialized treatment in order to overcome the past and prepare for a new future. These treatments are currently very scarce in Italy as a whole.

Finally, there is no provision for further supporting beneficiaries at the end of the period of accommodation in their CAS and/or SPRAR. Too often, people who are serious about investing in their future in the country remain

without support. In exceptional cases their stay under protection is extended, but the formal emergency nature of the CAS does not anticipate this becoming standard procedure. In order to overcome this gap, the ICS is carrying out parallel projects, only partially supported by governmental funds, aimed at bearing the initial costs of independent housing for those who are settling in Trieste. With just a little more investment, many former protection seekers would have a better chance to plan their future in Trieste seriously, therefore "paying back" the support they have received.

Conclusions

Migration has always been part of human life. Its features may change, but it cannot be stopped, only managed. Nowadays, Europe lacks an agreed agenda, a master plan for welcoming and integrating newcomers fleeing from violence and/or inequality. While politicians are mostly wasting time crying for the moon, civil society is taking a stance and acting.

The previous pages portrayed the Trieste model: not the only good practice of decentralizing the reception of asylum seekers in Europe, but one of the most interesting. It is a bottom-up initiative revealing how constant collaboration between the three essential pillars of civil society, local authorities, and central government forms the basis of any sound plan. The role of CSOs, given their closeness to the ground, is to analyse the situation and experiment with viable solutions. The role of local authorities is to back up the CSOs' work by including them in a regulated framework and financially supporting them. The role of the central government is to transpose good practices into laws and regulations.

In the case of Italy, in order to take full advantage of the positive aspects listed above, the system needs to be strengthened further. The measures are well known to the authorities since, according to the already quoted report on the accommodation of migrants and refugees in Italy, "the CAS project should be formally merged with the SPRAR system. Nothing prevents this development that could be implemented through the enlargement of the current SPRAR places and a series of incentives for the Municipalities that haven't yet joined the SPRAR network".[16]

Furthermore, in 2016, one year after the report quoted above was released, and in line with it, the Plan for Integration issued by the same Ministry of the Interior reads:

> For the purposes of an effective integration support policy, it is urgent to overcome the extraordinary reception projects (CAS) and to increase the participation of more municipalities in the SPRAR system. For the period

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16   Ministero dell'Interno, Rapporto sull'accoglienza di migranti e rifugiati in Italia, cited above (Note 9), p. 96 (author's translation).

required for the SPRAR system to become the only reception system, the CAS will have to approve their services and activities aimed at integration (language training, work and service orientation) to those offered in the SPRAR system.[17]

Furthermore, to move forward with a process of full integration, specific policies concerning housing in the post-reception phase are needed. As already mentioned, once refugees have obtained recognition or rejection of their status, they are expected to leave the reception centres within a short period of time. Support for relocation into independent housing is therefore crucial for refining the integration process, and failing to take care of this aspect would jeopardize all the efforts made by the community.

The Trieste model offers some help to other European countries that do not have the same models of accommodation, especially those bordering the EU to the east, and are now facing the same impact of asylum seekers. The SPRAR model has a wider perspective, overcoming borders. It is clear that the any territory can absorb a large number of people in a limited period but the opposite is also true: that not all the asylum seekers accommodated in a particular territory want to invest in their future there. In any case, wherever they find themselves, they should have the opportunity to get accustomed to a place with a different culture, language, and traditions. Whatever their aims, they will not be completely unprepared and they will build their life and relationships with hosting societies upon existing, if not entirely solid foundations. This means that the effort put in by one territory has a potential benefit for other territories across Europe.

The Trieste model is therefore a lesson learnt that could be easily transferred and replicated, because it is based on responses built according to simple rules of civil co-operation, where each social body plays its part in a coordinated manner and towards a common goal: in this case a safe and welcoming environment. Sound and honest policies are needed, and the irrational exaggeration of the sense of threat that is fuelling anti-immigration sentiment and a climate of intolerance and xenophobia needs to be stopped.

However, the election of a populist coalition in June 2018 paved the way for a campaign to dismantle the decentralized accommodation, and the CAS system will be rolled back, reverting to the old-fashioned system of overcrowded camps. If this attempt is successful, it will bring the Trieste model to an end and the current witch-hunt will be more likely to continue.

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17   Ministero dell'Interno, Dipartimento per le Libertà Civili e l'Immigrazione [Ministry of the Interior, Department of Civil Liberties and Immigration] Piano nazionale d'integrazione dei Titolari di Protezione Internazionale, [National plan for the integration of beneficiaries of international protection]), Rome 2016, p. 16 (author's translation).

Arne C. Seifert

The Renaissance of Islam in Central Asia – Specifics in Preventing Religious Radicalization

Introduction

"*In the battle against religious radicalization, there is no front line, only individual minds.*"[1] In this simple statement based on experience, a Kyrgyz security officer summarized the essence of the prevention of religious radicalization and the extremism degenerating into terrorism in Central Asia.

He was amongst the Kazakh, Kyrgyz, Tajik, and Russian representatives who took part in interviews examining the specific conditions for preventing religious radicalization in Central Asia. The starting point for this discussion can be traced back to the statement by Foreign Minister Frank-Walter Steinmeier, OSCE Chairperson-in-Office in 2016, who said that the causes of radicalization and extremism should be countered with a "comprehensive approach", with prevention playing a crucial role.[2]

In order to achieve this, it was first important to examine the specific social, political and socio-psychological conditions in Central Asia to understand what would be required for prevention. We started with the most obvious: The conditions behind the actions of jihadist movements in Western OSCE States are significantly different from those in Central Asia. Where such movements in Europe function as Islamist *minorities* within Christian majorities, in the Eurasian regions, they operate among *majority Muslim population*s. There, the consequences of difficult transformation and state-formation processes put a strain on the population and play into the hands of these movements. These consequences include poor governance, particularities of the religious situation, secular extremism, high social exclusion, gender and youth problems, as well as the latent potential for national and transnational conflict. Such obvious regional differences in the conditions for preventing radicalization provided the motivation for examining the specifics of the situation in Central Asia.[3]

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1   Interview partner in Osh, Kyrgyzstan.
2   Speech by Foreign Minister Frank-Walter Steinmeier at the opening of the OSCE Counter-Terrorism Conference "Preventing and Countering Violent Extremism and Radicalization that lead to Terrorism", Berlin, 31 May 2016, at: https://www.auswaertiges-amt.de/en/newsroom/news/160531-bm-osze-antiterror/280936.
3   "Civilian Prevention of Radicalization in Central Asia" Project, Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), at: https://ifsh.de/en/core/central-asia/. The research was funded by the Federal Foreign Office division for International Cooperation against Terrorism, Drug dealing, Organized Crime, and Corruption.

The empirical research was carried out in Kazakhstan, Kyrgyzstan, Tajikistan and at a conference at the Institute of Oriental Studies at the Russian Academy of Sciences. In order to guarantee a certain level of comparability and generalization, the interviews and meetings were based around the methodology of a list of questions and theses. Seventy-five conversation and interview partners from civil society, Islamic circles, academia, and some state institutions were involved in the research activities, answering questions and taking part in discourse via interviews and round table discussions. The participants approached the research subject with consistent openness and recognized this as an attempt to address a difficult problem.

Issue: Civilian Prevention of Religious Radicalization or "Counterinsurgency" – What Is at Stake in Central Asia?

This issue needed to be broken down in order to investigate to what extent the aims, means, prevention and use options correlated with the *political priorities* guiding them. The aims of the OSCE strategy "Countering Violent Extremism and Radicalization that Lead to Terrorism" (VERLT) served as a basis for preventing religious (Islamist) radicalization, extremism, and terrorism under specific Central Asian conditions.

In its VERLT strategy, the OSCE accurately assumes that "Although much of the work that takes place on countering terrorism is located within the first – that is, political-military – dimension […] countering terrorism and violent extremism stretches across all three dimensions, including social and economic issues as well as human rights and good governance. This is consistent with all empirically grounded models and theories of radicalization, which have shown that terrorism does not occur in a vacuum, but seeks to leverage wider grievances, frustrations, or other 'conducive conditions'."[4] The emphasis of this strategy is, however, on the politico-military dimension of security; this occupies the top spot with the most activities.[5] The latter is also true of Central Asia as well as other Muslim states and areas of the Eurasian OSCE region. This choice of means correlates with the aim of protecting people from terror and preventing the expansion of jihadist movements, such as the "Islamic State" (IS). However, it falls short of the actual crossroads situation the region is facing in terms of religion and political order. In this case, the primary aim is to *prevent* Salafi-oriented movements gaining

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4   *Countering Violent Extremism and Radicalisation that Lead to Terrorism: Ideas, Recommendations, and Good Practices from the OSCE Region. Report by Professor Peter R. Neumann, OSCE Chairperson in Office's Special Representative on Countering Radical- isation and Violent Extremism,* International Centre for the Study of Radicalisation (ICSR), King's College London, 28 September 2017, p. 41, at: https://www.osce.org/chairman-ship/346841.
5   Cf. ibid.

hegemony over the process of Islam's search for orientation – modern or Islamist – which would entail risks including the question of power.

At the same time, regarding the choice of preventative measures, prevention and use options must be weighed up. Options for prevention such as impeding Salafi-oriented religious hegemony only become sustainable when they are successfully concentrated on dispelling the reasons for radicalization, which benefit extremists and terrorists. At its core, this amounts to removing the social, political and socio-psychological causes of radicalization. However, this is precisely what the fight against terror and "counterinsurgency" practised in the Greater Middle East and Africa has failed to do adequately. The experiences here are only of limited relevance for Central Asia and the Muslim OSCE regions.

Applied to Central Asia, such an approach is detrimental to civilian prevention. In contrast to prevention strategies in the Greater Middle East and Africa, in the Eurasian OSCE region, highly developed and socially specific peace policy resources should be sought. This includes not only an autochthone Hanafi school of Islam. Undeniable benefits of having been part of the former USSR, which brought significant progress in development such as education, equality for women and a high level of literacy, also carry weight.

Islamic believers and activists in Central Asia tend to be educated and not yet completely anti-Western. The proximity and closeness to the global political and economic centres of Europe, Russia and China place Central Asia in a position of unique potential to collaborate for civil, security- and military-political prevention, which still needs to be developed and co-ordinated.

The complexity of the issue will be described in the following, focusing on the political specifics[6] of civilian prevention. Progress still to be made and deficits in current strategies, as well as the dangers these deficits present, will also be examined. This contribution will also address aspects for which neither Europe nor the OSCE is prepared. It concludes with an outline of the need for political action and possibilities based on the thoughts and recommendations of the interviewees.

Complexity

When considering the prevention of radicalization, it is necessary to take account of the specificities of the Central Asian social, political, socio-economic, religious, and historical context. Its central determinants are:

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6   Insights into social specificities are summarized in the CORE Working Paper: Frank Evers/Jeannette Klötzer/Arne C. Seifert/Esther Somfalvy, *Civilian Prevention of Radicalization in Central Asia*, Hamburg, April 2018, CORE Working Paper 30, at: https://ifsh.de/file-CORE/documents/Working_Papers/CORE_WP30_en.pdf.

First: The near complete "re-Islamization" of Central Asian societies.[7]
As early as 2005-2010, the return to a traditional confessional link to Islam in Kazakhstan, Kyrgyzstan, Tajikistan, and Central Asia in general began to show new characteristics, both quantitatively and qualitatively. In terms of quantity, this took on the character of a mass movement. In Kazakhstan, the Islamization of ethnic Kazakhs in the sense of confessional religious faith can be considered complete. In Kyrgyzstan, 88 per cent of the population profess Islam; in Tajikistan, with 7.5 million Muslims, practically the entire population is Muslim.[8]

In a qualitative sense, however, it should be recognized that the level of religious knowledge across the population is still superficial. Particularly amongst young people, knowledge of the Islamic texts is still poor. In all the interviews conducted, this "vacuum of religious education", a leftover of the anti-religious Soviet period, was described as the gateway to external Islamist indoctrination. In conversations, the participants warned that the rapid renaissance of Islam could be observed as a primarily externally sponsored phenomenon. On the other hand, the "renaissance" of Islam, the low level of religious knowledge, and the incompetence of the secular regimes in actively guiding these processes represent an opportunity for external Islamist movements.

A good example of the specific nature of the Islamic renaissance is the individual, familiar relationship of "young"[9] believers to "their Islam". The process of Islamization is beginning to form new personal, cultural and religious consciousness identities, which academic partners assessed as an "emancipation of Islam". This is indicated by the fact that our conversation partners warned against using "extreme" terminology which reduces radicalization to terrorism, and the verbal equation of terms such as "Caliphate" and "Salafism" with terrorism.

This lends more depth to a superficial search for the causes of rampant Islamization. It also points to the phenomenon of marked individual sensitivities, barely considered in the prevention discourse regarding post-Soviet Muslim states, which are an intrinsic part of independence and state-formation processes. In this context, the realization of religious freedom is posited as a sublime good and its curtailment as a personal violation. It should also not be overlooked that the phenomenon of the individual's connection to religion is beginning to displace the connection to the (secular) state. This implies that a reformation of the secular politics of religion is the key to preventing Islamic

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7   In the last twenty years, out of 57 million Central Asians, 52.8 million or 92.6 per cent of the population professed Islam (numerically small atheist, national, and religious minorities are excluded). This throng will continue to grow by an average population increase of 1.7 per cent per year, with thirty per cent under 15 years. Islam has practically "nationalized" itself.

8   Cf. Abdurakhim Kholikow, former Chairman of the State Commission for Religious Affairs in Tajikistan, in an interview with *Asia Plus,* 11 July 2011, at: http://news.tj/ru/news/ne-stoit-sozdavat-stereotipy-chto-v-tadzhikistane-vse-zapreshcheno.

9   This does not indicate any specific age cohort, but a time period since states became independent, during which the majority of the population professed faith in Islam.

radicalization and the construction of a democratic relationship between secularism and Islam.

Overall, the comprehensive "renaissance" of Islam can be understood as a particularly prominent break in the period of independence of the young Central Asian states. It is a turning point for both religion and secularism – with possible consequences for the future political order and orientation in these states. Without doubt, Islam is becoming the overarching religious and social determinant. As a religion with a holistic understanding of God as the indivisible unity of religion and state, its politically active adherents will first and foremost demand an Islamic social system that permeates all areas of life. This changes the frames of reference and orientation of secular governments. Their handling of political, social, and religious problems may be judged against Islamic dogma. This means the secular governments must decide whether to adapt or isolate themselves, with consequences that may lead to conflict.

The comprehensive renaissance of Islam raises new questions for the OSCE, in particular regarding its basic "anti-terror philosophy" vis a vis Central Asia. If islands of "non-Western" culture are emerging in the hitherto monolithically secular OSCE area, the Organization's members will have to react to new points at issue: What does it mean for the OSCE community of values and its shared normative basis if Islam and its structures, including political Islam, become part of the common OSCE space? According to the OSCE Network of Think Tanks and Academic Institutions, it is "urgent that the OSCE, as a norms-based organization, start to deal with the fact that its presupposed shared normative basis has broadly disappeared".[10] Will this situation be aggravated if the OSCE fails to adapt its approach? The time has surely come for including Islam-related issues in a dialogue involving both academics and representatives of the generation that will shape interstate and inter-societal relations in the next decade, starting with the mapping of the status quo, identifying common interests, and preventing conflict.[11]

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10 Wolfgang Zellner (principal drafter)/Irina Chernykh/Alain Délétroz/Frank Evers/Barbara Kunz/Christian Nünlist/Philip Remler/Oleksiy Semeniy/Andrei Zagorski, European Security – Challenges at the Societal Level, OSCE Network of Think Tanks and Academic Institutions, Hamburg, December 2016, p. 26, at: https://ifsh.de/file-OSCE-Network/documents/European_Security-OSCE_WEB.pdf.

11 Cf. ibid., p. 32. In "The OSCE and Islam – A Chance at Self-Fulfilment?" published in the OSCE Yearbook 2000, the author argued that the OSCE would have to face the consequences of the Islamic renaissance in Central Asia, the effects of which had become clear in the context of transformation, and the forming of states and nations: "It should be in the power of the OSCE to face the challenges, also in the area of tolerance, and develop a broad plural conception of itself as a 'community of *values*' in which individual 'communities of values', whether this means its Muslim or any of the others, are equal partners without having to fear being outvoted and segregating themselves politically. This would strengthen the *co*-operative character of the OSCE. This is where there is a chance to understand the 'Islam factor' as a resource for self-fulfilment and to accept it positively." Arne C. Seifert, The OSCE and Islam – A Chance at Self-Fulfilment? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 217-226, here: p. 226.

The OSCE anti-terror strategy cannot ignore the consequences of Islamization either. As with the secular governments, Islamization and Islam are also the overarching reference values and conditions for success for the architects of VERLT. Fending off jihadist terrorism in a majority Islamic population cannot succeed without speaking to and involving the Muslim majority. Even one of the central VERLT pillars, civil society, draws on the Muslim majority. Their religious values are one of the essential bridges to prevention that are crucial for reaching adherents of radical Islamist positions. This is how the socio-political "equilibrium" upon which VERLT is currently based conceptually has begun to shift. This does not apply to secular governments, however, who persevere in their security- and military-political orientation that links them to Eurasian powers such as China and the Russian Federation, currently in the Western OSCE states' bad books. In this respect, balancing the weight of the civilian prevention of radicalization becomes the deciding factor for Eurasian powers.

Second: The balance of power within Islam. Although the Sunni school of Islam, in the shape of the balance-oriented Hanafi school of law,[12] or the Sharia oriented Sufi brotherhoods predominate in Central Asia, Islamist activities are on the increase, striving towards the "rule of God" with violent or socio-political means. "In their eyes, discussions should not centre around one change or another at the edge of society, but the complete reorganization of public order, a new constitution including policies in the various political fields such as education, media, criminal law, etc."[13] Two Islamist movements are particularly active in this direction. One of them, including IS and al-Qaida, is striving for a violence-oriented Islamization in the shape of an Islamic state. The other, which is described as "neo-fundamentalist", is mostly made up of Arab or Pakistani-controlled Salafist movements such as *Hizb ut-Tahrir* (Party of Islamic Liberation) and the *Salafiyya* and *Tablighi Jamaat* movements.[14] They have long been active underground in the region, others even legally,

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12   The Hanafi school of law was founded by Abu Hanifa (d. 767). It is most widespread in Turkey, Central Asia, and on the Indian subcontinent. "In addition to the four legal foundations demanded by Shafi'i (Qur'an, sunna, *ijma'*, and *qiyas*), the Hanafis recognize two other juristic practices: the customary *ra'y*, or personal opinion, of their school from time immemorial, and *istihsan*, the preference for a particular solution as appropriate with respect to the society". Bernd Radtke, Sunni Islam, in: Werner Ende/Udo Steinbach (eds), *Islam in the World Today. A Handbook of Politics, Religion, Culture, and Society,* Ithaca, NY, 2010, pp. 36-50, here: p. 46.

13   Dieter Senghaas, Zivilisierung wider Willen [Unwilling Civilization], Frankfurt am Main, 1998, p. 192.

14   *Tablighi Jamaat* came out of the Indian Deobandi movement in the 1930s (Deobandi is a place) and was created as a Sunni revivalist movement "to remind Muslims of their duties to diligently uphold the commandments and prohibitions of Islam." The organization contributed "greatly to the rediscovery of the idea of jihad in the 20th century". It dispatches volunteers who make themselves available for missions to Muslim regions worldwide. One of the most influential preachers was Muhammadjon Hindustani, who came from Central Asia, and imported the ideas of the Deobandi movement to Central Asia and spent 15 years in Siberia in prison. Cf. Rainer Freitag-Wirminghaus, Russia, the Islamic Republics of the Caucasus, and Central Aisa, in: Ende/Steinbach (eds.), cited above (Note 10), pp. 269-296, and Munir D. Ahmed, India, in: ibid., pp. 310-324.

such as *Tablighi Jamaat* in Kazakhstan. They aim for a "civilian" Islamization of society "from below" at a grass-roots level. Both movements have their supporters.[15]

The "neo-fundamentalist"[16] trend should be seen as the more sinister, both due to its aim of religious hegemony over the not yet concluded process of Islamization, and as a direct competitor to the secular constitution of the Central Asian states. In the short term, this appeals to the "vacuum of religious education" and young Muslims' search for "their" Islam. In addition, Salafists operate flexibly and in relation to people, families, and communities individually. In the discourse about *"Salafiyya",* they are defined as "religious virtuosos who derive from it a lifelong programme of work on themselves with the aim of achieving self-perfection. The transition of this approach to a political Wahabi-style 'Salafism' is fluid, as is that to a 'Salafism' that appeals to youth culture and has now been equated with rapid radicalization."[17]

As a religious counterweight to these trends in Central Asia stands the autochthone Sunni Hanafi school of jurisprudence which is, however, in a state of theological and spiritual stagnation. The secular state hesitates to bring it

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15 The third largest contingent of foreign "Islamic State" (IS) fighters in Iraq and Syria came from the region, today IS continues to pursue this aim from Afghanistan. The militant jihadist wing, principally of Arab origin, also includes a number of Central Asian, Caucasian and North-West Chinese fighters.

16 The French scholar in Islamic studies Olivier Roy differentiates between Islamic fundamentalists and neo-fundamentalists as follows: "Fundamentalism, meaning a return to the 'true' tenets of religion, is as old as Islam itself. The contemporary trend called neo-fundamentalism combines technical modernism, de-culturization, the rejection of both traditional Muslim and modern Western cultures, and globalization. […] organizations […] like Al-Qaeda and Hizb ut-Tahrir […] are part of the de-territorialized Islamic networks that operate in the West and at the periphery of the Middle East. Their background has nothing to do with Middle Eastern conflicts or traditional religious education." An Interview with Olivier Roy, in: Columbia University Press, New York, at: https://cup.columbia.edu/author-interviews/roy-globalized-islam.

17 Werner Schiffauer, Sicherheitswissen und Deradikalisierung [Security Knowledge and Deradicalization], in: Friedrich-Ebert-Stiftung, Forum Berlin, Handlungsempfehlungen zur Auseinandersetzung mit islamistischem Extremismus und Islamfeindlichkeit [Recommendations for action in analysis of Islamic extremism and Islamophobia], pp. 217-242, here: pp. 228-229 (author's translation). The Tajik political scientist Parviz Mullojanov describes the practice of the Salafi approach in Central Asia as follows: "The 'civilian strategy' of the Salafist approach consists in three stages: infiltration of the cultural and educational sphere; taking possession of religious administration; assuming power. […] They seek to ideologically infiltrate the Hanafi school of jurisprudence and to transform local communities for their own purposes. […] The Salafists are also successful in the region because, thanks to a skillful and well organized strategy, they are able to influence authorities, state bodies, and civil servants. Theoretically, Salafism refuses any collaboration with the secular state. In practice, it does, however, carry out lobbying within state structures. It manipulates civil servants with their fear of Islamization into eliminating competing Islamic groups with the help of administrative decrees. It then uses these online to accuse governments and local bodies of anti-Islamic behaviour. […] In fact, some of the more recent government decrees and decisions give the impression that they were written by Salafists themselves." Postsoveetskaya Srednyaya Aziya i musulmanskij mir: salafizatsiya kak instrument geopolitiki [Post-Soviet Central Aisa and the Muslim World: Salafization as an Instrument of Geopolitics], in: Asia Plus, Duschanbe, 24 April 2017, at: https://news.tj/ru/news/central-asia/20170424/postsovetskaya-srednyaya-aziya-i-musulmanskii-mir-salafizatsiya-kak-instrument-geopolitiki (author's translation).

out of this situation, to strengthen its theologians and imams, and hence develop a modern Islamic counter argument to the extreme Islamist movements.

The question of religious hegemony over the process of Islamization – Arab/Pakistani Salafi or Central Asian Hanafi – thus becomes a key strategic issue. It is not, however, discussed adequately in the OSCE strategy, nor is the secular governments' inability to set effective religious counter arguments against the neo-fundamentalist movements in order to gain ground. Moderate Islamic dignitaries offer their theological support and criticize the impotence of the governments in offering effective arguments. Their condemnation is justified, as the governments, with their security and military orientation, actually have control of terrorist *fringe groups,* while *their control* of the Salafists, acting in the *centre* of society, is slipping away. The whole spectrum of society, which the "civilian" neo-fundamentalist radicalizers are aiming for, thus proves to be more or less as an "open flank".

Third: Position of the secular governments on religion and Islamization. In relation to the governments' polices on religion, the Kyrgyz and the Kazakh conversation partners gave the following concurring statements:

1. The secular governments have no constructive approaches to dealing with the Islamization of their societies. They cannot keep pace, either with the mass "renaissance" of Islam, its speed and social breadth, nor with the resulting changes to the parameters of their government. It is difficult for them to move on from the traditional Soviet secular principle of a division between the state and religion.[18]
2. Governments are looking for ways to react to Islamization and radicalization, but not finding any effective approaches. They are immobilized by fear of religion, especially Islam, which they see as potential political competition. They drift between ineffective legal regulation, interfering in religious affairs, limiting religious freedom, and repression.[19]

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18 The original European understanding of secularism signifies the division of state and church, not of state and religion. A state cannot simply separate from the religion of its people. The difficulties in the relationship between the secular state and Islam come from the faith's holistic understanding of religion, and from the fact that there is no church institution in Islam.

19 Tajikistan is considered a glaring example of the limits on religious freedom. There, the following legal restrictions apply: Children and young people under 18 are prohibited from attending mosques; parents are responsible for compliance under threat of a considerable fine. Women and girls are also forbidden from attending mosques; they are only permitted to say prayers inside their own house. Wearing headscarves or other clothing that could be linked to religion is forbidden in public places or educational institutions. Praying is not permitted in public spaces, in government institutions, the armed forces, the police, educational institutions, companies, businesses and even working in the fields in villages. Prayers are only permitted in mosques or in private dwellings. The personal freedom to choose a preacher for funerals has been abolished; only officially appointed imams are permitted.

3. Governments have overall decided on a strategy of "securitization"[20] of Islam.

It should be stressed that of all the Central Asian heads of state, only the former Kyrgyz president Almazbek Atambaev, speaking at an international conference in September 2017, recommended establishing a "democratic relationship of the state to rational representatives of Islam."[21]

In Tajikistan, the government led by Emomali Rahmon is pursuing a distinctly more repressive policy on religion compared to its Central Asian neighbour states. The 2015 prohibition of the Islamic Renaissance Party of Tajikistan (IRPT) – their partner in the 1997 peace agreement to end the Tajik civil war – marks a serious strategic error given the need for secular-Islamic coexistence and prevention of terrorism. In addition, the prosecution and incarceration of IRPT members has led to a worsened domestic climate. The tolerance of these events on the part of the OSCE, the EU, and Western states can only be described as disconcerting.

Conversation partners point to the following errors in the religious policies described:

- the internal issues of the religion are subjected to control by the secular state, which does not have the necessary theological competencies;
- the secular state thereby undermines its relationship to Islamic clergy, elites and communities;
- the "securitization" of Islam by the state turns out to be an ineffective strategy for preventing religious radicalization because the "young" religious masses do not see enemies in Islam, even in its radical representatives, but rather in the secular state.

Overall, it can be stated that the secular governments have far from exhausted the inherent potential for finding balanced, co-operative solutions in secularism and secular forms of government to develop a democratic, conflict-avoidant relationship to the religious sphere. In this respect, there is already considerable scope today.

Fourth: The question of gender in the prevention of radicalization. In Central Asia, women and girls are a risk group in the context of radicalization, and a potential aid in its prevention. The majority identify as belonging to the

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20 According to "securitization theory", "securitization" explains "that the securitization of an issue takes place when a reference object is presented as threatened in a securitizing move." Securitization has mostly counterproductive consequences: "A vicious circle develops because a securitizing move on one side also results in the securitizing of the opposing side." Kathrin Lenz-Raymann, Securitization of Islam: A Vicious Circle, Counter-Terrorism and Freedom of Religion in Central Asia, Bielefeld 2014, p. 252.
21 Author's transcript.

Muslim world without necessarily reducing this in every sense to a strictly religious way of life. It was particularly in families that Muslim practices survived the Soviet period.

In Kyrgyzstan and Kazakhstan, girls and women are seen as a particular target group by radical Islamist groups. They are developing an increasingly subtle, gender specific approach, using social networks and direct contact as well as personal address, suggesting a knowledge of the circumstances and social deficits at play. They successfully target single young women in particular, socially isolated because of their status, with promises of marriage to IS fighters. Their supposedly equal treatment as fully-fledged fighters for the Islamist cause also speaks to young women who seek an active role in society.

There has been a reduction in the participation of women and girls in education and training. In rural areas in particular, increasing numbers of girls no longer go to public schools, but only Koran schools. Compulsory education is no longer generally enforced. However, a large number of women are still studying at universities. This is not always solely driven by the emancipatory desire for education, but also by the potential to avoid early forced marriages and the general pressure of male family members.

There are several women's organizations, i.e. NGOs, which are involved in deradicalization and the prevention of radicalization, albeit not exclusively. They operate largely without relevant training in this area and only have a low level of support from the respective states. Projects are largely supported by international organizations and usually limited to 1-2 years. Contributing to the development of Islam is part of the purpose of Islamic women's organizations, whereby extremism and terrorism are strictly opposed.[22]

Fifth: The causes of religious and Islamist radicalization. Religious radicalization cannot be put down to one single cause, but rather the "Islamist renaissance" is carried by a diffuse socio-psychological state of the masses, in which different driving forces combine. This began with Karl Marx's concept of religion as the "opium of the people", "the sigh of the oppressed creature, the heart of a heartless world",[23] and more recently has become the impetus for the phenomenon described as the "individual relationship" of young believers to "their Islam". Marxism often refers to mass social exclusion and poverty, whose victims mainly belong to the younger generation and naturally tend to be "new" Muslims. The state of constant impoverishment is made clear by the calculations of the World Bank in 2014. According to them, poverty in Central Asia (households with daily per capita consumption of less than 4.30 US dollars) has become a permanent burden on society since the collapse of the USSR.[24] During the transformation period from 1990 to 1999 alone, twenty

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22   Cf. Evers/Klötzer/Seifert/Somfalvy, cited above (Note 6), p. 7.
23   Karl Marx, *Critique of Hegel's Philosophy of Right*, Translated from the German by Annette Jolin and Joseph O'Malley, Cambridge 1970, written 1843/1844, Introduction.
24   Definition of poverty by the World Bank: "Per-capita income level needed to satisfy such basic human needs as education, health care, and access to information; or as a threshold

million people in Central Asia fell into poverty. In 2011 in Kyrgyzstan, 70 per cent of the population lived on less than 4.30 US dollars, and 25 per cent lived on less than 2.15 US dollars, in Tajikistan the figures were 79 per cent and 31 per cent respectively. Only Kazakhstan had brought down levels of absolute poverty from 50 per cent of the population in 2005, although in 2014, 30 per cent were still considered poor with 5.40 US dollars.

A study presented in November 2015 in Vladikavkas, capital of the Republic of Northern Ossetia-Alania within the Russian Federation, showed that members of the age groups from 1991 identified particularly strongly with the cause of IS. These people in particular were born and grew up in conditions with no convincing state ideology, with a falling level of education, breaking social ties and families, without work, money, possibilities for social advancement, prospects, and self-realization.

This context also explains why Islamist indoctrination is targeted at young people in particular. The population in Central Asian states is becoming ever younger. It is growing at 1.7 per cent on average each year, 30 per cent of the inhabitants are now under 15 years old. This structural problem can be seen acutely in the level of youth unemployment, which is estimated at over 20 per cent in Central Asian states, with the exception of Kazakhstan.[25] A quarter of the Kazakh population was born after 1991. In Kazakhstan, children (0-14 years) and young people (15-29 years) make up 33 and 28 per cent respectively of the socially excluded section of the population, and in Tajikistan, the figures are 73 and 72 per cent.[26] In 2005, 90 per cent of children in Kyrgyzstan lived in households with a per capita consumption of less than 2.5 US dollars. This figure was 80 per cent in Uzbekistan and 75 per cent in Tajikistan.[27] Among the 1.5 million Tajik migrant workers, 53 per cent are aged 15-29,[28] and among the unemployed in the Tajik agricultural sector, 83.6 per cent are under 40.[29] This generation is currently at its peak.

This draws attention to the fact that the *causes* of vulnerability to conflict have reached transnational and transregional dimensions. The roots of this transregional vulnerability to conflict can be found in the crisis situation brought about by the relational triangle of social causes, religion, and inadequate governance. They are upheaval phenomena that have become constants

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below which low-income individuals in the region are 'vulnerable' to poverty." At: http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPA/0,,contentMDK:20202198~menuPK:435055~pagePK:148956~piPK:216618~theSitePK:430367,00.html.

25 Cf. Andrea Schmitz/Alexander Wolters, Revolutionen in Zentralasien? [Revolutions in Central Asia?], in: z*entralasien analysen* 43-44/2011, 29 July 2011, pp. 2-5, here: p. 2.

26 Cf. United Nations Development Programme, Regional Bureau for Europe and CIS, *Beyond Transition. Towards Inclusive Societies, UNDP Regional Human Development Report*, Bratislava 2011, p. 43, at: http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/Beyond-Transition-Inclusive-Societies.html.

27 Cf. ibid., p. 18.

28 Cf. Khojamakhmad Umarov, *Krisis v Tadkistane* [The crisis in Tajikistan], Duschanbe 2010, p. 217.

29 Cf. ibid, p. 218.

as a result of the transformation process and are today driving the socio-political crisis dynamic in Central Asia. This means, by implication, that a clever Islamist counter-strategy could transform Islam from its true religious calling into a transnational and transregional anti-secular ideology of integration too.

In the conversations we held, it was expected that radicalization would strengthen with the return of Central Asian IS fighters.[30] They could take on an organizing role for the expansion of an Islamist religious-political programme. Such fears were expressed in particular regarding the transregional Fergana Valley and the Kyrgyz region of Osh.

Interim Assessment

The causes of radicalization arise both from internal and external sources. To prevent radicalization *internally*, the main priority is resolving the severe deficits in development and political shortcomings which lead to social dissatisfaction. When looking at the *external* sources, the main priority is to prevent a Salafi Islamist thrust primarily from the Arab region and Pakistan. This thrust is based on the idea that it will succeed in diverting the still unconsolidated state-formation process with its religious-political transformation into Islamic state-formation processes. Its success, in combination with "big money" (Saudi Arabia) in the Eurasian OSCE region plus China and India, could mature into a geopolitical challenge of the highest magnitude.

The primary causes of radicalization are overwhelmingly in the subjective sphere, above all in governments. Consequently, prevention would genuinely be possible, but depends largely on the subjective understanding, will, and readiness of the relevant actors. This has a particular significance for the relationship between state and religions, as well as for socio-economic and democratic reforms. It is crucial for the prevention of radicalization that secular leaders approach influential clergy and dignitaries.

The issues and consequences of external religious influence and foreign infiltration of Central Asia as well as further Muslim regions of the OSCE require serious international attention and collaboration, particularly with the Russian Federation and China. It must also be examined whether the OSCE represents the right framework for this. Given the transnational nature of existing risks and threats, a certain confidence-building effect may emerge between the Eurasian states by addressing these together. It should be taken into account that in the first instance, the Russian Federation and China have up to

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30   The number of IS fighters from Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan was estimated at from 3,000 to 4,500 at the end of 2016. In addition, there are another approx. 5000 people from other CIS states. Russian is the third most common foreign language in IS.

now been countering the "Islamist infiltration" of Central Asia, primarily with military means.

Key Areas in Prevention

Research on the specific prevention requirements of Central Asia from the perspective of the relationship between aims and means, prevention and use options, and the political priorities guiding them also invites the categorization of the prevention requirements that arise. The top political priorities expressly include commonalities on which consensus seems possible and should be aimed for within the OSCE framework.

First, these include countering the advance of external Islamist groups to Central Asia with a decisively greater emphasis on civilian, non-violence oriented strategies and options for action based on peace policy in concert with security and military policies. Second, it seems possible to assume today that a majority of OSCE states will have a common interest in retaining the security and stability of the Eurasian region, stabilizing economic spaces, and keeping the strategic East-West, North-South bridging function of Central Asia and the Caspian and Caucasian regions open. In these issues, agreement with regional actors and the Russian Federation, China as well as other neighbouring states such as Iran, Turkey, Afghanistan, Pakistan might be assumed.

From this perspective, civilian, non-violence oriented prevention strategies should be designed to be as clear, acceptable, pragmatic and practicable for as many of the affected parties as possible. The following approach would be useful here. The goal of civilian, non-violence oriented prevention strategy policies should start with the dangers and their character. The following criteria could be used to determine these:

a) the societal reach of the danger (whole society, specific groups such as social classes, religious communities, women and girls, youth etc.);
b) the character of the causes and their origins (objective or subjective in nature);
c) assessment of the controllability of causes of radicalization (easy to control; difficult to control or controllable under certain conditions; not currently controllable. In intractable contradictions, the secular and Islamic sides should agree not to use violence, to coexist peacefully with each other with the intention of achieving compromise solutions.)
d) assessing and clarifying conditions required for control;
e) determining control priorities and sequence of actions;
f) clarifying potential for action both of a material (economic, social, housing etc.) and immaterial nature (freedom of religious worship, religious education, gender equality, law, media etc.);
g) administrative decisions.

Using the above criteria, on the one hand, dangers affecting the whole society *and* their causes can be filtered out, and on the other hand, their controllability using *civil prevention methods not reliant on the use of violence* via collaboration between the state and civil society can be ensured.

For example:

- *Overcoming social polarization in society and its structural causes.* Courses of action would be, e.g.: state support programmes for socially weak population groups; stimulation of social engagement funded by the private sector using legal social instruments of control; economic reforms.
- *Driving back the religious-political indoctrination of the population by Islamist forces.* Appropriate measures would include: strengthening the traditional Central Asian Hanafi Islam denomination; raising the level of education, with religious education receiving special attention; funding and training Islamic scholars and theologians in the interest of creating a counterweight to external radicalizing indoctrination; establishing platforms for academic exchange regarding religious questions between Central Asia and European partners; and promoting theological exchange between scholars in Islam in Germany Kyrgyzstan, Kazakhstan, and the Russian Federation.
- *Gender issues in the prevention of radicalization.* Women and girls are multipliers in religious family life and thus have an enormous potential to play a role in prevention.
- *Introducing confidence-building.* Confidence must be built between the state and its administrative bodies such as the police, legal institutions, and religious authorities on the one hand and Islamic communities, religious dignitaries, and elites on the other.
- *Dialogues.* The sidesshould conduct a dual dialogue, both on issues where agreement can be achieved and on issues where agreement cannot be expected soon. The first line of dialogue serves to frame platforms for co-operation, whereas the second serves to avoid misperceptions arising from disputed issues.[31]
- *Societal support.* The governments could turn to academic or other societal bodies to deal with contradictory narratives.[32]
- *Co-operation.* The sides should co-operate wherever possible, on any given subject, at any level, be it state or society. Unnecessary conditions for cooperation should be avoided.[33]

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31 Cf. Zellner, cited above (Note 10), p. 5.
32 Cf. ibid.
33 Cf. ibid.

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-   *Activating the autochthone Hanafi school of Islam*. This could include training imams, qualification of religious education, and other related aspects.
-   *Controlling ethnic and territorial conflict situations that serve as gateways to terrorist groups.*

Research has, however, revealed complex issues which can largely be traced back to the difficulties for the secular and Islamic sides in adapting to the process of Islamization, which cannot be avoided in Europe either.

Islam's Renaissance – Challenge and Opportunity

The revitalization of Islam is taking place within the context of Central Asia's history. Memory and the experiences of societies have a real effect. When speaking about Islam, Islamism, or "political Islam", the traditional framework of socialization and action is fundamentally different in the Arab world, Asia, or Africa from that in Central Asia. This difference is evident in the socio-cultural nature of Central Asian societies and influences the process of Islamization in the region.

Central Asian Muslims, who today span across about three generations, are characterized by the modern secular values and lifestyles[34] from the Soviet period, blended with the socio-cultural Islamic values and norms, which survived during this period. Other specific social conditions include a certain tolerance for authoritarian leadership models.

This "hybrid" socio-cultural transition situation, as we might call it, between secular liberal lifestyles and Islam creates unique conditions for and in Central Asia – millions of "young" Muslims are moving between secularism

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34 The Muslim communities of Central Asia are characterized by tolerance and openness. This has been demonstrated by a worldwide comparative survey of Muslims. For the group of Central Asian countries, the following median values were determined in the surveys: (1) Support for making *Sharia* law the official law in their country: twelve per cent; (2) support for freedom of religion with the proviso that the possibilities for people of other faiths to practice their religion is rated very good: 92 per cent; (3) support for political influence of religious leaders: 28 per cent; (4) consent to the statement that there is no contradiction between religion and modern society: 71 per cent ; (5) support for the right of women to divorce their husbands: 70 per cent; (6) Consent to women's right to choose whether to wear the veil: 73 per cent; (7) consent to the statement that Western pop culture is morally damaging among those who actually advocate Western cultural influences: 38 per cent; (8) consent to the statement that tensions between more or less religious Muslims are a major problem for their country: six per cent. In addition, 82 per cent of respondents in Kyrgyzstan, 85 per cent in Tajikistan, and 95 per cent in Kazakhstan consider suicide attacks unjustified. Cf. Pew Research Centre, The World's Muslims: Religion, Politics and Society, Washington, 30 April 2013, at: http://www.pewforum.org/2013/04/30/the-worlds-muslims-religion-politics-society-overview. In this study, the Central Asian country group comprises Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey, and Uzbekistan. No surveys were conducted in Uzbekistan on the issues of making *Sharia* law the official law in their country, the political influence of religious leaders, and the legitimacy of suicide attacks.

and Islam. In religious terms, they have chosen Islam, which does not yet mean that secularism has become or must become a "battle cry". The latter will be decided in the political sphere. The art of politics is in creating bridges between secularism and Islam and modernizing their relationship.

The relationship to VERLT and anti-terrorism strategies is as follows:

First: To alter the balance of power in this "hybrid" religious transition period, the main priority is to find Islamic associates and mobilize them. They are to be found among national and reform oriented Islamic forces.

Here it is important to note that phenomena and categories such as Islamist extremists and terrorists "cannot be clearly isolated" against the backdrop of the highly differentiated forms of Islam described. In particular for "prevention and deradicalization" purposes, a common "categorical knowledge" about and of Islamists, Salafists, and "political Islam" proves counterproductive.[35] Warning against this is particularly relevant when dealing with the processes of Islamization in Central Asia.

Second: The democratic content of expressed Islamic concerns or demands should not be struck down with the battle cry of "political Islam". Mass movements towards Islam will inevitably also lead to Muslim circles rising up to speak from religious positions, taking a stand on issues of religious policy, joining forces in parties or organizations, or courting access to parliaments. *Against thi*s, secular governments bring in a constitutional prohibition on religious parties or ostracize "political Islam" as protagonists of the Caliphate.

Third: A debate about the content of Islam-related categories is needed.[36] The relationship between democracy and Islam (and vice versa) requires new answers, also regarding how secular governments can position themselves on the right of their Muslim citizens to political participation, even when this has an Islamic connotation. It is also worth considering whether democratic pressure from believers can change traditional Islamic dogma.

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35   Schiffauer, cited above (Note 17), p. 236.
36   Schiffauer criticizes "the mapping-classifying approach which comes from the political demand that extremists be treated symmetrically." This means that the same basic categorizations must be used for very different phenomena. Schiffauer points out that such a distortion "in relation to the symmetrical treatment of Islamism is even more problematic. […] We do not understand Islamism sufficiently if we define it as a 'political ideology' – this does not tell us about what drives it, nor about its debates and development logic. Instead, labelling it a 'political ideology' seems to have sprung from the political necessity to exercise a symmetrical approach. […] Islamists appear as those who 'instrumentalize' and 'abuse' religious sentiment. The fact of a genuine religious violation is therefore not taken into consideration and no longer seen as a motive for political action." Schiffauer, cited above (Note 17), p. 231 (author's translation).

The VERLT work programme cannot replace an OSCE strategy for dealing with its now increasingly Islamic member region of Central Asia, even more so as the prevention of radicalization and extremism is already proving to be a challenge of trans-regional proportions, of which the OSCE represents the political Eurasian bracket. With or without the necessity of VERLT, Central Asia is important for the OSCE, even more so as it remains irreversibly Muslim.[37] Strictly speaking, such a challenge faces all Eurasian participating States, even those who have not been able to commit to civilian prevention. However, the latter should not avoid civilian prevention, since, according to the results of this analysis, most central fields of prevention can be classified directly or indirectly as *civilian* "Islam issues". Salafism has captured space regionally, with jihadist terrorism, and Salafist indoctrination of the population on the one hand; and filling the vacuum of religious education; supporting the autochthone Hanafi school; reforming religious policies; and secular-Islamic trust building on the other.

The European dimension is particularly indispensable to the latter. The context is as follows: The aforementioned prohibition of the Islamic Renaissance Party of Tajikistan convinced Central Asian Islamic politicians that they cannot achieve an equal place in the political community,[38] nor religious freedom in their own homeland – even if they demonstrate democratic willingness to compromise towards secular governments, or even renounce military means. The events in Egypt (fall of Mursi and prohibition of the Muslim Brotherhood) strengthened their mistrust.[39] Conversely, the Egyptian repression gave confidence to the secular state leaders of Tajikistan with their long-cherished intention to ban the IRPT and incarcerate its functionaries. Europe tolerated this and thereby overlooked its own risk: Islamic elites and communities could lean towards "foreign" helpers as long as they were not granted any space in their homeland compatible with their Islamic rules. These "helpers" would then come precisely from the Islamist camp that VERLT aims to prevent.

The processes described point to a "dilemma of mistrust" which exists in Central Asian Islamic circles towards Europe too. For these, it has become

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37 In this context, the OSCE should note that its self-conception as providing a common Eurasian political framework is no longer incontestable. With the state alliances in the East, serious Eurasian political competitors to the Western OSCE and EU States have come into being. The Shanghai Cooperation Organization (SCO), the Collective Security Treaty Organization (CSTO), or the Eurasian Economic Union (EAEU) also have other Islamic members, in addition to Central Asian ones. They are far more pragmatic regarding the Islamic issue than the OSCE and the EU.

38 A "political community" is understood as "the members of a political system and their basic value system". Susanne Pickel/Gert Pickel, *Politische Kultur- und Demokratieforschung* [Political Culture and Democracy Research], Wiesbaden 2006, p. 79 (author's translation).

39 We did indeed meet with open Islamic conversation partners, but also received a rejection due to the "uselessness" of meetings with Western representatives.

questionable whether European OSCE States would recognize Islamic parties who come to power via democratic means. There is also a question regarding whether moderate Islamic parties, if they were to come to power, could guarantee the stability of constitutional order or whether radical Islamist forces could tempt them to overthrow it.

The bottom line of this problem is that VERLT can only begin to show real long-term effects when it acts within the framework of an OSCE concept that clarifies the OSCE's relationship to the "Islamic factor" in the Eurasian region as well as the process of Islamization in Central Asia. Europe is therefore required to set a new direction for its basic political strategy regarding Islam. It is not enough for Europe to merely avoid the clash and confrontation between different civilizations in Eurasia; it must instead achieve co-operation and coexistence.

In such a context, Europe should also examine and differentiate its traditional perception of "political Islam" as a solely negative factor, a "problematic carrier of conflict", which leads to terrorism. The key to achieving this aim is the awareness that stability in the Eurasian region can only be guaranteed in the future through a common understanding, which accepts the integrity of different cultures, religions, and civilizations. This by no means requires that principles should be abandoned, but means that relationships need to be built based on co-operation and coexistence. In this area, Europe has a rich historical experience that could prove to be valuable.

Finally, the most important result of this analysis is that significantly more space must be made for a peace-oriented approach to the civil prevention of religious radicalization and extremism which develops into terrorism, and not as an addition or accoutrement to the politico-military dimension of security. In order to take into account the real circumstances regarding the loss of Central Asian Muslim population majorities to Salafist movements and the preservation of Central Asian independent states, a comprehensive strategy is needed, co-ordinating a division of labour between civilian prevention across society and security and military political action against terrorist threats where it is unavoidable and does not diminish the success of civilian strategies.

Thorsten Stodiek

Promoting Community Policing: A Key Element of the OSCE's Capacity-Building Efforts in Combating Crime

Introduction: The OSCE's Mandates and Basic Principles of Community Policing

Community policing has emerged as a major pillar of the OSCE's police de-velopment activities in the last 19 years, and the importance of community policing has been highlighted in several OSCE Ministerial Council Decisions and Action Plans, including, in particular, the 2001 Bucharest Ministerial Council *Decision No. 9 on Police-related Activities*[1] and the *OSCE Strategic Framework for Police-related Activities*,[2] adopted by the OSCE participating States in 2012.

The central premise of the OSCE's community policing approach is that the level of community participation in enhancing safety and social order and in solving community-related crime needs to be raised, since the police cannot achieve this on their own. In order to establish such partnerships, the police must be better integrated into the community and strengthen their legitimacy through policing by consent and improving their services to the public.

Key strategies for translating these principles into practice include:

- the creation of fixed geographic neighbourhood areas with permanently assigned police officers;
- the introduction of visible and easily accessible police officers and police facilities;
- the reorientation of patrol activities to emphasize non-emergency services;
- the introduction of a pro-active problem-solving approach;
- the engagement of communities and their empowerment; and
  the involvement of all relevant government agencies and services.

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1   Decision No. 9, Police-Related Activities, MC(9).DEC/9, 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. 33-35, available at: https://www.osce.org/ mc/40515.
2   Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 1049, OSCE Strategic Framework for Police-Related Activities, PC.DEC/1049, 26 July 2012, available at: https://www.osce.org/pc/92559.

The organizational changes required for implementing the community policing concept address management issues and structural changes within the police and other government agencies. One crucial element of these organizational changes is the creation of specific job descriptions and operational guidelines, clearly defining the tasks and responsibilities of those officers who are supposed to establish and maintain close problem-solving partnerships with citizens. Moreover, such regulations should also provide the basis for evaluating the performance of the police officers.

Another important aspect of these organizational changes is to transfer a certain degree of decision-making authority to officers at the local level, without which they will not be able to address local problems effectively and efficiently. Moreover, these officers need to be provided with the financial resources to implement local crime prevention and problem-solving initiatives.

In general, the principal changes to structures and management styles outside the police should focus on educating other relevant government agencies regarding their roles in the problem-solving approach, and establishing formal structures for smooth co-operation in the interest of division of labour, mutual assistance, and developing synergies in the use of public resources.

Development of Guidance Material

In 2007, the Strategic Police Matters Unit (SPMU) at the OSCE Secretariat began developing technical guidelines on community policing to support the OSCE executive structures in implementing a coherent OSCE approach to the introduction of the community policing concept.

The guidebook on *Good Practices in Building Police-Public Partnerships*[3] provides an overview of the basic principles of community policing, and analyses the various steps towards implementing the principles in practice, potential challenges of implementation, and ways to address them. The book also describes a variety of specific community policing activities and the requirements for successful and sustainable police-public partnerships.

Acknowledging the regional diversities in the OSCE area and the multi-ethnic character of many of its participating States, the book is flexible enough to be applied under a variety of national, regional, political and cultural conditions, providing policy-makers and police practitioners with a framework of good practices and operational measures for implementing community policing in country-specific contexts.

Building upon this guidebook and elaborating further on the challenges of policing in multi-ethnic societies that can be addressed more effectively through a community policing approach, in 2013, the SPMU and the OSCE

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3   OSCE, *Good Practices in Building Police-Public Partnerships by the Senior Police Adviser to the OSCE Secretary General*, SPMU Publication Series Vol. 4, Vienna, May 2008, available at: https://www.osce.org/secretariat/32547.

Office for Democratic Institutions and Human Rights (ODIHR), jointly published the guidebook on *Police and Roma and Sinti: Good Practices in Building Trust and Understanding*.[4]

This guidebook provides a compilation of good practices for improving relations between the police and Roma and Sinti communities, with the overall goal of combating discrimination and racial violence and ensuring that Roma and Sinti people can play a full and equal part in society. It assists the participating States in implementing their commitments under the OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area.

In order to operationalize these guidebooks, the SPMU and ODIHR have been supporting the OSCE field operations and the participating States in organizing awareness raising workshops, developing training material, and delivering training activities for police officers, other government agencies and services, community members, and civil society organizations. Furthermore, the SPMU has been supporting field operations by assessing their community policing programmes to identify challenges and shortcomings, as well as to develop strategies and activities to address these challenges.

Based on the findings of these assessments, the following section provides a brief overview of the OSCE field operations' community policing programmes and highlights a number of challenges and lessons learned regarding the implementation of these programmes.

Community Policing Programmes and Projects

The OSCE's promotion of the community policing concept started in the late 1990s within the context of post-conflict rehabilitation missions in the aftermath of the violent inter-ethnic conflicts in the former Yugoslavia. Community policing was introduced as a confidence-building tool to (re-)establish trust between different ethnic communities and between the police and communities, and in particular, ethnic minorities. The community policing approach was combined with the creation of multi-ethnic police services to facilitate trust building between ethnic minorities and the police, and to enable the police to talk to the ethnic minorities in their languages.

Later on, the introduction of community policing became a key element of general police reform in almost all field operation host states in Eastern Europe, South-Eastern Europe, the South Caucasus, and Central Asia. Here, the main focus was on enhancing the effectiveness of the police in fighting crime, based on increasing public access to the police, improving police response to communities' needs, and enhanced police accountability to the public, all resulting in improved collaboration with the communities. Programme activities

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4   OSCE/ODIHR, Police and Roma and Sinti: Good Practices in Building Trust and Understanding, SPMU Publication Series Vol. 9, Vienna, April 2010, available at: https://www.osce.org/odihr/67843.

included providing support to the host states with, for example, developing community policing strategies and action plans, drafting legal provisions, introducing organizational changes including the creation of community policing positions and units, developing training curricula and national trainers, delivering basic, advanced and in-service training, creating pilot police outreach stations, providing office and transportation equipment, establishing and mentoring police-public forums, implementing various public safety initiatives, evaluating projects, frequently conducting public perception surveys, as well as sharing lessons learned and good practices at the national and regional levels.

Due to the OSCE's positive confidence-building effect in post-conflict situations, the community policing concept was again applied in 2010, following violent inter-ethnic conflict in Kyrgyzstan. The Community Security Initiative in Kyrgyzstan was the OSCE's largest community policing project ever, at times deploying up to 28 international community policing advisers between 2011 and 2015 to 13 project sites in the former crisis regions.

In 2017, nine out of 14 field operations were implementing community policing programmes and projects; and almost one third of all police development activities carried out by the OSCE executive structures were devoted to enhancing and consolidating police-public partnership projects, particularly in South-Eastern Europe.

To better integrate the police into communities and improve their services to the public, one key element of all community policing programmes and projects was the establishment and mentoring of police-public forums at neighbourhood, municipality, or regional levels. While the names of these forums may differ between countries – one can find, for instance: Community Advisory Groups (Serbia), Citizen Advisory Groups (Armenia and the former Yugoslav Republic of Macedonia), Community Safety Action Teams, Local Public Safety Committees (Kosovo),[5] and Local Crime Prevention Centres (Kyrgyzstan) at the neighbourhood level; as well as Municipal Safety Councils (Serbia), Municipal Community Safety Councils (Kosovo), or Community Safety Working Groups (Kyrgyzstan) at the municipality level – their roles, responsibilities, and compositions follow a very similar pattern in the various OSCE regions.

These forums are the most structured institutions for two-way dialogue and active community participation in problem solving. They are usually composed of representatives from the police, local administrative agencies, social, health, and environmental services, educational and religious organizations, business associations, and of course wide sections of the communities residing and working in the specific neighbourhoods or municipalities.

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5   All references to Kosovo, whether to the territory, institutions, or population, in this text should be understood in full compliance with United Nations Security Council Resolution 1244.

In these forums, representatives of the public sector and the communities have the opportunity to identify problems together and to discuss ways to solve them. The most common issues of concern are traffic safety, drug abuse or violence at schools, vandalism, environmental issues, petty crime, domestic violence, as well as the improvement of relations between different ethnic communities.

Challenges and Lessons Learned in Introducing Community Policing

The legislative foundations for community policing were created as part of most of the OSCE's community policing programmes, with the adoption of national community policing strategies and the development of action plans for implementing these strategies.

However, this process often took many years, and interior ministries often failed to allocate the required funding in the annual budgets to implement the strategies and action plans, presenting a further challenge. Therefore, the OSCE often had to provide funding for the implementation of the strategies and action plans. The reliance on financial support from the OSCE is, however, an indicator for the difficulty of sustaining the programmes' achievements.

Structural changes, such as the establishment of community policing units and the creation of posts of community police officers, sometimes called "Contact Officers", "Neighbourhood Inspectors", or "Inspectors of Prevention", were implemented. However, specific job descriptions for community police officers were sometimes not developed and the newly assigned community police officers had to add the community policing tasks to their regular tasks as patrol officers, which often forced them to undertake the police-public partnership activities outside regular working hours. Naturally, this often had a negative effect on the motivation and performance of community police officers.

OSCE project staff also regularly noted that community police officers, after having established trusting relationships with their communities over many months, were suddenly rotated to other police beats, resulting in the need to establish trusting relationships between new community police officers and their communities from scratch.

Due to the extensive provision of OSCE training at all levels of the police hierarchy, a common understanding of the community policing concept has been achieved among the majority of police counterparts in most of the programmes. However, certain branches of the police, such as criminal police or traffic police, sometimes lacked this understanding and did not recognize the close connection of their work to community policing.

A lack of understanding and local ownership was also noted among other governmental authorities, such as municipality administrations, and the health

and social sector. This frequently led to situations where municipality administrations did not provide the basic resources necessary for creating office space for community forums, or funding for the implementation of problem-solving initiatives.

Local communities and civil society organizations normally embraced the concept of police-public partnerships when they noticed the confidence-building effect of police-public partnership forums for the relationship between the communities and the police and between the communities. This was also the case when they saw the improvements in their security, safety, and livability following the successful introduction of problem-solving and crime-prevention approaches in their neighbourhoods and municipalities.

Having said that, mobilizing communities was sometimes a difficult task for different reasons. Communities may have been reluctant to co-operate with the police due to:

- previous bad experiences with the police, involving maltreatment or lack of services or protection;
- fear of retaliation from criminals or certain community members if active participants are considered to be police collaborators;
- local social structures and traditions that may not be familiar with public gatherings of this nature;
- ideological barriers to co-operation with the police by certain segments of society; or
- the simple fact that community members may not see any immediate personal advantage to voluntary participation.

As most of the local police-community forums were based on the enthusiasm and voluntary contributions of individual forum members, it was crucial that they saw that their activities lead to a visible improvement in their safety and security situation, or their enthusiasm and interest in the work of the forums would have rapidly decreased and the forums would have ceased to function. The OSCE's community policing projects sometimes faced situations where communities had the sense that the police did not feel accountable to them in implementing the agreed activities, or that the police did not acknowledge their duty to report back to the communities on the outcomes of certain initiatives. Naturally, such behaviour on the part of the police had a devastating effect on the motivation of community members to continue participating in these forums.

Often the voluntary participation of community members was impaired simply because they lacked the financial means to travel regularly from their homes to the community meetings, particularly if their homes were located in remote areas. The reimbursement of such travel costs was often a challenging issue, and simple solutions to this challenge, which are at the same time sustainable, have not yet been found.

Another challenge was that police-community forums often did not work if the meetings were not organized by public officials, such as police or municipality representatives. Public forums should therefore be chaired by a widely-respected person. In the best case, this would be a person who would not only be accepted by all segments of the community, but would also be highly motivated to take on this job voluntarily.

The more heterogeneous the composition of the public forums, the more difficult they were to chair. Diverse communities sometimes brought with them divergent perspectives, values, experiences, needs, and demands on the police and the other government agencies. It was not only between communities, but also within communities or between individuals that diverging interests emerged. All of this sometimes distracted the forums from finding solutions. Groups that were more vocal sometimes tended to use the forums for their own purposes. In such circumstances, chairpersons had to maintain the ability to avoid simple majority decisions over minorities, or less vocal groups might have retreated and accused the police of being discriminatory and having too close a relationship with the other sections of the community. In order to avoid such developments, the OSCE strongly promoted a sense of shared responsibility, the need to find compromises and the rights of all to be respected.

Another important lesson learned was that members of public forums need to be empowered to make the most effective and efficient use of these structures. This could include capacity-building in the form of workshops and other training formats. Such events offer participants a chance to develop their skills in problem identification, priority setting, and drafting project proposals, as well as implementing and evaluating projects. Empowering also means that the police agree to a two-way dialogue on an equal footing, based on shared knowledge, and equal decision-making and priority-setting rights.

Furthermore, there has been a constant need for building the capacity of community policing structures within police organizations and within the police-public partnership structures due to the frequent changes of police staff, municipality representatives, and community members in these forums.

The OSCE has therefore continuously promoted the institutionalization of such structures, providing training and mentoring, or encouraging the development of these capacity-building activities locally by empowering existing structures.

Positive Results of Community Policing Programmes and Projects

Despite the aforementioned challenges sometimes faced by the OSCE community policing programmes and projects, many of them produced positive results.

In all of the community policing projects where police-public forums were established, there was a notable improvement of the relations between the police and the communities.

The police became much more accessible to the public, they were able to inform the public about the roles, objectives, activities, and needs of the police, and learned about the safety and security needs and concerns of the communities they are supposed to serve.

In many cases, the police raised public awareness on certain safety and security issues, such as drug abuse, bullying in schools, traffic safety, and domestic violence, and initiated numerous crime prevention and safety enhancement activities.

Based on a relationship of increased mutual trust, the police also received more information from the public, relevant for preventing and detecting crimes.

This close interaction with the public and the creation of police-community forums has often also facilitated the gathering of members of different ethnic communities who otherwise avoided coming into contact with one another due to a lack of trust as a result of previous inter-ethnic conflict. Identifying their common security and safety needs and their joint efforts to solve these issues has led to a notable improvement in the safety and security situation of different ethnic communities, including minorities and marginalized and vulnerable groups.

All the field operations also stated that the improvement in the police-community relations in the pilot project sites encouraged municipal and police authorities in other districts and regions of the host countries to express their interest in implementing community policing activities in their own areas of responsibility.

Community Policing as a Tool for Countering Serious and Organized Crime

Based on the positive experience of involving communities in local crime prevention initiatives, in recent years the OSCE has also introduced the community policing approach in fighting organized crime, such as trafficking in human beings, as well as in countering violent extremism and radicalization that lead to terrorism (VERLT).

Furthermore, the OSCE's new initiative in promoting the concept of intelligence-led policing acknowledges the key role of community policing in gathering and processing crime-related information from communities relevant for effectively preventing and detecting crime.

The following sections will further elaborate on these new developments.

The *OSCE Action Plan to Combat Trafficking in Human Beings* encourages participating States to develop community policing programmes "raising levels of trust between the police and the public in order, *inter alia*, to contribute to the acquisition of information relating to trafficking and to increase the willingness of victims to report offences".[6] In line with this, the SPMU developed a guidebook on *Trafficking in Human Beings: Identification of Potential and Presumed Victims. A Community Policing Approach*[7] in close cooperation with the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

This book provides police practitioners with clear guidance for the identification of trafficked persons, *inter alia*, by introducing a set of indicators of potential and presumed victims of trafficking in human beings (THB). In particular, the book focuses on identifying child victims in the pre-exploitation phase of THB (recruitment and transfer). Furthermore, the guidebook promotes multiagency co-operation between law enforcement agencies, public institutions, and civil society in the fight against THB.

To operationalize the good practices identified in the guidebook, the SPMU also developed an *OSCE Resource Police Training Guide: Trafficking in Human Beings.*[8] The training guide provides a minimum set of standards for law enforcement training in the OSCE participating States and Partners for Co-operation. It aims to strengthen law enforcement capacities for preventing and combating trafficking in human beings, and to facilitate the identification of emerging trends and new forms of human trafficking. The guide introduces case studies illustrating good practices in investigating human trafficking cases and victim identification.

Starting in 2017, the OSCE organized a number of simulation training exercises on combating human trafficking along migration routes where some 200 law enforcement officers, prosecutors, labour inspectors, lawyers, financial investigators, social services providers, and journalists from 51 OSCE participating States and Partners for Co-operation had the opportunity to increase their knowledge on jointly combating THB.

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6   OSCE Action Plan to Combat Trafficking in Human Beings, Organization for Security and Co-operation in Europe, Ministerial Council, Maastricht 2003, Decision No. 2/03, Combatting Trafficking in Human Beings, MC.DEC/2/03, 2 December 2003, Annex, p. 3, available at: https://www.osce.org/odihr/23866 (emphasis in original).

7   OSCE, *Trafficking in Human Beings: Identification of Potential and Presumed Victims. A Community Policing Approach*, SPMU Publication Series Vol. 10, Vienna, June 2011, available at: https://www.osce.org/secretariat/78849.

8   OSCE, *OSCE Resource Police Training Guide: Trafficking in Human Beings.* TNTD/SPMU Publication Series Vol. 12, Vienna, July 2013, available at: https://www.osce.org/secretariat/109935.

Community policing has also emerged as a key point of focus in the formulation and implementation of counterterrorism policies. This is reflected in several OSCE Ministerial Council and Permanent Council Decisions, including the *OSCE Consolidated Framework for the Fight against Terrorism*,[9] adopted in December 2012, as well as the *Ministerial Declaration on Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism*,[10] adopted in December 2015.

This approach is based on the assumption that terrorism and VERLT are threats to community security, not just state security. Communities are therefore also stakeholders and partners in counterterrorism and not just passive objects of law enforcement activity.[11]

Just like the community policing concept, countering VERLT requires a multidisciplinary and co-ordinated approach, involving a broad range of public authorities beyond the security and criminal justice sectors.

Policies and programmes aiming to build contacts and trust with local communities, including businesses, religious communities, youth and women's groups, or cultural centres, may help in preventing and addressing VERLT.

However, community engagement in the context of VERLT needs to build on functioning police-community relations and community support. Community support, however, cannot be assumed; it must be won. Trusting relationships between the police and various sections of the community must be developed long before sensitive issues such as VERLT can be addressed in joint efforts. Significant time and police effort may be required to (re-)build public confidence, explain the stakes in engaging with the police, and provide evidence of the tangible benefits of such engagement for the community. This is best achieved by involving communities with broader security and safety issues that are of concern to them, not necessarily in relation to preventing terrorism. Where community police officers have established trust and healthy communication channels with their local communities, they may be the strongest or even the only possibility for the law enforcement authorities to gather information from the public, identifying the driving factors of terrorist

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9   OSCE Consolidated Framework for the Fight against Terrorism, Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 1063, OSCE Consolidated Framework for the Fight against Terrorism, PC.DEC/1063, 7 December 2012, Annex, available at: https://www.osce.org/pc/98008.

10 Ministerial Declaration on Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism, Ministerial Council, Belgrade 2015, MC.DOC/4/15, 4 December 2015, available at: https://www.osce.org/cio/208216.

11 Cf. OSCE/ODIHR, *Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach*, Vienna, February 2014, p. 165, available at: https://www.osce.org/secretariat/111438.

radicalization – those who radicalize and incite others to violence, as well as those who may be vulnerable to radicalization.

Where there is shared understanding by both police and communities that the aim of the police and partner agencies in countering VERLT is first and foremost to protect the vulnerable from radicalizing influences, trust can be more easily built. Concerns of police spying on and targeting communities can be largely alleviated when VERLT is explained and understood in the context of safeguarding communities.[12]

In order to support the participating States in applying the community policing concept effectively, the Transnational Threats Department's Action against Terrorism Unit (TNTD/ATU) and the TNTD/SPMU together with ODIHR developed the guidebook on *Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community Policing Approach*. The book aims to provide guidance, based on international experiences and in line with OSCE commitments in the field of counter-terrorism and human rights, on how to leverage community policing as part of an effective human-rights compliant, gender-sensitive, and multidisciplinary approach to countering terrorism.[13]

The VERLT guidebook is primarily intended for policy-makers and senior police professionals. However, it may also be a useful resource for members of civil society with an interest in these issues.

It can serve as a common reference to promote mutual understanding and trust, as well as to facilitate dialogue between the police and members of the public on:

- the threat of terrorism and VERLT;
- the human rights and fundamental freedoms at stake in preventing terrorism;
- the potential role of communities in preventing terrorism; and
- ways in which the police and the public can effectively approach accountability, engagement and co-operation in preventing terrorism.

The guidebook also provides practical guidance on implementing a community policing approach in countering VERLT, addressing for instance:

- transparency and accountability of police operations;
- tasking and training of community police officers;
- communication, and exchanging information;
- engagement with specific community groups, including youth, women's, faith-based, and minority groups;
- interagency co-ordination and referral mechanisms; and the
- evaluation of the impact.

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12   Cf. ibid., pp. 94 and 179.
13   Cf. ibid., pp. 94-103.

Complementing the compilation of good practices, the guidebook also reflects on the limitations and risks of a community policing approach in addressing VERLT. Policy-makers and police leaders should have realistic expectations about the results that community policing can deliver. Community policing cannot function as a stand-alone tool to prevent terrorism and counter VERLT. It should be embedded in a comprehensive, coherent, and human rights-compliant strategy to combat terrorism in all its forms and manifestations and tackle conditions that are conducive to it.

The guidebook highlights the OSCE's premise that community policing is not, and should not be, about purposeful intelligence-gathering for counter-terrorism. Community policing is primarily about safeguarding the needs of communities. Intelligence may only emerge as a by-product of effective community policing, where the public has developed trust and confidence in the police.

The use of community policing tools to prevent terrorism and counter VERLT should be carefully planned and prepared, so as not to undermine the very principles of community policing and public trust and support it seeks to generate. The guidebook therefore emphasizes, *inter alia*, that the police need to:

- embed international human rights standards at all levels and increase police accountability for their actions against terrorism in order to increase transparency and avoid human rights violations such as discriminatory profiling;
- ensure that there is a clear distinction between counterterrorism operations and community police work and that there is effective co-ordination between these operations;
- be prepared for timely and appropriate communication with the public and the media in the event of a specific counterterrorism activity or a terrorist incident;
- clarify policies and standard operating procedures for the involvement of community police officers in efforts to prevent terrorism and counter VERLT, including information-sharing, recording, and reporting protocols;
- provide adequate training for community police officers on their expected roles in preventing terrorism and countering VERLT;
- develop regular, proactive and two-way communication with the public on the threat of terrorism – neither exaggerating nor minimizing it – and the roles of the police and the public in countering terrorism;
- provide guidance for regular, transparent, inclusive and reciprocal police engagement with communities and specific groups;
- tailor their communication and engagement activities based on an accurate understanding of the specificities of different communities and

groups, including internal dynamics, concerns with regard to terrorism and counterterrorism, and attitudes *vis-à-vis* the police. This tailored approach should also be based on intelligence gathered by specialized counterterrorism units.[14]

Following the release of the guidebook in 2014, the TNTD/ATU organized a number of national seminars on community policing to counter VERLT in OSCE participating States, bringing together international and national experts from both government authorities and civil society, to discuss the threat of VERLT and good practices in addressing this threat compiled in the guidebook.

By 2018, seven OSCE field operations had already used the guidebook as a reference tool in their own community policing projects for preventing and countering VERLT. They all aimed in particular at improving police initiatives to reach out to certain community groups, including youth, women groups and religious leaders.

In order to further foster a coherent OSCE approach in applying community policing in countering VERLT, in 2018, the TNTD/SPMU published a police training manual in co-operation with the TNTD/ATU and ODIHR, and started delivering police training in partnership with field operations which operationalizes the good practices identified in the VERLT guidebook.

Community Policing as a Key Element of Intelligence-Led Policing (ILP)

In 2016, the OSCE embarked on promoting the ILP concept as a modern and proactive law enforcement model, and a realistic alternative to traditionally reactive forms of policing for OSCE participating States. ILP, which has already been adopted in a number of countries in recent years, combines intelligence gathering, evaluation and analysis with informed decision-making procedures and mechanisms, thus providing for more efficient and effective management of police agencies in addressing the ever-increasing complexities and transnational nature of crime as well as enhanced public demand for financial efficiency.

Community policing and ILP complement one another for various reasons. Both concepts build on a multi-disciplinary working environment with the possibility of involving several governmental and public partners, including municipal governments, other government agencies or departments, or community associations in a programme. Furthermore, as community policing leads to better and more reliable communications with and from the public, it represents an invaluable source of community information and awareness for

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14   Cf. ibid., pp. 22-23 and 94-118.

the police, and the relationships established through increased and routine contact between the community and the police can act as valuable channels for community information. This has the potential to become valuable information for the police to plan and target their anti-crime operations more effectively, and in this way, community policing and ILP directly support one another.

Community policing can facilitate the sharing of information between the public and the police by building public trust and confidence in the police and increasing the number of opportunities for interaction with the public. This may include observations of members of the public, information obtained by officers in the course of their duties within neighbourhoods, and information from other public sector workers such as teachers and doctors. Doing so has been assumed to increase knowledge of risk and vulnerability; improve opportunities for community engagement; and increase community confidence. This information can then be fed into the existing databases for analysis and comparison. Thus, there exists a potential for community policing efforts to serve as a gateway for locally based information to prevent and target all forms of crime, including violent extremism and terrorism.

In turn, ILP reinforces community policing as it provides clear processes, communication procedures and management structures for data and information gathering, analysing and disseminating. Intelligence provided by specialized analysts can be used by community policing officers to tailor their approaches to address the specific needs and concerns of the communities.[15]

As mentioned above in the context of countering VERLT, gathering potentially useful community information and intelligence openly and overtly is and should be a by-product of effective community policing and the gathering of criminal or other intelligence should never be the primary objective of community policing. The primary objective remains the problem-solving response to the safety and security needs of the communities.

The *OSCE Guidebook Intelligence-Led Policing*,[16] published by the TNTD/SPMU in 2017, further elaborates on the key elements of ILP and the link between ILP, community policing and VERLT. In 2017, the guidebook was introduced at regional workshops in South-Eastern Europe and Central Asia and the TNTD/SPMU started delivering training in 2018, back to back with further awareness raising events at the regional level in the OSCE area. The main target groups of the guidebook are policy-makers, higher-level governmental officials and high- and middle-level law enforcement managers.

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15 Cf. OSCE, *OSCE Guidebook Intelligence-Led Policing*, TNTD/SPMU Publication Series Vol. 13, Vienna, June 2017, pp. 88-90, available at: https://www.osce.org/chairmanship /327476.
16 Ibid.

Conclusions

For the past 19 years, community policing has been a key element of the OSCE's capacity-building activities to improve the effectiveness of the law enforcement agencies of participating States in preventing and detecting crime and enhancing the safety and security of the public. Based on the positive experience made in using community policing as a confidence-building tool to establish police-public partnerships and address communities' daily safety and security concerns more effectively, the OSCE has also introduced the community policing approach to counter serious and transnational organized crime, including trafficking in human beings and violent extremism and radicalization that lead to terrorism.

The OSCE has learned that the introduction of the community policing concept takes a long time, as the implementation of the concept requires organizational, structural, and even cultural changes within police organizations and society. Building trust between the police and communities may be time consuming, and also depends on the communities' past experiences with the police. Moreover, community involvement may be particularly difficult to achieve if it relates to countering potentially dangerous issues such as violent extremism and radicalization, and organized crime.

Being fully aware of these challenges, the OSCE executive structures are committed to providing long-term assistance to their host states in establishing effective and sustainable police-public partnerships.

III.
Organizational Aspects

OSCE Institutions and Structures

Juraj Nosal

Capacity-Building in the OSCE Context

Introduction

The OSCE is often described as a platform for "political dialogue and joint action". While these are distinct categories, they represent two sides of one coin, as dialogue without co-operation is meaningless and co-operation without dialogue impossible. This realization was one of the driving forces behind the transformation of the CSCE into the OSCE in the early 1990s, providing what was originally a standing conference between two opposing blocs of the Cold War era with permanent structures and operational capacities. Since then, the OSCE has been facilitating security co-operation among its participating States on a wide range of issues, from security sector reform and military risk reduction on the one hand, to human rights and democratization on the other.

The transformation of the international environment in recent years, marked by accelerating globalization and rapid technological advances, has increased demands on international co-operation. With our world becoming more complex, interconnected, and interdependent than ever before, there are hardly any issues that can be effectively addressed by one state alone. In the security sphere, this is particularly evident in the case of transnational threats and challenges such as cyber security, terrorism, organized crime, illicit trafficking, migration, and climate change. Since the turn of the century, international co-operation on these issues has been expanding, and the OSCE is no exception. In early 2000s, the OSCE Secretariat established the relevant operational capacities, namely the Action against Terrorism Unit (ATU), the Strategic Police Matters Unit (SPMU), the Border Security and Management Unit (BSMU), and the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB).[1] At the same time, the OSCE participating States adopted key policy documents to guide the Organization's work in this area, such as the Charter on Preventing and Combating Terrorism,[2] the Strategy to Address Threats to Security and

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Note: Opinions expressed in this article are solely those of the author and do not represent the official position of any institution or organization.

1   In 2012, the Action against Terrorism Unit, the Strategic Police Matters Unit, and the Borders Security and Management Unit were consolidated in the newly created Transnational Threats Department (TNTD).

2   Organization for Security and Co-operation in Europe, Ministerial Council, Porto 2002, OSCE Charter on Preventing and Combating Terrorism, MC(10).JOUR/2, 7 December 2002, available at: https://www.osce.org/mc/42536.

Stability in the Twenty-First Century,[3] and the Border Security and Management Concept.[4] A few years later, additional strategic documents were adopted: the Strategic Framework for Police-Related Activities,[5] the Concept for Combating the Threat of Illicit Drugs and the Diversion of Chemical Precursors,[6] and the Consolidated Framework for the Fight Against Terrorism.[7]

Based on these documents, the OSCE's activities with regard to countering transnational threats and challenges can be grouped into several general categories: providing a platform for political discussions on these issues; facilitating exchange of information and best practices; raising awareness; advising on policies and reforms; conducting training activities for practitioners and decision-makers; and building the capacities of state or non-state actors. This contribution focuses on the last of these. In particular, it outlines key elements of effective capacity-building and provides an example of a concrete capacity-building project of the OSCE that is currently being implemented in South-Eastern Europe. We then discuss the OSCE's key strengths and weaknesses in the area of capacity-building.

Elements of Effective Capacity-Building

Capacity-building, sometimes called capacity development, is one of the main types of assistance provided by international organizations, both governmental and non-governmental, to a wide variety of state and non-state actors. According to the United Nations Development Programme (UNDP), capacity-building can be defined as "the process through which individuals, organizations and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time".[8] Capacity-building can be thus conducted at three different levels: individual, organizational, and societal. The UNDP identifies five steps in this process: (1) engage stakeholders

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3   Organization for Security and Co-operation in Europe, OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, Strategy adopted at the 11th Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, 2 December 2003, available at: https://www.osce.org/mc/17504.

4   Organization for Security and Co-operation in Europe, Ministerial Council, Ljubljana 2005, Border Security and Management Concept, MC.DOC/2/05, 6 December 2005, available at: https://www.osce.org/mc/17452.

5   Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 1049, OSCE Strategic Framework for Police-Related Activities, PC.DEC/1049, 26 July 2012, available at: https://www.osce.org/pc/92559.

6   Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 1048, OSCE Concept for Combating the Threat of Illicit Drugs and the Diversion of Chemical Precursors, PC.DEC/1048, 26 July 2012, available at: https://www.osce.org/pc/92557.

7   Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 1063, OSCE Consolidated Framework for the Fight against Terrorism, PC.DEC/1063, 7 December 2012, available at: https://www.osce.org/pc/98008.

8   United Nations Development Programme, Supporting Capacity Development: The UNDP Approach, 4 June 2008, p. 4, available at: http://www.undp.org/content/undp/en/home/librarypage/capacity-building/support-capacity-development-the-undp-approach.html.

on capacity development, (2) assess capacity assets and needs, (3) formulate a capacity development response, (4) implement a capacity development response, and (5) evaluate capacity development.[9]

While in practice this process may not always be so straightforward, the steps outlined above provide a good guideline when considering the key elements in ensuring effective capacity-building.[10] The most essential of these is the ownership and engagement of beneficiaries. Capacity-building goes beyond simple training or technical assistance; it requires a qualitative change in processes, attitudes, behaviours, and often even mindsets. This is unthinkable without the beneficiary's direct engagement and stake in achieving such a long-term change. In other words, for any capacity-building project or programme to be successful, there needs to be active support, buy-in and engagement from the intended beneficiaries. This point deserves to be underlined, as sometimes it is assumed that beneficiaries will automatically support any capacity-building initiative, especially if it addresses a salient issue or an objectively existing gap, because from a rational point of view, it must be in their interest. In reality, a number of other factors influence decision-making, whether political, financial, societal, cultural, or even personal in nature. Especially in the realm of politics, these factors often play a more important role than rational considerations. Therefore, beneficiaries' engagement and sense of ownership should never be assumed, regardless of the quality of a proposed initiative.

A second important element of effective capacity-building is sustainability. Sustainability can be seen from two angles. On the one hand, it means that an intervention needs to produce results that are sustainable for a beneficiary once the intervention is over. In other words, a change in processes, attitudes, or behaviours achieved by a capacity-building project or programme will remain in place after external support is removed. On the other hand, sustainability should be an important consideration, not only in relation to a beneficiary, but also with regard to the broader overall strategy of an implementing institution. This means that any capacity-building initiative should be designed in a way that will enable future activities that can further build upon its results and achievements. Due to the complexity of most contemporary security challenges, projects and programmes can rarely address the phenomena they target in their entirety. At best, they can only deal successfully with one particular aspect. Furthermore, most contemporary challenges evolve rapidly over a relatively short period of time. All these factors underline the importance of having a long-term strategic approach that underpins the development of any capacity-building initiative in a particular thematic area.

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9   Cf. United Nations Development Programme, Capacity Development: A UNDP Primer, 13 October 2009, p. 21, available at: http://www.undp.org/content/undp/en/home/librarypage/capacity-building/capacity-development-a-undp-primer.html
10   The purpose is not to provide an exhaustive list but to highlight key issues from the author's perspective.

Another essential aspect is tailoring activities to beneficiaries' needs, conditions, and contexts. While this may seem trivial, in practice it is not always easy to do. It requires devoting significant time and resources to a thorough assessment and mapping of the existing situation, not only before implementing any activities, but ideally even before developing a capacity-building project or programme itself. Despite its crucial importance, this first step is often not attractive to donors. Moreover, context (e.g. historical, socio-cultural, political etc.) and local conditions (e.g. a relevant legislative framework), especially in the case of multi-year projects and programmes, may change over time. A good capacity-building initiative thus needs to be designed in a way that allows for a certain degree of flexibility so that it can adapt to an evolving situation. All these potential problems are amplified in the case of regional projects where differences in needs, conditions, and contexts are multiplied by a number of different beneficiaries. Regional projects have obvious advantages – not only do they save time and resources, they also facilitate regional co-operation and the creation of professional and personal networks. However, they do have a downside in terms of the degree to which various activities can be individually tailored to each beneficiary. Therefore, any regional capacity-building initiative should always consider how it might effectively tailor its content and activities to the different needs, conditions, and contexts of each of its beneficiaries.

An important part of tailoring activities to beneficiaries is evaluation. Evaluation is normally conducted at the end of an initiative but from a long-term perspective, a systematic evaluation of projects and programmes that were implemented in the past (for instance, two or three years ago) plays even more important role in developing future activities. Any lessons learned or good practices identified by such an evaluation help to better tailor capacity-building activities in a given thematic or geographical area.

Last but not least, effective capacity-building requires co-ordination as well as co-operation among key international players. Many international organizations focus on similar thematic issues and operate in overlapping geographical regions. Co-ordinating capacity-building activities in a particular thematic or geographical area is therefore necessary to avoid duplication. It can also help organizations to learn from each other's experiences and practices. While co-ordination is an important first step, in many cases it is desirable to translate this into co-operation. As already mentioned above, due to the complexity of most contemporary security challenges, capacity-building initiatives cannot address the phenomena they target in their entirety. Furthermore, no state can successfully deal with today's challenges alone, and nor can any international organization. It is increasingly necessary to join forces and resources, both human and financial, to complement and support each other's activities in order to achieve a significant and long-lasting impact. Therefore, co-ordination and co-operation with other key international actors go hand in hand

and should be an integral part of every capacity-building initiative, beginning with a needs assessment and the development phase of the initiative.

It goes without saying that all the elements mentioned above complement one another. For instance, without beneficiaries' engagement and sense of ownership, sustainability is unthinkable. If the project or programme activities are not tailored to beneficiaries' needs and conditions, they are unlikely to generate sufficient interest to ensure engagement and ownership. Likewise, without co-ordination and co-operation with other key international actors, an initiative risks duplication or overlapping with other similar projects, making it less relevant for beneficiaries, thus undermining their engagement, and weakening the overall impact.

OSCE Capacity-Building in Practice

To demonstrate the OSCE's work in this area, it is worth taking a more detailed look at one of the Organization's current capacity-building projects. In particular, this contribution will describe the extra-budgetary project "Capacity Building for Criminal Justice Practitioners Combating Cybercrime and Cyber-enabled Crime in South-Eastern Europe".[11] Implementation of this project by the OSCE Transnational Threats Department's Strategic Police Matters Unit (TNTD/SPMU) began in May 2017.

The objective of this two-year regional project is to enhance the capabilities of the criminal justice institutions in Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Montenegro, and Serbia in investigating and prosecuting cybercrime and cyber-enabled crime through building up their national training capacities in this area. The project employs a train-the-trainer approach as its core element, with each beneficiary country nominating two experts to serve as "national trainers" throughout the project's duration. In order to ensure that local beneficiaries are engaged and take ownership of the project, to facilitate information sharing and to co-ordinate all activities, the project has established a co-ordination board, which consists of representatives from relevant national authorities and OSCE field operations in the region. The board plays a crucial role not only in co-ordinating and monitoring the project's implementation, but also in deciding on the modalities of various activities and resolving a number of practical issues. The project thus represents a joint endeavour of the OSCE Secretariat, the OSCE field operations in South-eastern Europe, and relevant national authorities of the beneficiary countries.

Project activities primarily consist of a series of training courses focusing on three key thematic areas, namely identification and handling of digital evidence by first responders; investigation of crimes facilitated by the use of the

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11   The project is funded by the Federal Republic of Germany and the United States of America.

Darknet and cryptocurrencies; and enhancing skills and knowledge of the specialized cybercrime/digital forensics investigation units in conducting live data forensics and malware investigations. The training activities are implemented in several phases. In the first phase, the courses are delivered at the regional level to "national trainers" and a group of other relevant practitioners from all beneficiary countries. The rationale behind having such a mixed training audience that partially varies from course to course is to ensure that in each country, there are practitioners who not only have practical experience in the given thematic area, but are also familiar with the corresponding training course. This ensures they are later well positioned to assist "national trainers" and relevant training institutions in their countries with running their own courses. Between December 2017 and April 2018, the TNTD/SPMU organized six one-week courses for over 120 criminal justice practitioners from the region. A number of external partners were involved in these training activities: other international organizations (EUROPOL's European Cybercrime Centre and the United Nations Office on Drugs and Crime, UNODC), academia (University College Dublin's Centre for Cybersecurity and Cybercrime Investigation), non-profit international associations (European Cybercrime Training and Education Group, ECTEG), the private sector (Austrian Institute of Technology, AIT) and a number of leading experts from several OSCE participating States such as Germany, Norway, and Belgium.

In the project's second phase, "national trainers" take the content from the first phase and adapt it to their national needs, conditions, and context, such as their legislative framework. The purpose is not to replicate the regional courses but to take the modules that are most relevant and develop courses that are tailored to each beneficiary country. For instance, highly specialized courses may not be urgently or regularly needed in each country, while a basic course for police officers (cadets or those already in service) on identifying and seizing digital evidence may be in high demand. Then, "national trainers", together with the relevant training institutions, organize a first round of pilot courses at the national level. This is supported, monitored and evaluated by the project's co-ordination board members in each country, i.e. a representative from an OSCE field operation and a representative from a relevant national authority. The second phase concludes with a regional workshop to review the first round of local training activities, identify lessons learned and existing gaps, and propose recommendations for the next round of training activities.

Finally, in the project's third phase, another round of training courses, amended as per recommendations from the workshop, takes place at the national level. This is again monitored and evaluated by the project's co-ordination board members. At the same time, TNTD/SPMU, with the active support of field operations in the region, consults the relevant national training institutions on how to incorporate the courses developed and piloted by "national trainers" into official teaching curricula so they become a standard part of their educational programme and can be run regularly in the future after the

project's completion. The project is then finalized with an external evaluation and a concluding conference that takes stock of its implementation and identifies areas requiring special attention in the future.

Turning back to the elements of effective capacity-building mentioned in the previous chapter, several key points can be underlined. First, the project's co-ordination board and training activities conducted at the national level ensure beneficiaries are actively engaged and take ownership throughout the project's entire duration. Second, adaptation of the courses by "national trainers" should guarantee that the content is tailored to the actual needs, conditions, and context of each beneficiary country. Constant monitoring and evaluation of training activities and adoption of the courses by the respective training institutions should then ensure long-term sustainability. Furthermore, the project provides a good basis for future capacity-building initiatives in this area that can further build on their outcomes. These can include, for instance, initiatives aimed at further enhancing the training capacities of the respective countries, either vertically, by introducing more advanced specialized courses, or horizontally, by introducing a similar type of training to other criminal justice practitioners such as judges or defence lawyers. Finally, directly engaging a number of external partners in the regional training courses facilitates the co-ordination and co-operation of the project's activities with other leading actors in the field.

The OSCE's Strengths and Weaknesses in Capacity-Building

After providing an example of a capacity-building initiative run by the OSCE, we now turn our attention to discussing strengths and weaknesses of the Organization in this type of activity. It should be stressed that the issues highlighted below are not limited only to capacity-building, but apply to the OSCE's work in general. Nevertheless, due to the specific nature of capacity-building initiatives, the implications of these factors may be particularly relevant in this area.

Starting at the political level, the OSCE is well positioned to conduct capacity-building for several reasons. First, the Organization embodies a co-operative approach to security, which is an indispensable component of its political mandate as well as its very rationale for existence. While co-operation can be considered essential in any multilateral framework or organization, in the case of OSCE it is deeply written in its "genetic code", as clearly indicated not only by its name, but also by its history and a wide set of commitments adopted by the participating States over the years. The OSCE's mandate and its modus operandi thus very much reflect the principles of co-operation and collaboration that also underpin capacity-building.

Second, the OSCE's comprehensive model of security with its three dimensions (politico-military, economic and environmental, and human) provides

a good basis for many capacity-building activities. Thanks to this multi-dimensional approach to security, the Organization has accumulated expertise in a number of thematic areas over the years and managed to apply its diverse toolbox to a variety of issues, from arms proliferation and the promotion of military transparency, to the resolution of protracted conflicts, support for transition processes and democratic reforms, and combating transnational threats. With the growing complexity of many contemporary security challenges, this approach is highly relevant and is playing an increasingly important role.

Finally, as the world's largest regional security organization, the OSCE has a wide geographical scope that enables it to connect such diverse regions as North America and Europe on the one hand, and Central Asia or South Caucasus on the other. This is particularly beneficial for capacity-building initiatives in various thematic areas, as the Organization can take advantage of existing expertise in one participating State and bring it to activities in another State, often hundreds of miles away from each other. The OSCE's geographical reach also helps with building truly diverse international partnerships and professional networks as well as exchanging best practices and experiences among a wide variety of experts and organizations, both of which are important elements for effective capacity-building.

At the operational level, the biggest strength of the OSCE lies in its extensive network of field operations. These are currently located in Southeastern Europe, Eastern Europe, South Caucasus, and Central Asia, where 2,820 of the Organization's 3,416 staff members (i.e. over 80 per cent) were based in 2017.[12] Thanks to their long-term physical presence in host countries, the OSCE field operations have a deep understanding of local conditions and realities and an extensive network of contacts with state and non-state actors. This makes them particularly well positioned to conduct capacity-building activities, and assist other OSCE executive structures based outside the host country with the implementation of such initiatives, be it the OSCE Secretariat or any of the three specialized OSCE Institutions.

The field operations are instrumental in several aspects that are essential for effective capacity-building. For instance, thanks to their direct and constant access to key stakeholders, they can effectively facilitate relations with the main beneficiaries and ensure their sustained engagement and responsiveness. Numerous working contacts and partnerships established by the field operations over the years at different levels of government and across various sectors of society play a crucial role during the implementation of a capacity-building initiative. They are also particularly helpful when conducting a thorough needs assessment in a certain thematic area or an evaluation of a project's impact after its completion. Furthermore, the physical presence in a host coun-

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12   Cf. Organization for Security and Co-operation in Europe, Annual Report 2017, Vienna 2018, p. 102, available at: https://www.osce.org/annual-report/2017.

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try enables the field operations to constantly monitor the progress of beneficiaries, provide practical support where it is needed, and immediately address any complications that may arise. In short, a physical presence in a beneficiary country provides numerous advantages that are very important for the successful and effective implementation of any international initiative at all stages, from assessment and development to implementation and evaluation. In the case of capacity-building initiatives, which require a lasting change in processes, attitudes, behaviours, or mindsets, such a presence is of critical importance.

Another strength of the OSCE at the operational level is its wide network of partnerships, especially with other international organizations. Extensive contacts at both leadership and working levels enable the OSCE to better coordinate its activities with other key players and establish practical cooperation on various programmatic activities, bringing in expertise from other institutions, as clearly illustrated by the capacity-building project on combating cybercrime in South-Eastern Europe mentioned above. Indeed, most programmatic units and departments of the OSCE executive structures have established a number of partnerships over the years. For instance, the TNTD/SPMU alone can draw on several co-operation agreements and action plans signed by the OSCE and other key international actors such as the UNODC, the International Criminal Police Organization (INTERPOL) or the European Union Agency for Law Enforcement Training (CEPOL).

While the OSCE possesses several advantages in conducting capacity-building activities, there are also some weak points that can undermine the Organization's efforts in this area.

The most obvious weakness of the OSCE stems from the complicated budget situation it has faced for several years. With a few exceptions, the OSCE's annual budget has been constantly decreasing since 2000.[13] Recently, the decrease seems to have turned into stagnation. However, with some participating States pursuing the policy of zero nominal growth, in practical terms this means that the actual resources of the Organization are still shrinking every year as inflation cuts deeper and deeper, although the pace is slower and more gradual than in the case of outright cuts. The lack of resources, combined with the extensive delays in budget approval that have become a common practice in recent years, results in a limited amount of operational funds available for programmatic work. Therefore, most OSCE executive structures have to rely on extra-budgetary contributions to fund their activities, especially those that are more demanding in terms of both time and finances, such as capacity-building. The strong reliance on voluntary contributions poses a challenge for this type of activity, since it does not allow for any long-term strategic planning and cannot guarantee continuity. It is very rare that a larger multi-year project,

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13   Cf. Christian Nünlist, The OSCE and the Future of European Security, CSS Analyses in Security Policy No. 202, February 2017, p. 3, at: http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/CSSAnalyse202-EN.pdf.

regardless of its type or scope, would receive full funding from the very beginning. Many donors are simply not able to provide multi-year funding as their budgets are approved only on an annual basis. Furthermore, some countries require that their contributions are used to fund only activities that take place in the given financial year. In short, financing capacity-building initiatives that are often implemented over several years and require significant resources through extra-budgetary contributions is challenging, due to various existing limitations in relation to this type of funding.

Another weakness that may have negative implications for capacity-building activities is a high turnover among the OSCE's staff. This is caused by the Organization's strict policy on a period of service for professional staff. For most positions, it is limited to seven years of service in one post and a maximum of ten years in total. For senior management positions, the limit is five years and for directors it is only four years. This leads to an accelerated rotation of staff, especially at the senior level, as many staff members do not want to wait until the very end of their contracts to start looking for a new job. As a result, many projects that span over a few years, as is usually the case with capacity-building, have more than one project manager in the course of their implementation. This poses similar challenges for capacity-building activities as the lack of sustained and predictable financing: It can undermine long-term planning and continuity. In addition, working and personal relationships with counterparts from beneficiary institutions cannot always be easily transferred to a new manager.

Finally, the OSCE lacks a systematic evaluation of its programmatic activities. As mentioned above, evaluation is an important step in any capacity-building process. Thorough evaluation requires time and resources, both human and financial, something that many publically funded organizations lack. The OSCE Secretariat's Office of Internal Oversight, among others, is responsible for evaluating the Organization's work, but given its limited budget and staff, it can only evaluate a small portion of the OSCE's activities. Furthermore, virtually all capacity-building projects are funded via extra-budgetary contributions, which are not evaluated automatically. Therefore, the only option to ensure that an external evaluation will be conducted is to include financial resources for such an activity in a project's budget. However, with many projects not receiving full funding, there is no guarantee that sufficient resources will be available for a final evaluation at the end. Furthermore, just as with needs assessment, an evaluation does not necessarily represent a very attractive activity for most donors.

Conclusion

Capacity-building represents an important part of the work of international organizations like the OSCE. Its main defining feature lies in the fact that it aims

to change the attitudes, behaviours, processes, or even mindsets that form a framework within which beneficiary actors address certain thematic issues. Its ultimate goal is thus to achieve a long-lasting impact. There are several important elements that can ensure such efforts are effective. In particular, these include ensuring beneficiaries are engaged and take ownership of projects; long-term sustainability; tailoring activities to beneficiary's needs, conditions, and contexts; and co-ordination and co-operation of the implementing organization with other key actors in a given thematic or geographical area.

As demonstrated with the example of a regional capacity-building project on combating cybercrime in South-Eastern Europe described above, the OSCE is well positioned to effectively support its participating States in building their capacities to address contemporary security threats and challenges. The Organization's key added value in this regard lies in its co-operative and multi-dimensional approach to security, geographical scope, strong physical presence in many strategic regions such as South-Eastern Europe, Eastern Europe, and Central Asia, and a wide network of international partnerships. All of these represent important elements that can facilitate effective and successful capacity-building.

At the same time, it should be recognized that the OSCE faces several challenges in this area. These are mainly related to the lack of predictable and consistent funding that leads to a heavy reliance on voluntary contributions, a high turnover of the Organization's staff, and the lack of systematic evaluation. However, it can be argued that these shortcomings could be resolved if there was sufficient political will among the OSCE participating States. Some of these issues are also being addressed by the new OSCE Secretary General, Thomas Greminger, in his "fit for purpose" reform agenda.

With the growing complexity, interconnectedness, and interdependence of the international security environment, a demand for capacity-building assistance can be expected to grow in the coming years. The OSCE is well equipped to provide this kind of support to its participating States and thus contribute to building resilient societies that are prepared for the current as well as future challenges.

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
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)/United States-Mexico-Canada
Agreement (USMCA)[1]

Shanghai Cooperation Organisation (SCO)
Observer States to the SCO
SCO Dialogue Partners

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1   The USMCA was signed on 30 November 2018, but is still to be ratified.

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*

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The 57 OSCE Participating States – Facts and Figures[1]

1. Albania
Date of accession: June 1991
Scale of contributions: 0.125 per cent[2] (OSCE ranking: 40)[3]
Area: 28,748 km² (OSCE ranking: 46)[4]
Population: 3,057,220 (OSCE ranking: 41)[5]
GDP per capita in international dollars at PPP rates[6]: 4,538
GDP growth: 3.8 per cent (OSCE ranking: 22)[7]
Armed forces (active): 8,000 (OSCE ranking: 43)[8]
Memberships and forms of co-operation: CoE (1995), NATO (2009), EAPC, EU Candidate Country, 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: 85,708 (53)
GDP per capita in international dollars at PPP rates: 39,147
GDP growth: 1.9 per cent (42)
Armed forces (active): none
Memberships and forms of co-operation: CoE (1994), special agreement with the EU (1990)[9].

3. Armenia
Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 29,743 km² (45)
Population: 3,038,217 (42)

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1   Compiled by Jochen Rasch.
2   This results in a total of 100,055.
3   Of 57 states.
4   Of 57 states.
5   Of 57 states.
6   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.
7   Of 54 states.
8   Of 54 states.
9   1990 agreement establishing a customs union (covering industrial goods) and 2004 (partial) co-operation agreement. https://eeas.europa.eu/headquarters/headquarters-homepage/2050/andorra-and-eu_en.

GDP per capita in international dollars at PPP rates: 3,937
GDP growth: 7.5 per cent (2)
Armed forces (active): 44,800 (17)
Memberships and forms of co-operation: CoE (2001), EU-Armenia
Comprehensive and Enhanced Partnership Agreement (2017),[10] EAPC, PfP
(1994), 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 (30)
Population: 8,793,370 (25)
GDP per capita in international dollars at PPP rates: 47,291
GDP growth: 3 per cent (29)
Armed forces (active): 22,400 (29)
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 (29)
Population: 10,046,516 (20)
GDP per capita in international dollars at PPP rates: 4,132
GDP growth: 0.1 per cent (53)
Armed forces (active): 66,950 (13)
Memberships and forms of co-operation: CoE (2001), EU-Azerbaijan
Partnership and Cooperation Agreement (1999),[11] EAPC, PfP (1994), 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: 9,527,543 (23)
GDP per capita in international dollars at PPP rates: 5,726
GDP growth: 2.4 per cent (36)
Armed forces (active): 45,350 (16)

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10   The EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA) was
      signed on 24 November 2017. See: https://eeas.europa.eu/headquarters/headquarters-
      homepage/896/armenia-and-eu_en.
11   See: https://eeas.europa.eu/headquarters/headquarters-homepage/916/azerbaijan-and-
      eu_en.

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: 11,570,762 (16)
GDP per capita in international dollars at PPP rates: 43,324
GDP growth: 1.7 per cent (47)
Armed forces (active): 28,800 (24)
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: 3,849,891 (38)
GDP per capita in international dollars at PPP rates: 5,181
GDP growth: 3 per cent (29)
Armed forces (active): 10,500 (39)
Memberships and forms of co-operation: CoE (2002), EAPC, PfP (2006), EU membership application,[12] 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: 7,057,504 (28)
GDP per capita in international dollars at PPP rates: 8,032
GDP growth: 3.6 per cent (24)
Armed forces (active): 31,300 (21)
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: 35,881,659 (11)

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12 On 15 February 2016, Bosnia and Herzegovina officially submitted its application for EU membership. See: http://www.consilium.europa.eu/en/policies/enlargement/bosnia-herzegovina.

GDP per capita in international dollars at PPP rates: 45,032
GDP growth: 3 per cent (29)
Armed forces (active): 63,000 (14)
Memberships and forms of co-operation: G8 (1976), OECD (1961), NATO (1949), CETA,[13] EAPC, Observer to the Barents Euro-Arctic Council, RCC, NAFTA/USMCA.

11. Croatia

Date of accession: March 1992
Scale of contributions: 0.19 per cent (33)
Area: 56,594 km² (36)
Population: 4,270,480 (37)
GDP per capita in international dollars at PPP rates: 13,295
GDP growth: 2.8 per cent (32)
Armed forces (active): 15,650 (36)
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)[14]
Population: 1,237,088 (48)[15]
GDP per capita in international dollars at PPP rates: 25,234
GDP growth: 3.9 per cent (21)
Armed forces (active): 15,000 (37)[16]
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 (31)
Population: 10,686,269 (18)
GDP per capita in international dollars at PPP rates: 20,368
GDP growth: 4.3 per cent (17)
Armed forces (active): 23,200 (28)
Memberships and forms of co-operation: OECD (1995), CoE (1993), NATO (1999), EAPC, EU (2004), RCC, CEI (1990/1993).

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13   The provisional application of the agreement started on 21 September 2017. See: https://eeas.europa.eu/headquarters/headquarters-homepage/640/canada-and-eu_en.
14   Greek sector: 5,896 km², Turkish sector: 3,355 km².
15   Total of Greek and Turkish sectors.
16   Turkish sector: 3,500.

14. Denmark
Date of accession: June 1973
Scale of contributions: 2.1 per cent (14)
Area: 43,094 km² (40)
Population: 5,809,502 (30)
GDP per capita in international dollars at PPP rates: 56,308
GDP growth: 2.2 per cent (40)
Armed forces (active): 16,100 (34)
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: 1,244,288 (47)
GDP per capita in international dollars at PPP rates: 19,705
GDP growth: 4.9 per cent (12)
Armed forces (active): 6,600 (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: 5,537,364 (31)
GDP per capita in international dollars at PPP rates: 45,703
GDP growth: 2.6 per cent (34)
Armed forces (active): 21,500 (30)
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: 67,364,357 (5)
GDP per capita in international dollars at PPP rates: 38,477
GDP growth: 1.8 per cent (45)
Armed forces (active): 202,700 (5)

Memberships and forms of co-operation: G8 (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) [17]
Population: 4,926,087 (36) [18]
GDP per capita in international dollars at PPP rates: 4,078
GDP growth: 5 per cent (10)
Armed forces (active): 20,650 (32) [19]
Memberships and forms of co-operation: CoE (1999), EAPC, PfP (1994), EU Association Agreement and DCFTA,[20] BSEC.

19. Germany
Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 357,022 km² (13)
Population: 80,457,737 (4)
GDP per capita in international dollars at PPP rates: 44,470
GDP growth: 2.2 per cent (40)
Armed forces (active): 178,600 (6)
Memberships and forms of co-operation: G8 (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: 10,761,523 (17)
GDP per capita in international dollars at PPP rates: 18,613
GDP growth: 1.4 per cent (50)
Armed forces (active): 141,350 (9)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU (1981), RCC, SEECP, BSEC.

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17 Abkhazia: 8,665 km². See: http://mfaapsny.org/en/helpful-information/general_information; South Ossetia: 3,900 km². See: http://www.mfa-rso.su.
18 Abkhazia: 243,936 (1 January 2017). See: http://ugsra.org/ofitsialnaya-statistika.php?ELEMENT_ID=240; South Ossetia: 53,532 (census October 2015). See: http://ugosstat.ru/wp-content/uploads/2017/06/Itogi-perepisi-RYUO.pdf (p. 11).
19 Territory, where the government does not exercise effective control: 7,000 Russian forces.
20 The EU Association Agreement 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)
GDP per capita in international dollars at PPP rates: n/a
GDP growth: n/a
Armed forces (active): 110 (52)[21]
Memberships and forms of co-operation.

22. Hungary
Date of accession: June 1973
Scale of contributions: 0.6 per cent (23)
Area: 93,028 km² (26)
Population: 9,825,704 (22)
GDP per capita in international dollars at PPP rates: 14,225
GDP growth: 4 per cent (19)
Armed forces (active): 27,800 (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: 343,518 (52)
GDP per capita in international dollars at PPP rates: 70,057
GDP growth: 3.6 per cent (24)
Armed forces (active): none
Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1949), EAPC, EEA (1994), [22] 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: 5,068,050 (35)
GDP per capita in international dollars at PPP rates: 69,331
GDP growth: 7.8 per cent (1)

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21 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.
22 In March 2015, Iceland's government requested that "Iceland should not be regarded as a candidate country for EU membership". At: https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/iceland_en.

Armed forces (active): 9,100 (41)
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: 62,246,674 (7)
GDP per capita in international dollars at PPP rates: 31,953
GDP growth: 1.5 per cent (48)
Armed forces (active): 174,500 (7)
Memberships and forms of co-operation: G8 (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: 18,744,548 (14)
GDP per capita in international dollars at PPP rates: 8,837
GDP growth: 4 per cent (19)
Armed forces (active): 39,000 (18)
Memberships and forms of co-operation: EAPC, PfP (1994), Enhanced Partnership and Cooperation Agreement,[23] 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: 5,849,296 (29)
GDP per capita in international dollars at PPP rates: 1,220
GDP growth: 4.6 per cent (13)
Armed forces (active): 10,900 (38)

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23   Enhanced Partnership and Cooperation Agreement (EPCA) between the EU and Kazakhstan, signed on 21 December 2015. On 1 May 2016, most of the Trade and Business chapters of the EPCA provisionally entered into force. See: https://eeas.europa.eu/headquarters/headquarters-homepage/1367/kazakhstan-and-eu_en.

Memberships and forms of co-operation: EAPC, PfP (1994), Partnership and Cooperation Agreement (1999),[24] 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: 1,923,559 (46)
GDP per capita in international dollars at PPP rates: 15,594
GDP growth: 4.5 per cent (15)
Armed forces (active): 5,310 (47)
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: 38,547 (54)
GDP per capita in international dollars at PPP rates: a168146[25]
GDP growth: a-1,2 (2009)[26]
Armed forces (active): none[27]
Memberships and forms of co-operation: CoE (1978), EEA (1995).

30. Lithuania
Date of accession: September 1991
Scale of contributions: 0.19 per cent (33)
Area: 65,300 km² (34)
Population: 2,793,284 (43)
GDP per capita in international dollars at PPP rates: 16,681
GDP growth: 3.8 per cent (22)
Armed forces (active): 18,350 (33)
Memberships and forms of co-operation: OECD (2018), CoE (1993), NATO (2004), EAPC, EU (2004), Baltic Assembly/Baltic Council of Ministers, CBSS (1992).

24　In December 2017 the EU and Kyrgyzstan launched negotiations on a new Enhanced Partnership and Cooperation Agreement. See: https://eeas.europa.eu/headquarters/ headquarters-homepage/1397/kyrgyz-republic-and-eu_en.
25　2015.
26　2009.
27　In 1868, the armed forces were dissolved, see: https://web.archive.org/web/ 20130508075411/http://www.liechtenstein.li/index.php?id=60&L=1.

31. Luxembourg
Date of accession: June 1973
Scale of contributions: 0.47 per cent (27)
Area: 2,586 km² (51)
Population: 605,764 (50)
GDP per capita in international dollars at PPP rates: 104,103
GDP growth: 2.3 per cent (37)
Armed forces (active): 900 (51)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958).

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: 2,118,945 (44)
GDP per capita in international dollars at PPP rates: 5,443
GDP growth: 0 per cent (54)
Armed forces (active): 8,000 (43)
Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1995), EU Candidate Country,[28] 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: 449,043 (51)
GDP per capita in international dollars at PPP rates: 26,946
GDP growth: 6.4 per cent (7)
Armed forces (active): 1,950 (49)
Memberships and forms of co-operation: CoE (1965), EAPC, PfP (1995/2008[29]), EU (2004).

34. Moldova
Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 33,851 km² (43) [30]

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28   See: https://eeas.europa.eu/delegations/former-yugoslav-republic-macedonia_en/1457/ The%20Former%20Yugoslav%20Republic%20of%20Macedonia%20and%20the%20EU.
29   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.
30   Transdnistria: 4,163 km². See: http://mfa-pmr.org/en/about_republic.

Population: 3,437,720 (39) [31]
GDP per capita in international dollars at PPP rates: 2,290
GDP growth: 4.5 per cent (15)
Armed forces (active): 5,150 (48) [32]
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: 30,727 (56)
GDP per capita in international dollars at PPP rates: a162009[33]
GDP growth: a10,0 (2008)[34]
Armed forces (active): none
Memberships and forms of co-operation: CoE (2004), EU customs territory.[35]

36. Mongolia
Date of accession: November 2012
Scale of contributions: 0.05 per cent (49)
Area: 1,564,116 km² (5)
Population: 3,103,428 (40)
GDP per capita in international dollars at PPP rates: 3,735
GDP growth: 5.9 per cent (8)
Armed forces (active): 9,700 (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: 614,249 (49)
GDP per capita in international dollars at PPP rates: 7,670
GDP growth: 4.3 per cent (17)
Armed forces (active): 1,950 (49)

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31 Transdnistria: 555,347 (census 2004). See: https://web.archive.org/web/20070217072904/http://pridnestrovie.net/2004census.html.
32 Transdnistria: 1,500 Russian forces (estimated, including 400 peacekeepers).
33 2011.
34 2008.
35 Monaco is part of the EU customs territory. See: https://eeas.europa.eu/headquarters/headquarters-homepage/2290/monaco-and-eu_en.

Memberships and forms of co-operation: CoE (2007), NATO (2017), EAPC, EU Candidate Country,[36] 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: 17,151,228 (15)
GDP per capita in international dollars at PPP rates: 48,223
GDP growth: 3.2 per cent (27)
Armed forces (active): 35,410 (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)
Area: 323,802 km² (15)
Population: 5,372,191 (34)
GDP per capita in international dollars at PPP rates: 75,505
GDP growth: 1.9 per cent (42)
Armed forces (active): 23,950 (27)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EEA (1996), 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: 38,420,687 (10)
GDP per capita in international dollars at PPP rates: 13,812
GDP growth: 4.6 per cent (13)
Armed forces (active): 105,000 (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)

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36   See: https://eeas.europa.eu/headquarters/headquarters-homepage/27529/montenegro-and-eu_en.

Population: 10,355,493 (19)
GDP per capita in international dollars at PPP rates: 21,136
GDP growth: 2.7 per cent (33)
Armed forces (active): 30,500 (22)
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: 21,457,116 (13)
GDP per capita in international dollars at PPP rates: 10,814
GDP growth: 6.9 per cent (5)
Armed forces (active): 69,300 (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: 142,122,776 (2)
GDP per capita in international dollars at PPP rates: 10,743
GDP growth: 1.5 per cent (48)
Armed forces (active): 900,000 (2)
Memberships and forms of co-operation: CoE (1996), EAPC, PfP (1994), NATO-Russia Council (2002[37]), 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: 33,779 (55)
GDP per capita in international dollars at PPP rates: 49,664
GDP growth: 1.2 per cent (51)
Armed forces (active): none
Memberships and forms of co-operation: CoE (1988).

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37   In April 2014, NATO suspended all practical co-operation with Russia. Political dialogue in the NATO-Russia Council has been continued only at the Ambassadorial level and above. In 2018, two meetings of the NATO-Russia Council took place. See: https://www.nato.int/cps/ic/natohq/topics_50091.htm

45. Serbia

Date of accession: November 2000[38]
Scale of contributions: 0.14 per cent (39)
Area: 88,361 km² (28)[39]
Population: 8,985,702 (24)[40]
GDP per capita in international dollars at PPP rates: 5,900[41]
GDP growth: 1.9 per cent (42)[42]
Armed forces (active): 28,150 (25) [43]
Memberships and forms of co-operation: CoE (2003), EAPC, PfP (2006), EU Candidate Country, 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)
Population: 5,445,040 (32)
GDP per capita in international dollars at PPP rates: 17,605
GDP growth: 3.4 per cent (26)
Armed forces (active): 15,850 (35)
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: 2,102,126 (45)
GDP per capita in international dollars at PPP rates: 23,597
GDP growth: 5 per cent (10)
Armed forces (active): 7,250 (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: 49,331,076 (8)
GDP per capita in international dollars at PPP rates: 28,157

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38   Yugoslavia was suspended from 7 July 1992 to 10 November 2000.
39   This figure includes the area of Kosovo (10,887 km²).
40   This figure includes the population of Kosovo (1,907,592).
41   This figure does not include Kosovo.
42   This figure does not include Kosovo.
43   Kosovo Security Force: 2,500.

GDP growth: 3.1 per cent (28)
Armed forces (active): 121,200 (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: 10,040,995 (21)
GDP per capita in international dollars at PPP rates: 53,442
GDP growth: 2.3 per cent (37)
Armed forces (active): 29,750 (23)
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: 8,292,809 (27)
GDP per capita in international dollars at PPP rates: 80,190
GDP growth: 1.1 per cent (52)
Armed forces (active): 20,950 (31)
Memberships and forms of co-operation: OECD (1961), CoE (1963), EAPC,
PfP (1996), EU Association Agreement (withdrawn 2016),[44] RCC.

51. Tajikistan
Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 144,100 km² (22)
Population: 8,604,882 (26)
GDP per capita in international dollars at PPP rates: 801
GDP growth: 7.1 per cent (4)
Armed forces (active): 8,800 (42)
Memberships and forms of co-operation: EAPC, PfP (2002), CIS (1991),
CSTO, SCO.

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44   Switzerland formally withdrew its application for accession to the European Economic
      Community (EEC) of 20 May 1992 on 27 July 2016. See: https://www.eda.admin.ch/
      content/dam/dea/fr/documents/bundesrat/160727-Lettre-retrait-adhesion-CH_fr.pdf.

52. Turkey

Date of accession: June 1973
Scale of contributions: 1.01 per cent (18)
Area: 783,562 km² (6)
Population: 81,257,239 (3)
GDP per capita in international dollars at PPP rates: 10,541
GDP growth: 7.4 per cent (3)
Armed forces (active): 355,200 (3)
Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1952), EAPC, EU Candidate Country, [45] RCC, SEECP, BSEC, SCO Dialogue Partner.

53. Turkmenistan

Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 488,100 km² (10)
Population: 5,411,012 (33)
GDP per capita in international dollars at PPP rates: 7,356
GDP growth: 6.5 per cent (6)
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) [46]
Population: 43,952,299 (9) [47]
GDP per capita in international dollars at PPP rates: 2,640
GDP growth: 2.5 per cent (35)
Armed forces (active): 204,000 (4) [48]
Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), EU Association Agreement and DCFTA,[49] CIS (1991), CEI (1996), BSEC.

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45 Accession talks with Turkey have currently come to a standstill. See: https://www.euractiv.com/section/enlargement/news/turkeys-eu-membership-bid-set-to-enter-ice-age.

46 Including Crimea, Sevastopol and the territories where the government does not exercise effective control.

47 The estimated population as of 1 October 2018 was 42,220,824 (excluding Crimea and Sevastopol; no information available on the territories where the government does not exercise effective control). See: http://database.ukrcensus.gov.ua/Pxweb2007/eng/news/op_popul_e.asp.

48 In addition, there are: Paramilitary: Ukraine 88,000; separatist forces: Donetsk 20,000 (estimated), Luhansk 14,000 (estimated); foreign forces: Donetsk and Luhansk 3,000 (reported); Russian forces: Crimea 28,000.

49 The EU Association Agreement came into full force on 1 September 2017. See: https://eeas.europa.eu/headquarters/headquarters-homepage/1937/ukraine-and-eu_en.

55. United Kingdom
Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 243,610 km² (18)
Population: 65,105,246 (6)
GDP per capita in international dollars at PPP rates: 39,720
GDP growth: 1.8 per cent (45)
Armed forces (active): 150,250 (8)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), [50] Observer to the Barents Euro-Arctic Council, RCC.

56. USA
Date of accession: June 1973
Scale of contributions: 11.5 per cent (1)
Area: 9,833,517 km² (3)
Population: 329,256,465 (1)
GDP per capita in international dollars at PPP rates: 59,532
GDP growth: 2.3 per cent (37)
Armed forces (active): 1,348,400 (1)
Memberships and forms of co-operation: G8 (1975), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, RCC, NAFTA/USMCA.

57. Uzbekistan
Date of accession: January 1992
Scale of contributions: 0.35 per cent (29)
Area: 447,400 km² (12)
Population: 30,023,709 (12)
GDP per capita in international dollars at PPP rates: 1,504
GDP growth: 5.3 per cent (9)
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/131
31.html and http://www.osce.org/de/mc/97738 (Mongolia)*

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50   The UK will formally exit the EU on 29 March 2019. See: https://ec.europa.eu/info/brexit-preparedness/brexit-notices-explanation_en.

Scale of contributions:
OSCE, decision of the Permanent Council, PC.DEC/1293/Corr.1, 17 May 2018. https://www.osce.org/permanent-council/382606?download=true

Area:
https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2147.txt

Population:
(estimated as of July 2018) https://www.cia.gov/library/publications/the-world-factbook/fields/335rank.html

GDP per capita in international dollars at PPP rates:
(Angaben für 2017, unless stated to the contrary)
http://data.worldbank.org/indicator/NY.GDP.PCAP.CD/countries

GDP growth:
(Angaben für 2017, 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 2017, London 2014

OSCE Conferences, Meetings, and Events 2017/2018

2017

6 September	OSCE Chairmanship/Office for the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA): Concluding Meeting of the 25th OSCE Economic and Environmental Forum on "Greening the economy and building partnerships for security in the OSCE region", Prague
11-22 September	OSCE Office for Democratic Institutions and Human Rights (ODIHR): Human Dimension Implementation Meeting 2017, Warsaw
14 September	OCEEA/United Nations Economic Commission for Europe (UNECE): 2017 Aarhus Centres Annual Meeting, Budva
26-27 September	OSCE Chairmanship/OSCE Transnational Threats Department (TNTD)/Strategic Police Matters Unit (SPMU): 2017 Annual Police Experts Meeting "Crime Should not Pay: Illicit financial flows and confiscation of criminal assets. Countering financial proceeds of criminal networks", Vienna
28-29 September	TNTD: OSCE-wide Seminar on passenger data exchange, Vienna
3-5 October	OSCE Parliamentary Assembly (PA): 16th Autumn Meeting on "Security in the OSCE area: New challenges, new tasks", Andorra
9-11 October	OSCE Mission to Skopje: Sixth Regional Conference on hate crime in South-eastern Europe, Skopje
9 October	Office of the OSCE Representative on Freedom of the Media (RFOM): Cyprus Dialogue, Nikosia
11 October	OSCE Chairmanship/ODIHR: Human Dimension Seminar on "Rights of the child: Children in situations of risk", Warsaw
13 October	OSCE Chairmanship/Chairmanship of the Council of Europe (CoE) Committee of Ministers: Internet Freedom Conference: The role and responsibilities of internet intermediaries, Vienna
18-19 October	RFOM: 19th Central Asia Media Conference – "Open journalism in Central Asia", Tashkent
20 October	Austrian Task Force on Combating Human Trafficking/ OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB)/

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	Vienna Institute for International Dialogue and Co-operation (VIDC)/International Organization for Migration (IOM): Conference on "Human trafficking in conflict and crisis situations", Vienna
24-25 October	OSCE: 2017 OSCE Mediterranean Conference, Palermo
2 November	RFOM: 16th meeting of the representatives of media organizations from the Russian Federation and Ukraine, Vienna
2-3 November	OSCE Chairmanship/RFOM/ODIHR: Supplementary Human Dimension Meeting: The role of free media in the comprehensive approach to security, Vienna
3 November	OSCE Chairmanship Conference on Cyber Security, Vienna
16-17 November	OSCE Chairmanship/High Commissioner on National Minorities (HKNM)/ODIHR: Supplementary Human Dimension Meeting: Access to justice as a key element of the rule of law, Vienna
24 November	Gender Section of the OSCE Secretariat: MenEngage Expert Meeting, Vienna
5 December	ODIHR/Central European University (CEU): Capacity-building event "Human rights communication 2.0", Budapest
7-8 December	OSCE Chairmanship: 24th OSCE Ministerial Council, Vienna
18 December	IOM/OSCE: 2017 International Migrants Day: "Perception is not reality – Towards a new narrative of migration", Vienna

2018

1 January	Italy takes over the OSCE Chairmanship from Austria. Italian Foreign Minister Angelino Alfano becomes Chairperson-in-Office
11 January	OSCE Chairmanship: OSCE Chairperson-in-Office addresses Permanent Council outlining the priorities of Italy's 2018 OSCE Chairmanship, Vienna OSCE Chairmanship/OCEEA: First Preparatory Meeting of the 26th OSCE Economic and Environmental Forum – "Promoting economic progress and security in the OSCE area through innovation, human capital development, and good public and corporate governance", Vienna

29 January	OSCE Chairmanship: Rome International Conference on "The responsibility of states, institutions and individuals in the fight against Anti-Semitism in the OSCE area", Rome
12-16 February	OSCE/United Nations Office for Disarmament Affairs (UNODA): Training course "Women for peace: Conflict prevention and resolution through arms control, disarmament and non-proliferation", Vienna
22 February	RFOM: 17th meeting of the representatives of media organizations from the Russian Federation and Ukraine, Vienna
15 March	ODIHR/United Nations Office on Drugs and Crime (UNODC)/United Nations Entity for Gender Equalityand the Empowerment of Women (UN Women)/Equality Now/Coalition against Trafficking in Women (CATW): "'#MeToo' say survivors: Human rights, gender, and trafficking in human beings, New York
16-17 April	ODIHR: Conference "Promoting the political participation of women with disabilities", Vienna
23-24 April	OSR/CTHB: Conference "Everyone has a role: How to make a difference together", Vienna
10-11 May	OSCE Chairmanship/TNTD: OSCE-wide counter-terrorism conference 2018, Rome
10-11 May	RFOM/OSCE Mission to Skopje: OSCE South East Europe Media Conference, Struga
24-25 May	OSCE Chairmanship/OCEEA: Second Preparatory Meeting of the 26th OSCE Economic and Environmental Forum on "Promoting economic progress and security in the OSCE area", Venice
28-29 May	OSCE Chairmanship/ODIHR/OSR/CTHB: Supplementary Human Dimension Meeting I: Child trafficking – From prevention to protection, Vienna
31 May	HCNM/Norwegian Resource Bank for Democracy and Human Rights/Norwegian Centre for Human Rights at University of Oslo: "Language policy and conflict prevention", Oslo
14 June	RFOM: International Workshop: "Co-operation of special and law enforcement agencies with media and international organizations", Warsaw
26-28 June	OSCE Chairmanship: 2018 Annual Security Review Conference, Vienna
2-3 July	OSCE Chairmanship/ODIHR: Supplementary Human Dimension Meeting II: Countering violence against women – Everyone's responsibility, Vienna

7-11 July	OSCE PA: 27th Annual Session: "Implementing OSCE commitments: The role of parliaments", Berlin
9-15 July	ODIHR/European Consortium for Political Research (ECPR)/Cardinal Stefan Wyszynski University in Warsaw/Centre for the Study of Parties and Democracy: First ECPR/ODIHR Summer School on "Political parties and democracy", Warsaw
9-11 July	RFOM: Cyprus Dialogue – Expert Meetings, Nikosia
15-16 July	HCNM/Friuli Venezia Giulia Regional Authorities/Municipality of Udine/OSCE Chairmanship: Tenth Anniversary of the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations, Udine
18-19 July	RFOM: 15th South Caucasus Media Conference – "Quality journalism for trustworthy and credible information", Tbilisi

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ENVSEC, Climate Change and Security in the South Caucasus, Republic of Armenia, Republic of Azerbaijan and Georgia, Regional Assessment, [Vienna 2017].

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Abbreviations

ABM Treaty	Anti-Ballistic Missile Treaty
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
AIT	Austrian Institute of Technology
ANCI	Associazione Nazionale Comuni Italiani/Association of the Italian Municipalities
APEC	Asia-Pacific Economic Cooperation
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASRC	Annual Security Review Conference
ATU	Action against Terrorism Unit
AU	African Union
AVNOJ	Antifašističko Veće Narodnog Oslobođenja Jugoslavije/Anti-Fascist Council for the National Liberation of Yugoslavia
BBC	British Broadcasting Corporation
BiEPAG	Balkans in Europe Policy Advisory Group
BiH	Bosnia and Herzegovina
BMSC	Border Management Staff College
BSEC	Black Sea Economic Cooperation
BSMC	Border Security and Management Concept
BSMU	Border Security and Management Unit
CACO	Central Asian Cooperation Organization
CARA	Centri die Accoglienza per Richiedenti Asilo/Centres of Accommodation for Asylum Seekers
CAS	Centri di Accoglienza Straordinaria/Centres for Extraordinary Accommodation
CATW	Coalition Against Trafficking in Women
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CCS	Center for Security Studies
CDU/CSU	Christlich Demokratische Union Deutschlands/Christlich-Soziale Union in Bayern/Christian Democratic Union of Germany/Christian Social Union in Bavaria
CEE	Central and Eastern Europe
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement

CEI	Central European Initiative
CEPA	Comprehensive and Enhanced Partnership Agreement
CEPOL	European Union Agency for Law Enforcement Training
CERD	Committee on the Elimination of Racial Discrimination
CERT	Computer Emergency Response Team
CEU	Central European University
CFE	Conventional Armed Forces in Europe
CFE Treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CIA	Central Intelligence Agency
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CiO	Chairperson-in-Office
CIS	Commonwealth of Independent States
CJEU	Court of Justice of the European Union
CoE	Council of Europe
COE-DAT	Centre of Excellence – Defence Against Terrorism
CoESPU	Center of Excellence for Stability Police Units
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment/Committee for the Prevention of Torture
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
CSIS	Center for Strategic and International Studies
CSO	Committee of Senior Officials
CSO	Civil Society Organization
CSS	Center for Security Studies of the ETH Zurich
CSTO	Collective Security Treaty Organization
CSU	Christian Social Union in Bavaria
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DCFTA	Deep and Comprehensive Free Trade Area
DDoS	Distributed Denial of Service
DGAP	German Council on Foreign Relations
DOS	Demokratska opozicija Srbije/Democratic Opposition of Serbia
DPR	Donetsk People's Republic (self-declared)
EAEU	Eurasian Economic Union
EaP	Eastern Partnership
EAPC	Euro-Atlantic Partnership Council
EBRD	European Bank for Reconstruction and Development

EBU	European Broadcasting Union
EC	European Commission
EC	European Community
ECB	European Central Bank
ECHR	European Convention on Human Rights
ECHR/ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECOWAS	Economic Community of West African States
ECRI	European Commission against Racism and Intolerance
ECTEG	European Cybercrime Training and Education Group
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
EEZ	Exclusive Economic Zones
ELN	European Leadership Network
EMSC	European Migrant Smuggling Centre
ENP	European Neighbourhood Policy
ENVSEC	Environment and Security Initiative
EOM	Election Observation Mission
EP	European Parliament
EPP	European People's Party
EU	European Union
EUFOR	European Union Force
EULEX	European Union Rule of Law Mission in Kosovo
EUROPOL	European Union Agency for Law Enforcement Cooperation
Eurostat	European Statistical Office
FDP	Freie Demokratische Partei/Free Democratic Party
FOPs	Field Operations
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
FSK/KSF	Forca e Sigurisë së Kosovës/Kosovan Security Forces
FYROM	Former Yugoslav Republic of Macedonia
G7	Group of Seven
G20	Group of Twenty
GA	General Assembly
GCSP	Geneva Centre for Security Policy
GDP	Gross Domestic Product
GDR	German Democratic Republic
GFAP	General Framework Agreement for Peace
GGE	Group of Governmental Experts

GNI	Gross National Income
GNP	Gross National Product
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HDZ	Hrvatska demokratska zajednica/Croatian Democratic Union
HLPG	High-Level Planning Group
HLTF	High-Level Task Force on Conventional Arms Control
IAEA	International Atomic Energy Agency
IAI	Istituto Affari Internazionali
ICAT	Inter-Agency Coordination Group against Trafficking in Persons
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
ICO	International Civilian Office
ICRC	International Committee of the Red Cross
ICS	Italian Consortium of Solidarity
ICT	Information and Communications Technology
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
IFI	Independent Forensic Investigation
IFIs	International Financial Institutions
IFOR	Implementation Force
IISS	International Institute for Strategic Studies
ILO	International Labour Organization
ILP	Intelligence-Led Policing
IMEMO	Institut mirovoj ekonomiki i mezhdunarodnykh otnoshenij/Institute of World Economy and International Relations
IMF	International Monetary Fund
IMO	International Monitoring Operation
IMSD	Initiative Mediation Support Germany
INF	Intermediate-Range Nuclear Forces
INGO	International Non-governmental Organization
INTERPOL	International Criminal Police Organization
IOs	International Organizations
IOM	International Organization for Migration
IPAP	Individual Partnership Action Plan
IPI	International Peace Institute

IRPT	Islamic Renaissance Party of Tajikistan
IS	Islamic State
ISAF	International Security Assistance Force
IWG	Informal Working Group
JNA	Jugoslovenska narodna armija/Yugoslav People's Army
JOC	Joint Operations Centre
JTEC	Joint Training and Evaluation Centre
KCSS	Kosovar Centre for Security Studies
KFOR	Kosovo Force
KVCC	Kosovo Verification Coordination Centre
KVM	Kosovo Verification Mission
LAS	League of Arab States
LCY	League of Communists of Yugoslavia
LGBT	Lesbian, Gay, Bisexual, Transgender
LPR	Lugansk People's Republic (self-declared)
LSI	Lëvizja Socialiste për Integrim/Socialist Movement for Integration
MANU	Makedonska akademija na naukite i umetnostite/Macedonian Academy of Sciences and Arts
MBFR	Mutual and Balanced Force Reductions
MC	Ministerial Council
MCIC	Macedonian Center for International Cooperation
MEDEVAC	Medical Evacuation
MFA	Ministry of Foreign Affairs
MGIMO	Moskovsky gosudarstvennyi institut mezhdunarodnykh otnoshenii (universitet)/Moscow State Institute of International Relations (University)
MOI	Minister of Interior
MLRS	Multiple Launch Rocket System
MoENREP	Ministry of Environment and Natural Resources Protection
MONDEM	Montenegro Demilitarization Programme
MoU	Memorandum of Understanding
MP	Member of Parliament
MPCs	Mediterranean Partners for Co-operation
NGCA	Non-Government Controlled Areas of Ukraine
NABU	National Anti-Corruption Bureau of Ukraine
NAC	North Atlantic Council
NACC	North Atlantic Cooperation Council
NAFTA	North American Free Trade Agreement
NAMSA	NATO Maintenance and Supply Agency
NATO	North Atlantic Treaty Organization
NDH	Nezavisna Država Hrvatska/Independent State of Croatia
NGO	Non-Governmental Organization

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NPT	Non-Proliferation Treaty/Treaty on the Non-Proliferation of Nuclear Weapons
NRC	NATO-Russia Council
OAS	Organization of American States
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OFA	Ohrid Framework Agreement
OGRF	Operative Group of Russian Forces
OIC	Organisation of Islamic Cooperation
OM	Observer Mission
OMIK	OSCE Mission in Kosovo
OS	Treaty on Open Skies
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
PAS	Partidul Acțiune și Solidaritate/Party of Action and Solidarity
PC	Permanent Council
PCRM	Partidul Comuniștilor din Republica Moldova/Party of Communists of the Republic of Moldova
PCU	Project Co-ordinator in Ukraine
PD/PDSh	Partia Demokratike e Shqipërisë/Democratic Party of Albania
PDM	Partidul Democrat din Moldova/Democratic Party of Moldova
PEP	Panel of Eminent Persons
PfP	Partnership for Peace
PISM	Polski Instytut Spraw Międzynarodowych/Polish Institute of International Affairs
PMR	Pridnestrovskaya Moldavskaya Respublika/Pridnestrovian Moldavian Republic
PNND	Parliamentarians for Nuclear Non-Proliferation and Disarmament
POLIS	Policing OnLine Information System
PPDA	Partidul Platforma Demnitate și Adevăr/Platform Party Dignity and Truth
PS/PSSh	Partia Socialiste e Shqipërisë/Socialist Party of Albania
PSRM	Partidul Socialiștilor din Republica Moldova/Party of Socialists of the Republic of Moldova
R2P	Responsibility to Protect

RECOM	Regional Commission for Establishment of Facts on War Crimes
RFOM	Representative on Freedom of the Media
RTSH	Radio Televizioni Shqiptar
R2P	Responsibility to Protect
S&D	Socialists and Democrats
SAA	Stabilisation and Association Agreement
SACEUR	Supreme Allied Commander Europe
SALW	Small Arms and Light Weapons
SAP	Stabilisation and Association Process
SCO	Shanghai Cooperation Organisation
SDGs	Sustainable Development Goals
SDSS	Samostalna demokratska srpska stranka/Independent Democratic Serb Party
SEATO	South East Asia Treaty Organization
SECI	Southeast European Cooperative Initiative
SEECP	South-East European Cooperation Process
SFOR	Stabilisation Force
SFRY	Socialist Federal Republic of Yugoslavia
SG	Secretary General
SHDM	Supplementary Human Dimension Meeting
SIPRI	Stockholm International Peace Research Institute
SMM	Special Monitoring Mission
SNS	Srpska napredna stranka/Serbian Progressive Party
SPMU	Strategic Police Matters Unit
SPRAR	Sistema di Protezione per Richiedenti Asilo e Rifugiati/System for the Protection of Asylum Seekers and Refugees
SPS	Socijalistička Partija Srbije/Socialist Party of Serbia
SRS	Srpska radikalna stranka/Serbian Radical Party
START	Strategic Arms Reduction Treaty
TCG	Trilateral Contact Group
TFIMs	Tradition- and Faith-oriented Insider Mediators
THB	Trafficking in Human Beings
TNT	Transnational Threats
TNTD	Transnational Threats Department
TNTD/ATU	Transnational Threats Department's Action against Terrorism Unit
TNTD/BSMU	Transnational Threats Department's Border Security and Management Unit
TNTD/SPMU	Transnational Threats Department's Strategic Police Matters Unit
UAV	Unmanned Aerial Vehicle
UCAV	Unmanned Combat Aerial Vehicle

UÇK/KLA	Ushtria Çlirimtarë e Kosovës/Kosovo Liberation Army
UDHR	Universal Declaration of Human Rights
UDI	Unilateral Declaration of Independence
UK	United Kingdom
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commission on Human Rights
UNCLOS	United Nations Convention on the Law of the Sea
UNCRO	United Nations Confidence Restoration Operation
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UN Environment	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
UNIDIR	United Nations Institute for Disarmament Research
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
UNPREDEP	United Nations Preventive Deployment Force
UNPROFOR	United Nations Protection Force
UNROCA	United Nations Register of Conventional Arms
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNSG	United Nations Secretary-General
UNTAES	United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium
USAID	United States Agency for International Development
USD	US Dollar
USSR	Union of Soviet Socialist Republics
VC	Venice Commission
VD	Vienna Document
VERLT	Violent Extremism and Radicalization that Lead to Terrorism

VMRO-DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
WCO	World Customs Organization
WEF	World Economic Forum
WIPO	World Intellectual Property Organization
WMD	Weapons of Mass Destruction
WTO	World Trade Organization

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