

**OSCE Focus Conference Proceedings**  
11-12 October 2013, Villa Moynier, Geneva



# OSCE Focus

## Creating a Security Community to the Benefit of Everyone

11–12 October 2013

Villa Moynier, Geneva



**DCAF**  
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## **FOREWORD – OSCE Focus Conference**

Since the beginning of January, Switzerland has held the chairmanship of the Organization for Security and Co-operation in Europe. When we discussed the priorities of our chairmanship last October in Geneva at the Focus conference and pressed ahead with the preparations, no one would have guessed that the start of the Swiss OSCE Chairmanship would be marked by the crisis in Ukraine.

Even at the Ministerial Council in December in Kiev, which took place under the Ukrainian chairmanship as protests were already under way in Kiev, nobody would have thought possible the scenario that played out in Ukraine in the course of the next few months.

The OSCE faces challenges on various fronts. It has been present in several conflict-prone regions for years, where it has in-depth knowledge and many contacts. The Swiss Chairmanship would like to make use of this experience and ideally play an active part in conflict transformation. However, the role the OSCE might play is rarely predefined, as the crisis in Ukraine demonstrates.

It is therefore important to keep redefining and exploring the roles the OSCE can or might adopt. This not only involves rethinking the OSCE's role in crisis-torn areas, but also its capacity to deal with various topics such as conventional arms control, security sector reform and combating terrorism, as well as taking a fresh look at the way in which the participating States implement their commitments. Ultimately, this is also part of the overall reform debate surrounding the Helsinki +40 process. Helsinki +40 aims to improve the OSCE's capacity to act and pave the way for the OSCE's development as a regional security organisation into a security community for the 21<sup>st</sup> century.

These are precisely the kind of opportunities an event like the Focus conference presents. The conference is a chance to consider the OSCE and its scope for action from all angles in informal and open debate. Focus has established itself as an important forum for OSCE policy makers,

ambassadors, academics and experts to explore a number of OSCE themes together and also sound out new approaches to old problems.

In 2013, the Focus conference took place under the banner of the upcoming Swiss OSCE Chairmanship. The various sessions of the conference were thematically aligned with our chairmanship priorities. It was therefore a kind of sounding board for us for the planning of the chairmanship. Debate was lively, the dynamics of the dialogue positive and the discussions provided us with substantive input.

The discussions were also important as they showed where the boundaries lay. External boundaries, since the OSCE is in competition with other international actors, but also internal ones.

Switzerland has had a successful start to its chairmanship year, thanks in no small part to the joint chairmanship with Serbia. Cooperation with Serbia is close and we have formulated a joint work plan for 2014-2015. Furthermore, the special envoys have been deployed for two years; Ambassador Stoudmann for the Western Balkans, Ambassador Gnädinger for the South Caucasus and Ambassador Bogojevic for the Transdniestrian conflict.

The Swiss-Serbian joint chairmanship brings more continuity to the organisation and this will improve its capacity to act.

During our OSCE chairmanship we will take these and other steps to help the OSCE to move ahead. In the same way, the following contributions on how the OSCE could be improved help us to move ahead in our thinking.

I am looking forward to continuing this process of reflection with you during our chairmanship and, as far as possible, translating our ideas into concrete action.

Heidi Grau

Ambassador  
Head of Swiss OSCE Chairmanship Task Force

## **THE ROLE OF THE OSCE IN SUPPORTING SECURITY SECTOR GOVERNANCE AND REFORM<sup>1</sup>**

*Heiner Hänggi, Vincenza Scherrer and Christian Wägli*

In recent years several multilateral and regional organizations have become involved in activities related to security sector governance (SSG) and security sector reform (SSR), such as police reform, border management, parliamentary oversight over security forces and national security policy development. A number of these organizations came to the realization that while accumulating a wealth of operational experience in the area of security sector governance and reform (SSG/R), they lacked a comprehensive strategy. Calls from field and headquarters for clarified policy guidance on SSG/R increased perceptibly, as concerns were raised that effectiveness of assistance delivered in this area may be limited by the neglect of a coherent approach.

Consequently, different international organizations initiated processes to devise and develop concepts and methodologies to supporting SSG/R which would provide the normative and operational guidance for their future endeavours in this domain. The overall outcome of this was an increase in focus and coherence of their activities, which helped to enhance the effectiveness of their endeavours. Initially, by considering the conceptualization of SSG/R as a component of development cooperation and at the request of leading bilateral donor countries, the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD-DAC) was at the forefront of the process. The

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<sup>1</sup> This chapter is based on a presentation made at the OSCE Focus conference, Geneva, 11–12 October 2013, and summarizes the main findings of a mapping study on the role of the OSCE executive structures in SSG/R prepared by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) at the request of the Swiss Federal Department of Foreign Affairs. For full references see “Mapping Study: The Role of the Organization for Security and Co-operation in Europe (OSCE) in Security Sector Governance and Reform. Final Report”, OSCE-CiO and DCAF, Geneva, 27 January 2014, CIO.GAL/18/14.

European Union developed its own perspective on SSR in 2006 based on the OECD-DAC groundwork, but went beyond development cooperation to include crisis management. In 2007 the most universal multilateral organization, the United Nations, began developing its own common and comprehensive approach. The initial point was a debate in the UN Security Council (which at that time was chaired by Slovakia), which led to the landmark first UN Secretary-General's report on SSR a year later. Over the subsequent years the United Nations developed at policy level a series of integrated technical guidance notes on SSR, which, among others, were a paramount contribution to the expanding body of guidance tools on SSG/R. In the wake of these processes, other multilateral and regional organizations have since embarked on similar courses to develop their own perspectives on SSG/R which will be more accountable to regional circumstances. These organizations include the African Union, the Economic Community of West African States and indirectly NATO (North Atlantic Treaty Organization), through its Partnership Action Plan on Defence Institution Building.

While possessing a wealth of normative as well as operational experience in the area of SSG/R, the OSCE does not implement its activities as part of a common, overarching strategy to SSG/R. Similar to other multilateral organizations, concerns have been raised that the lack of a common approach is limiting the effectiveness of its assistance "in both scope and impact",<sup>2</sup> and strong calls have emerged from within the OSCE to develop such an approach.<sup>3</sup> Several participating States tried to initiate the development of an overarching strategy in 2007. Their efforts resulted in the "Chairmanship's Perception Paper on OSCE Basic Norms and Principles in the Field of Security Sector Governance/Reform" in November that year,<sup>4</sup> but the discussion came to a halt. Only the first annual discussion on the

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<sup>2</sup> Victor-Yves Ghebali, "The OSCE's SSG/R Operational Activities: A Piecemeal Approach with Limited Results", in David M. Law (ed.), *Intergovernmental Organisations and Security Sector Reform* (Geneva and Münster: DCAF/LIT Verlag, 2007, p. 133).

<sup>3</sup> One of the first references appears in the 2004 Secretary General's annual report on police activities, which noted that the OSCE would benefit from developing "a doctrine of Security Sector Reform (SSR)". OSCE-OSG, "Annual Report of the Secretary General on Police-Related Activities in 2004", Office of the Secretary General, Vienna, 29 June 2005, SEC.DOC/2/05, [www.osce.org/secretariat/15861](http://www.osce.org/secretariat/15861).

<sup>4</sup> OSCE-MC, "Chairmanship's Perception Paper on OSCE Basic Norms and Principles in the Field of Security Sector Governance/Reform", OSCE Ministerial Council, Madrid, 30 November 2007, MC.GAL/9/07, [www.osce.org/mc/29386](http://www.osce.org/mc/29386).

implementation of the Code of Conduct on Politico-Military Aspects of Security in July 2012 marked the re-emergence of the topic. During the follow-up meeting in July 2013, the OSCE's perspective on SSG/R support was again an issue, and a number of participating States encouraged Switzerland to pursue this topic during its chairmanship in 2014. Against this background and in preparation for its chairmanship, Switzerland commissioned the Geneva Centre for the Democratic Control of Armed Forces (DCAF) to undertake a mapping study on the role of the OSCE in SSG/R. The study<sup>5</sup> provides the basis for the present paper, which discusses the role of the OSCE in supporting SSG/R under three guiding questions.

1. *What is the role of SSG/R in the OSCE's comprehensive and multidimensional approach to security?* This question examines the mostly normative *modus operandi* of the organization in its politico-military, economic/environmental and human dimensions.
2. *Which of the OSCE executive structures are involved in supporting SSG/R, and to what extent?* This question discusses the mostly operational activities of the OSCE Secretariat, institutions and field operations.
3. *How is the OSCE supporting SSG/R?* This question analyses the strategic, thematic and programmatic approaches pursued by the organization in its support to SSG/R.

The paper concludes by discussing ten key lessons drawn from the mapping study prepared by DCAF, and outlining some policy recommendations to encourage the political process of identifying and developing potential future strategies of the organization in coordinating, enhancing and sustaining its support to SSG/R.

Although the chairman's perception paper of 2007 includes a comprehensive discussion of the SSG/R concepts, the OSCE has to date refrained from formalizing a definition of SSG or SSR in its official documents. This paper is based on commonly agreed definitions, which comprise the idea that SSG points to the desired normative end state of the security sector, while SSR is the related political process aimed at achieving the envisioned end state. SSG is understood to refer to formal and informal structures and processes of security provision, management and oversight

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<sup>5</sup> DCAF, note 1 above.

within a state. Understood in normative terms, SSG is subject to the same standards of good and democratic governance as all other public services. For the purpose of this paper, all activities that aim at improving SSG are considered SSR, even if not named as such.

### **1. What is the role of SSG/R in the OSCE's comprehensive and multidimensional approach to security?**

The emergence of SSG/R as a topic of increasingly recognized importance is not least due to the alteration in the perception of the concept of security, which expanded from the traditional view of the state as the referent object towards a more comprehensive understanding of both the state and its people as the beneficiaries of security provision. It is thus important to comprehend SSG/R foremost as a broad concept that cuts across the divide of military and non-military as well as state and human security, and is based on the principle of both effective and accountable provision of security. Therefore it is imperative to understand that in view of the OSCE's three dimensions of security, the concept of SSG/R extends well beyond the first dimension and embraces aspects of all three dimensions: politico-military, economic and environmental, and human.

#### **1.1. The politico-military dimension**

The OSCE's politico-military dimension already possesses a rich policy framework for engaging in support activities attributable to SSG/R, the paramount example being the OSCE Code of Conduct on Politico-Military Aspects of Security of 1994. The Code is viewed as a very innovative normative document, and is unique in that it establishes both inter-state and intra-state norms of behaviour. It is considered a cornerstone for the concept of democratic control of armed forces, as it provides the basis for a range of SSG/R principles, such as a comprehensive approach to security beyond military perspectives, ensuring accountability through democratic control, and the need to design the security sector in an effective and efficient, as well as accountable and transparent, manner. However, the national commitments to the Code also offer a key foundation for operational engagement of OSCE bodies, especially the field offices, which

may use it as an entry point for national dialogues and stimulating discussions on SSG/R with national counterparts, including civil society. Overall, the Code and other relevant documents, such as the Vienna Document on Confidence- and Security-Building Measures of 2011, the OSCE Document on Stockpiles of Conventional Ammunition (2011) and the OSCE Document on Small Arms and Light Weapons (2012), encompass a range of principles and provide the normative basis for support activities relevant, directly or indirectly, to SSG/R that are commonly associated with the organization's first dimension.

Effective *democratic and civilian control over the security sector* (including military, paramilitary, police, intelligence and other security actors) is prominently anchored in these documents. This paradigm is contextualized with respect for human rights, national and international law, and the prevention of excessive use of force (which also links it to the third dimension). *Accountability* is addressed for both the defence sector (most notably in the Vienna Document) and the police (e.g. in the Charter for European Security). *Transparency* regarding military expenditure and planning is addressed in both the Code of Conduct and the Vienna Document. Furthermore, both *good governance* and the *rule of law* have been addressed in Ministerial Council (MC) decisions (e.g. Decision No. 11/04 on Combating Corruption, Decision No. 5/06 on Organized Crime) and relevant documents, such as the Code of Conduct and the document of the Moscow Meeting. While these norms may be understood to concern primarily the first dimension, there are other SSG/R-related norms that are clearly attributable to other dimensions.

## 1.2. The economic and environmental dimension

Regarding the economic and environmental dimension, the normative framework and thus the corresponding activities related to SSG/R are rather sparse. However, the OSCE Border Management and Security Concept of 2005 underlines that free and secure movement of goods and hence their economic benefits are direct outcomes of a security sector adhering to the outlined principles. Furthermore, the second dimension covers issues such as combating money laundering and financing of terrorism, as well as the promotion of good governance, which often correlates with SSG/R. These values are anchored in documents such as the

Declaration on Strengthening Good Governance and Combating Corruption, Money Laundering and the Financing of Terrorism (2012), as well as in MC Decision No. 11/04 on Combating Corruption (2004).

### 1.3. The human dimension

The human dimension is a vital contributor to a comprehensive SSG/R approach on both normative and operational levels. The concept of SSG/R cuts across the core activities of the third dimension and is well embedded in its normative framework. For instance, *respect for human rights, fundamental freedoms and humanitarian law* by security forces is promoted in various OSCE documents, such as the documents of the Copenhagen and Moscow meetings of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (CSCE, the predecessor of the OSCE). On a lower level of normative guidance, the Guidelines on Human Rights Education for Law Enforcement Officials underline the aspiration to mainstream behavioural standards of security providers with regard to human rights, as does the Practical Manual on Human Rights in Counter-Terrorism Activities. The organization also provides the Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel, which examines the rights and freedoms of security providers. In terms of respecting and protecting the rights of minorities, the OSCE offers frameworks and guidance (for police and border officers especially), for example in the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area (2003). Albeit mainly in the context of policing, the importance of *preventing discrimination* is stressed in several documents, such as the Code of Conduct on Politico-Military Aspects of Security, the Charter for European Security (1999) and MC Decision No. 13/06 on Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding (2006). Lastly, several documents (such as MC Decision No. 7/09 on Women's Participation in Political and Public Life and the OSCE Action Plan for the Promotion of Gender Equality of 2004) stress the importance of *gender mainstreaming*. Especially Decision No. 7/09 emphasizes the creation of equal opportunities for women to participate actively and equally in security services.

#### **1.4. Cross-dimensional activities**

However, many norms and corresponding activities cannot be contained strictly within a single dimension, as they often have a transversal character and demand the expertise of more than one dimension. Hence cross-dimensional activities are common within the organization and inherent to any comprehensive SSG/R approach. The Code of Conduct and various other documents outline a normative framework that encourages all three dimensions to engage in SSG/R-related activities. This is especially true for policing, border management and the role of the security sector in combating terrorism. For instance, the OSCE Consolidated Framework for the Fight against Terrorism (2012) mentions repeatedly that cross-dimensional and even cross-institutional coordination and efforts are required to prevent and combat terrorism. The OSCE Border Security and Management Concept contains strong emphasis on issues that extend beyond the first dimension, such as the promotion of free and secure movement of people and goods, good governance, human rights, and social and economic development. With regard to policing, the OSCE Strategic Framework for Police-Related Activities (2012), the Guidebook on Democratic Policing (2008) and the Recommendations on Policing in Multi-Ethnic Societies (2006) all pursue cross-dimensional approaches. The strategic framework even mentions that the organization's added value in policing is its comprehensive and cross-dimensional approach in combining combating criminal activities and tackling corruption and money laundering with upholding the rule of law and respecting human rights and fundamental freedoms.<sup>6</sup>

As made visible in this short summary, the normative framework of the OSCE and its operational implications pertinent to SSG/R are clearly a cross-dimensional issue, albeit particularly highlighting the first and third dimensions. Overall, the common perception of SSG/R as outlined in the introduction resonates well with the organization's comprehensive understanding of security as manifested in the three dimensions.

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<sup>6</sup> OSCE-MC, "OSCE Strategic Framework for Police-Related Activities", 26 July 2012, PC.DEC/1049, [www.osce.org/pc/92559](http://www.osce.org/pc/92559).

## **2. Which bodies of the OSCE executive structures are involved in supporting SSG/R, and to what extent?**

All OSCE executive structures – that is to say the Secretariat, institutions and field operations – have accumulated a wealth of experience in supporting SSG/R and its related areas. First of all, it is important to establish that the OSCE's overall primary role is to support participating States. Within the OSCE, the Secretariat and institutions provide assistance and expertise to the 15 current field operations. The following subsections outline the different activities related to SSG/R of the various entities of the OSCE.

### **2.1. The OSCE Secretariat**

Through its structures, the OSCE Secretariat is a provider of support to participating States, OSCE Partners for Cooperation and field operations. All four thematic entities of the Secretariat are involved in supporting SSG/R activities. The Office of the Co-ordinator of Economic and Environmental Activities touches upon SSG/R through its involvement in anti-corruption and good governance efforts, which to some extent focus on the security sector. Furthermore, the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings pursues a holistic approach to SSG/R by assisting a range of security providers (border institutions, police, prosecutors, judges, etc.) in combating human trafficking. However, there are two main entities in the Secretariat that are particularly involved in providing support with a clear emphasis on SSG/R, namely the Conflict Prevention Centre (CPC) and the Transnational Threats Department (TNT).

The CPC offers most of its operational support through the Forum for Security Co-operation Support Section, which is particularly involved in the promotion and implementation of the Code of Conduct. The activities concerned with the Code mainly comprise awareness-raising and outreach events on its principles and commitments, seminars for parliamentarians on the Code as an instrument for enhanced oversight of the security sector, and annual discussions and overviews on the Code's implementation by participating States.

The TNT contains three entities that are all clearly involved in SSG/R-related matters: the Strategic Police Matters Unit (SPMU), the Borders Team and the Action against Terrorism Unit (ATU). A significant way in which TNT supports participating States is through the provision of toolkits and guidance. For example, ATU and SPMU are jointly working on a guidebook on the prevention of violent extremism and radicalization that lead to terrorism. Furthermore, SPMU has recently developed a guidebook on police reform within the framework of reforming the criminal justice system. Other types of support include norms promotion and policy advice, as well as regional awareness-raising, capacity-building and experience-sharing events.

At present, support to OSCE Partners for Co-operation is divided between Mediterranean and Asian partners. In the Mediterranean region, the “Arab Spring” has triggered a series of outreach meetings, such as one conducted by representatives of TNT with Algerian public security and anti-terrorism officials. Furthermore, the Code of Conduct is currently being translated into Arabic and should serve as a basis for sharing best practice with regard to democratic governance. The focus of support to Asian partners presently lies on Afghanistan, where the OSCE Secretary General has been tasked with providing support in the area of SSG/R. Since the OSCE cannot offer training in Afghanistan, it promotes “building bridges” to neighbouring countries and increases trust and confidence building by supporting training, workshops and events where practitioners from Afghanistan and neighbouring countries jointly participate and engage in collaboration or the exchange of lessons learned and best practices. Such efforts often go hand in hand with the provision of support to field operations, where training and events are regularly developed and implemented jointly between entities of the Secretariat and the presence on the ground. An example is the organization (in this case in collaboration with the OSCE Office for Democratic Institutions and Human Rights) of workshops and training on respecting human rights in the investigation and prosecution of terrorist activities on several occasions in Central Asia.

## **2.2. The OSCE institutions**

The OSCE institutions are also heavily involved in SSG/R-related activities. While the High Commissioner on National Minorities has played a vital role

in the important area of non-discrimination and multiethnic and minority-sensitive policing, the Office for Democratic Institutions and Human Rights (ODIHR) has shown a more visible and broader range of activities and thus will receive greater attention here. ODIHR consists of different entities that are of interest when examining SSG/R support. The Democratization Department hosts different units which are concerned with rule of law, democratic governance, gender and legislative support. The Human Rights Department as such is highly involved in human rights education, human rights and anti-terrorism, human rights and anti-trafficking, and human rights, gender and security. Especially the Human Rights, Gender and Security Unit's mandate follows a holistic approach to SSG/R, by promoting the integration of a gender-sensitive perspective in security sector institutions. Lastly, the Tolerance and Non-Discrimination Department is mainly concerned with hate crimes, but engages with all security providers. Overall, ODIHR supports SSG/R activities through a human dimension perspective which particularly emphasizes gender and human rights.

Similarly to the Secretariat, ODIHR supports participating States, Partners for Co-operation and field operations. On request of participating States, ODIHR reviews legislation in key aspects related to the security sector, for instance domestic violence, human trafficking, counterterrorism and criminal justice. Furthermore, ODIHR offers training through its entities, for example on addressing hate crimes or mainstreaming gender, to relevant audiences of the security (and justice) sector, such as police and prosecutors. Another important domain of activity is trial monitoring, whereby the institution contributes to both trust- and confidence-building, as well as identifying entry points for judicial reforms related to security provision.

Partners for Co-operation are supported in a similar manner. For example, ODIHR's Legislative Support Unit has reviewed four laws on the rule of law, judiciary independence, human rights and gender participation in Tunisia, and may be engaging on the same issue in Morocco and Jordan in the near future. ODIHR works with field operations particularly with regard to implementing tools developed by its entities. The Guidelines on Human Rights Education are currently translated by field operations into their activities on the ground. Likewise, training programmes on hate crimes and a reference manual for practitioners on trial monitoring, all developed by ODIHR, are used by field operations.

### **2.3. The OSCE field operations**

There currently are 15 OSCE field operations, which vary significantly in size, structure and mandate. Generally, the largest OSCE missions are based in Southeastern Europe, and average from around 45 staff members (Montenegro) to about 700 (Kosovo). The Missions in Kosovo, Bosnia and Herzegovina, Serbia and Skopje are the largest field operations in this region. Other operations include the OSCE Presence in Albania and the Mission to Montenegro. In Eastern Europe the OSCE maintains the Mission to Moldova (since 1993) and a Project Co-ordinator in Ukraine (since 1994). The Office in Baku (Azerbaijan) and the Office in Yerevan (Armenia) are the two field operations in the South Caucasus. Finally, the OSCE maintains five field operations in Central Asia: the small Centres in Ashgabat (Turkmenistan) and Astana (Kazakhstan), the larger Centre in Bishkek (Kyrgyzstan), the Office in Tajikistan and a Project Co-ordinator in Uzbekistan. The Office in Tajikistan is the largest of the four, with approximately 160 national and international staff. Generally, the mandates of field operations are context-specific, negotiated with the host countries and decided by consensus among the participating States. The unified budget process further refines the mandates, as do consultations with host countries. Several mandates contain similarly broad language, as for example in the mandate for the Mission to Montenegro, where support to “the implementation of OSCE principles and commitments”<sup>7</sup> is mentioned. This broad wording helps in identifying entry points for the OSCE to assist in certain areas of SSG/R, based on its normative framework. For example, the commitments related to the Code of Conduct have been used as an entry point for engaging in defence reform and police training in Bosnia and Herzegovina, parliamentary oversight in Montenegro, human rights training for armed forces in Armenia and regional confidence building in Central Asia.

While the various mandates do not explicitly refer to the need to support SSG/R efforts, a few call for support in component areas. There are currently five field operations mandated specifically to engage in SSG/R activities, in the areas of police (Albania, Kosovo, Serbia, Tajikistan), defence (Bosnia and Herzegovina), border management (Albania, Tajikistan)

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<sup>7</sup> OSCE-PC, “Establishment of the OSCE Mission to Montenegro”, 29 June 2006, PC.DEC/732, [www.osce.org/pc/19691](http://www.osce.org/pc/19691).

and oversight and management (Bosnia and Herzegovina, Kosovo). Additionally, three operations (of which two are already covered under the five mandated in component areas of SSG/R) are instructed to engage in cross-dimensional areas of SSG/R (combating trafficking in human beings, and preventing and combating terrorism). During the research conducted by DCAF for the mapping study, four field operations were visited; thus many of the insights elaborated here were gained in Bosnia and Herzegovina, Kyrgyzstan, Serbia and Tajikistan. The field operations examined in Central Asia all had departments structured around the three dimensions, with each department covering one dimension. However, the Centre in Kyrgyzstan had two additional departments (Police Reform, Community Security Initiative). In Southeastern Europe the structures did not necessarily follow the three dimensions. In Bosnia and Herzegovina, for instance, the mission had two departments, with one following dimensions (Security Co-operation, Human Dimension), while the Mission to Serbia had three departments without specific reference to the dimensions (Democratization, Law Enforcement, Rule of Law and Human Rights). Regarding mandates, there is no specific trend perceivable in terms of SSG/R support. While there is explicit mention of SSG/R activities in some mandates (e.g. Mission to Bosnia and Herzegovina), others follow a very broad approach, thus allowing for flexibility and perhaps more implicitly covering SSG/R areas.

All 15 field operations support activities geared at police and judiciary reform, mostly through training. Almost all operations also support border management, again mostly through the provision of training and logistical support. However, only a few field operations are involved in parliamentary and civil society oversight, yet more than half have supported the development and capacities of ombudsman institutions. Generally, field operations have contributed towards reforming different domains of the security sector through their efforts in cross-cutting or cross-dimensional concerns, for instance counterterrorism, gender, anti-trafficking and anti-corruption. These cross-cutting issues often form the centre of SSG/R efforts. Finally, it is interesting to note that although there are no endeavours in terms of establishing holistic approaches to SSG/R, some references to it have appeared in seminars conducted by field operations.

### 3. How is the OSCE supporting SSG/R?

Although the OSCE has to date neither defined nor formalized an approach to SSG/R, the systematic analysis of its normative framework and operational activities leads to a comprehension of the organization's "*de facto*" approach to SSG/R. This section discusses this approach through the examination of the OSCE's efforts on three levels – strategic, thematic and programmatic – as identified in the DCAF mapping study.<sup>8</sup>

#### 3.1. The strategic level

The strategic level refers to the existence of common, overarching goals around which operational support is structured. It includes the development of a strategic vision which guides the future development of the organization and allows for setting priorities and attributing resources. Planning is thus an elementary component of the organization's *de facto* approach to supporting SSG/R. Given the use of annual budget cycles, planning poses a challenging environment for the OSCE to develop long-term visions. Projects are thus often based on short-term requests and perhaps guided by visibility rather than long-term impact and sustainability. Furthermore, a "chain" of projects, where different projects are linked within a timeline to maximize impact, can hardly exist. The "*de facto*" approach on the strategic level stands in contrast to the needs of a long-term commitment to SSG/R, as this would require careful planning, monitoring and evaluation well exceeding yearly budget cycles.

The Secretariat and institutions do not pursue a strategic approach to SSG/R and thus do not shape their efforts according to a common framework or guidance. Nevertheless, there are two noteworthy instances that form exceptions. First, SPMU has called for an approach to SSG/R in a report of the OSCE Secretary General, aiming to promote the linkage between police and criminal justice reform, with the result that SPMU recently developed guidance on that matter.<sup>9</sup> Secondly, ODIHR developed a toolkit on gender and SSR to support its efforts in the area of human rights,

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<sup>8</sup> DCAF, note 1 above.

<sup>9</sup> OSCE (2005), note 3 above.

gender and security.<sup>10</sup> The normative framework of the OSCE, outlined earlier, and its wealth of documents and commitments provide a broad strategic vision in certain component areas, such as border security and management or police-related activities. Yet there seems to be a missing link between the normative basis and its practical implementation. For example, while there are many activities involving the Code of Conduct, there is no long-term approach, goal or vision towards which subsequent activities could be guided in order to achieve holistic, sustainable reform processes in the long run. The lack of a strategic vision also means that the Secretariat and institutions have no clarity on what a coherent approach to the provision of support to SSG/R would require. This results in missed opportunities to link different component areas, for example in the case of police and criminal justice.

The lack of strategic guidance and vision is a challenge for field operations as well. Only one of the four operations examined in the context of the DCAF mapping study (the OSCE Centre in Bishkek) had elaborated clear strategic priorities. Its absence in other field operations had rather negative effects on the long-term impact of their efforts and also on the perception of the organization's work in terms of coherence. It is not least due to this background that an increased engagement in strategic thinking within the field operations has become perceivable. For example, in the Mission to Serbia a programme on SSR with the aim of strengthening security sector oversight and capacity building in education and expertise in civil society has been initiated and corresponds to a broader strategic vision. However, the programme lacks staff and resources and thus has not yet reached sufficient depth in its approach. Another important issue concerns the credibility of the organization's fieldwork in this domain. When pointing out to host governments that a coherent and comprehensive approach to SSG/R is needed to advance democratic development, it would be advantageous for the OSCE field operation to have its own internal approach that follows the same basic principles. Overall, it is important to emphasize that DCAF's study found a majority of OSCE staff in field missions highlighting a potential strategic approach by the OSCE as useful and beneficial for their work.

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<sup>10</sup> OSCE-ODIHR, "Gender and Security Sector Reform Toolkit" Eds. Megan Bastick and Kristin Valasek. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, 2008

### **3.2. The thematic level**

On the thematic level, the OSCE covers a range of topics, be they specifically related to security and justice provision (e.g. community policing), related to management and oversight of the security sector (e.g. parliamentary oversight) or cross-cutting (e.g. gender, human rights). In this subsection the thematic approaches of the Secretariat, institutions and field operations are compared to explore where the main focus of the organization lies thematically.

The Secretariat and institutions provide support clearly according to their expertise. SPMU focuses on issues concerning policing, such as counternarcotics, countering organized crime and tackling human trafficking. The Borders Team takes a rather broad approach to the topic of border management in general, and detecting forged travel documents. It has set out its priorities in the Border Security and Management Concept. Efforts to counter and prevent terrorist activities are clearly under the auspice of ATU, whereby the unit emphasizes the OSCE Consolidated Framework for the Fight against Terrorism. ATU often works jointly with SPMU (e.g. on violent extremism and radicalization leading to terrorism) and the Borders Team (e.g. on forged travel documents). In its current form the CPC seems mainly concerned with raising awareness on the Code of Conduct, specifically discussing SSR and parliamentary oversight at a recent event in Malta (September 2013). The Gender Section touches on SSG/R issues in its efforts to combat violence against women, and has collaborated with ATU on women's role in terrorism. The Office of the Coordinator of Economic and Environmental Activities has also been involved in SSG/R-related activities, chiefly with regard to good governance and anti-corruption in the domain of border security and management. The majority of ODIHR's range of activities relate to the judiciary, mainly concerning prosecuting and processing war crimes. Many efforts have also been directed towards the topic of hate crimes, the promotion and monitoring of human rights, and trust building between the police and Roma and Sinti. The overall thematic involvement of the entities of the Secretariat and institutions is considerable. Commonly, issues related to transnational threats are often emphasized and perhaps could be said to enjoy priority. However, despite forming a core element of any SSG/R agenda, democratic oversight and management of the security sector are hardly ever addressed.

This may point to a certain lack of specialized expertise available (e.g. through a dedicated department) other than the support section of the Forum for Security Co-operation with regard to the Code of Conduct. It is also noteworthy that albeit having been included on occasion, civil society as a specific stakeholder has not often been the recipient of capacity development activities.

As field operations differ in mandates and contexts, they pursue their own thematic priorities and activities in a needs-based manner. However, there are some identifiable thematic commonalities. There are three domains that clearly receive the most attention: police, judiciary and borders. In the area of police reform, community policing is the most prioritized topic. Strengthening police education systems, human rights, gender and counternarcotics are other thematic areas that receive attention. Within judiciary reform, the prioritized area of support concerns the issue of recording and prosecuting war crimes, especially in the western Balkans. Further thematic priorities were the independence of the judiciary, reforming juvenile justice and trial monitoring. With regard to border security and management reform, the obvious key thematic area was border management, which serves as an umbrella term for the management of border security and thus thematic activities like border control, intelligence information analysis, forged document detection, duty collection, counternarcotics and others. The topic of customs has received much attention with regard to customs procedures and international standards. Other thematic domains addressed by field operations include defence reform and penitentiary reform. With regard to strategic frameworks, in one instance support to development and implementation of a national security policy was found (Bosnia and Herzegovina). However, just as with the Secretariat and institutions, the thematic focus on oversight and management is relatively weak considering the range of topics that are addressed. Similarly to the Secretariat and institutions, transnational threats such as trafficking in persons or narcotics and terrorism seem to be prioritized, apparently not least due to the influence of international actors.

A further commonality is the neglect of thematic focus on parliamentary and civil society oversight of the security sector. Albeit with some exceptions, notably in the western Balkans, parliamentary oversight does not seem to have been a particularly emphasized topic. Civil society has again often been invited and included, but has generally only rarely

been the recipient of capacity-building activities. There also seems to be a lack of awareness among OSCE staff on where possible entry points for these activities may be found. Overall, a broad range of topics is addressed by OSCE executive structures on the thematic level. However, while oversight and management are usually regarded as key components to SSG/R, they are not systematically supported.

### **3.3. The programmatic level**

The programmatic level refers to the approach pursued by the OSCE in designing, planning and implementing its support. This approach is shaped by the broad priorities identified in the normative framework, for example in MC decisions or OSCE commitments. While the OSCE still holds its traditional role as a platform for dialogue, network building and discussion of technical questions, its approach has expanded well beyond that and the organization has evolved into a significant provider of operational support, such as training, technical advice and monitoring.

The Secretariat and institutions focus their programmatic approach on the organization of meetings (such as conferences, workshops, seminars) and the delivery of training. Meetings are mainly used to raise awareness on and the implementation of commitments, as well as exchanges of expertise. Much in accordance with the OSCE's function as a platform, the Secretariat and institutions bring together different actors to discuss approaches and methods of advancing certain issues and topics. The training provided often focuses on the acquisition of skills relevant to working in the security sector, for example detecting forged documents. A further essential domain of activity is the development and provision of reports and guidance on specific issues, through guidelines, handbooks, best practices, etc. The aforementioned publications from SPMU (Guidebook on Democratic Policing, Recommendations on Policing in Multi-Ethnic Societies) exemplify this. Interestingly, ODIHR has some unique mechanisms. One is the Legislative Support Unit, which reviews (on request) lawmaking processes or can provide comments and insights on a particular law. Through its Human Rights Education Unit, ODIHR provides training and capacity building to civil society on monitoring places of detention. ODIHR also supports peer-to-peer meetings aiming at the exchange of experiences and lessons learned between peers, which has been considered a viable

alternative to (though not a replacement for) training in some cases. Overall, a large proportion of the Secretariat and institutions' work is regionally driven. This includes, for instance, regional workshops on democratic policing (Central Asia and Eastern Europe), regional seminars on the Code of Conduct (Balkans) and fostering regional cooperation between border services or the judiciary on organized crime or even war crimes.

Examining the field operations in terms of their programmatic approach offers a range of insights. First of all, and perhaps most importantly, the vast majority of operational support is not based on needs assessments. When looking more closely at a documented exception (assessment by the Law Enforcement Department in Serbia<sup>11</sup>), the benefits of needs assessments in terms of the sustainability of support delivered become easily visible. A second observation is that most of the assistance provided by field operations takes the form of either training focused on enhancing technical skills or seminars and roundtables with the objective of raising awareness on a certain issue. It is surely a challenge to deliver this type of support in a sustainable manner and maximize its impact in light of the absence of a long-term strategic vision or guidance. Study visits are another common form of support. These can have a significant impact, an example being Bosnia and Herzegovina, where a parliamentary study visit to Germany resulted in the decision to set up a military ombudsman. However, there are also challenges. Study visits should require strict monitoring and evaluation to measure and account for concrete results; they should not just be a welcomed change of environment for government officials. Furthermore, the participants should undergo a rigorous selection process to ensure that only personnel in positions relevant to the overall aim of the visit participate and can benefit directly from the experience in their daily work. Should study visits be used to reward certain personnel, their long-term success will be seriously undermined. Lastly, field operations occasionally are involved in the supply of equipment to national counterparts, such as the provision of computer equipment and simulation rooms for a Kyrgyz police school. This type of support is rare for the Secretariat and institutions. The challenge for the field operations is again to provide targeted and goal-oriented support.

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<sup>11</sup> Richard Monk, "Study on policing in the Federal Republic of Yugoslavia", July 2001, [www.osce.org/spmu/17676](http://www.osce.org/spmu/17676).

#### 4. Key lessons identified from OSCE experience in SSG/R support

As the three previous sections have shown, the OSCE has a rich normative framework for SSG/R support and all its executive structures (Secretariat, institutions and field operations) are involved at strategic, thematic and programmatic levels in delivering support to SSG/R in a cross-dimensional manner. The DCAF study identified ten key lessons that were drawn from the extensive review, as outlined above. These lessons are briefly discussed here. They frame the main elements the organization would have to address if it was to develop a strategic approach to its SSG/R support.

The first lesson learned is to *develop an overarching framework for SSG/R support*. Such an approach would encompass the existing manifold and broad activities of the OSCE and increase their impact by enhancing their effectiveness and efficiency, as well as their coherence and coordination on the strategic, thematic and programmatic levels. In the wider picture, such an approach would also increase the coherence of SSG/R support delivered alongside other international and multilateral actors that have already developed their own approach. In practice, developing an overarching framework would not mean reinventing the wheel, as the OSCE already has the relevant normative framework and fundamental principles, the necessary legitimacy and the needed resources. Its three dimensions of security and the increasing emphasis on cross-dimensional approaches offer a great chance to develop a framework that comprises a comprehensive approach to all aspects of security with which the OSCE is concerned.

Secondly, *adopting a cross-dimensional approach to SSG/R support* would operationalize the OSCE's rhetoric intentions to pursue endeavours that transcend its currently often stovepiped activities based on the strict division between dimensions. Linking dimensions and efforts made within the current framework would substantially increase the impact of the organization's work in terms of sustainability, coherence, efficiency and effectiveness.

Thirdly, the OSCE has many *comparative advantages*, which still need to be identified and built on in a strategic manner. For instance, due to its presence on the ground and its involvement with a range of security actors of host nations, the organization can have a significant added value in supporting the development of a comprehensive understanding of the

national needs in SSG/R. Often, the OSCE's field operations act as coordinators of international efforts regarding the security sector. By expanding this role, the organization could potentially enhance the strategic assessment and delivery of international support to SSG/R-relevant issues. Hence, through identifying its comparative advantages and building on them in a strategic manner, the OSCE could consolidate its position in the international framework and at the same time increase the impact of its own support.

A fourth lesson covers the need to *enhance the sustainability* of the OSCE's SSG/R activities. In the neglect of needs assessments, the organization's support appears *ad hoc*, thus too rigid to adapt quickly to changing circumstances and perhaps even missing potential entry points. Furthermore, while emphasizing training and seminars with the aim of capacity development and awareness raising, targeting reforms of institutional systems is often not prioritized. While such reforms may not reach the same degree of visibility, they would certainly account for more lasting and long-term changes to the security sector.

Fifth, there is a need to *increase the cross-dimensional engagement with civil society*. While particularly the human dimension has a long history of fruitful cooperation with civil society, the other dimensions show a weaker engagement. Supporting SSG/R activities across all three dimensions entails a stronger and more comprehensive relationship with actors of civil society. This is indispensable if civil society is expected to influence and perform an oversight function, and to guarantee that there is national ownership of SSG/R processes. Furthermore, civil society is the ultimate beneficiary of SSG/R efforts, thus only a clear understanding of its grievances and receiving its feedback on ongoing processes can ensure that SSG/R activities are needs-based and goal-oriented.

Sixth, a clear *delineation of roles and responsibilities* is required. While the delineation is almost too clear between the Secretariat and the institutions and thus leads to compartmentalized approaches and missed opportunities to create synergies, roles and responsibilities could be delineated more clearly between the Secretariat and institutions and the field operations. This would positively influence the effectiveness of support delivered.

The seventh lesson learned calls for *enhancing the effective coordination* of SSG/R support. Generally, cooperation and coordination are

not institutionalized and seem rather personality driven. The high staff fluctuation of the organization further exacerbates the unsustainable approach. Establishing a focal point network could significantly enhance cooperation and would account for more institutionalized coordination. Such a network would not only allow coordinating efforts with the field, but across all OSCE executive structures. However, a focal point network requires a strategic vision and promotion at the highest level.

Eighth, there is a need to *adapt SSG/R support to the human resources available*. The impact of SSG/R endeavours correlate with the expertise available and the resources invested. Pairing the lack of strategic vision with the organization's reliance on expertise available in participating States through secondments often means that staff in the Secretariat and institutions do not possess the necessary expertise for the implementation of projects or the provision of support requested by field operations. Furthermore, much institutional knowledge is lost in the high staff rotation throughout the organization. Enhanced efforts should be considered in identifying and allocating the right skill sets and developing skills among staff.

Ninth, similarly to adapting activities and expectations to human resources, *SSG/R support should be adapted to the financial resources available*. Therefore, regular assessments should be conducted to prioritize resources. Furthermore, joint programming should be encouraged where there is potential for synergies. Funding directs the approach and the extent of activities. Consequently, guidance on how to achieve the highest impact possible would be worth developing.

The tenth and final lesson calls for *increasing the engagement in monitoring and evaluation* to understand better the strengths and weaknesses of the organization, its approach and its activities in SSG/R. This would also encourage corrective measures and responses to changing circumstances.

## 5. Conclusion

As Swiss Minister of Foreign Affairs and freshly incumbent OSCE Chairman-in-Office Didier Burkhalter noted in his speech to the OSCE Permanent Council in July 2013, “[i]mproving governance in the security sector belongs

to the core competencies of the OSCE”.<sup>12</sup> It is, as this essay outlines, increasingly recognized by the OSCE and its participating States that SSG/R claims an ever-greater role across the conflict cycle and in security policy at large. The organization possesses the normative and operational foundations on the strategic, thematic and operational levels to assume a leading position among multilateral organizations in its area in the provision of support by its Secretariat, institutions and field operations to SSG/R. However, as pointed out, there are a number of remaining challenges, most notably the development of a strategic framework, the refinement of its cross-dimensional approach and coordination, and thus the enhancement of the coherence, efficiency, effectiveness and sustainability of its efforts.

The general recommendations that can be extracted from DCAF’s mapping study are in accord with the aims of the Helsinki +40 process, as both seek to encourage efforts towards enhancing the effectiveness and efficiency of the OSCE. The lessons learned should provide an interesting input into the general discussions throughout this crucial process. Moreover, reviewing the roles and responsibilities of the OSCE executive structures will be inevitable in order to preserve the organization’s credibility and position within the international framework, where ever-more emphasis is placed on coherence, effectiveness and efficiency, not least due to the combination of rising expectations and stagnating resources available. This also draws on the need for the OSCE to strengthen its approach to and capacity in monitoring and evaluation.

Strategically, it would be worthwhile to raise the political awareness of the OSCE’s approach and efforts in SSG/R. This could be accomplished perhaps by establishing a “Group of Friends of SSR” or a similar international networking mechanism that allows for regular exchanges of opinions and lessons learned among participating States, as well as increasing the visibility of the organization’s endeavours in this domain. Similarly, enhancing internal networking opportunities would be beneficial to increase institutional knowledge management and exchanges of expertise and experiences. A suggestion may be establishing a focal point system, or developing an inter-institutional working group. Expanding communication, coordination and visibility beyond the organization and its

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<sup>12</sup> Didier Burkhalter, “Creating a security community for the benefit of everyone – Priorities of the Swiss OSCE chairmanship in 2014”, Special Permanent Council, Vienna, 2 July 2013, PC.DEL/575/13/Rev.1, p. 58, [www.osce.org/pc/103262](http://www.osce.org/pc/103262).

participating States would also be most advantageous. Engagement with the United Nations or other multilateral organizations on approaches to SSG/R could broaden both the approach and the relevance of the OSCE.

On the operational level, enhancing cross-institutional experience sharing among OSCE staff, including field personnel, would increase the coherence and coordination of the organization's approach, as well as facilitating the exchange of best practices and lessons learned. Furthermore, emphasizing the importance of the OSCE Code of Conduct, as the document containing the most fundamental principles of SSG/R, and thus making full use of the organization's normative principles related to SSG/R would be highly advisable. Lastly, field personnel would benefit greatly from appropriate training on SSG/R.

Ultimately, addressing the issues pointed out in this paper in Helsinki +40 or a similar process is an endeavour the OSCE must face urgently. More and more regional and multilateral organizations are developing and operationalizing their own frameworks on SSG/R support, aimed at increasing the effectiveness, efficiency and sustainability of the impact of their efforts. The OSCE might miss a great opportunity to reinstate itself as a highly important and extensively acknowledged multilateral organization that can draw from its wealth of experience and comparative advantages in assisting participating and partner States in enhancing the delivery of security to their peoples in an effective and accountable way.



## **TRANSNATIONAL THREATS: COUNTERTERRORISM IN THE OSCE REGION**

*Dr Mohammad-Mahmoud Ould Mohamedou*

The OSCE has been increasingly addressing the question of transnational threats. Over the past few years and since at least 2010 formally, the issue has been gaining visibility and has become a regular agenda item. This rise in attention led, in 2012, to the establishment of the OSCE Department of Transnational Threats (TNT).

In spite of this newfound momentum, this paper argues that, not unlike other organizations and although it addressed the issue in a significant strategy statement in 2003, the OSCE does not yet have a *cogent, consensual* and *operational* sense of what precisely constitute “transnational threats”. It argues, secondly, that such a *concept deficit* is impeding the identification, adoption and implementation of clear and effective long-term policies, including counterterrorism measures, to address these threats.

If such an unsatisfactory state of affairs is primarily the result of a fast-changing grammar of international security combined with urgent crises requiring both reimagining and adaptation on the part of all, the OSCE’s environment, including its neighbourhood, nonetheless specifically requires active engagement on this conceptual and operational front. Only a clearer sense of what is precisely understood as a transnational threat and the unpacking of this reading into an OSCE-wide security framework will enable results-oriented, collaborative policies to address and remedy said new threats.

### A changed landscape

Upon its creation in January 2012, the OSCE TNT inherited a mission which had *de facto* been cumulatively and imperfectly defined over most of the previous decade. Arguably, three of the four components of the TNT unit's remit – terrorism, organized crime and illicit trafficking in narcotics – had long represented menaces to the states of the European organization. The fourth one, cyberthreats, had in the wake of globalization emerged in the recent period as a genuinely novel phenomenon. Yet whereas it appeared that the department was explicitly tasked with “better translating political commitments into effective and sustainable programmatic action”,<sup>1</sup> the notion of what constitutes a transnational threat had until then been dealt with imperfectly and reactively.

The hybrid nature of the problem is illustrated by the fact that the TNT Department would initially be staffed revealingly with OSCE experts from the Strategic Police Matters Unit, the Action against Terrorism Unit and the Borders Team, and serve as a focal point on transnational matters. Such a “building blocks” approach conceals the novelty of transnationalism, however, as it implies that *resurgent* crime (“on the increase”), *reactivated* terrorism (“returning”) and *expanding* migration (taking the form another “wave”) would merely call for renewed policy focus.

In point of fact, the manifestation of what we have come to term “transnational threats” is the result of an original and largely unprecedented<sup>2</sup> development affecting the very grammar of international relations. What institutional policy-making needs to come to terms with is that, in the late twentieth and early twenty-first centuries, the symbiosis of technological developments in the field of communication and the reorganizing of world politics following the end of bipolarity has sent in motion a series of global transformations, at the heart of which stands

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<sup>1</sup> OSCE Ministerial Council, “Statement”, Vilnius, 7 December 2011.

<sup>2</sup> To be sure, earlier eras had known embryonic patterns of transnational insecurity. This was the case in particular during the 1970s, when a number of Western European extreme left-wing terrorist groups (e.g. Baader-Meinhof, Italian Red Brigades and French Action Directe) were able to team up with other foreign groups (e.g. Palestinian Black September, Japanese Red Brigades and Latin American operators such as Carlos “the Jackal”) in operations planned and conducted across borders. However, besides easier air travel conditions, there existed then few “transnationality enablers” as compared with the subsequent post-globalization setting and its information technology revolution.

transnationalism. The rapid dominance of this feature – which has implications on the *norms* and *practice* of international affairs – has benefited non-state actors, and in particular transnational armed groups, namely those “groups that use force, flow across state boundaries, utilise global communication and transportation networks, seek international influence and increasingly undertake military operations against dominant states”.<sup>3</sup>

During the two decades following the fall of the Berlin Wall in 1989, and as their role continued to expand, transnational actors gained systemic strength, in time constituting the primary threat to the most powerful actors of the international system.<sup>4</sup> In essence, these actors benefited from the release of a use of force no longer subordinated to the state<sup>5</sup> to come to occupy a novel space where force projection was enabled by the nascent international relations system – all the while collapsing this new dimension into more traditional insurgencies, now rendered more lethal.<sup>6</sup>

From there on, territorial contiguity<sup>7</sup> was no longer a key dimension of security as actors could “travel” in a number of ways, notably digitally. Besides financial and corporate world actors, terrorist groups were among the first to make use of this changed context, and Al Qaeda became the

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<sup>3</sup> Andrea J. Dew and Mohammad-Mahmoud Ould Mohamedou, *Empowered Groups, Tested Laws and Policy Options*, Harvard University Programme on Humanitarian Policy and Conflict Research and Graduate Institute of International Studies (Geneva and Cambridge, MA: HPCR and HEI, 2007, p. 9).

<sup>4</sup> A transnational armed group (Al Qaeda) was ranked as the first national security threat to the world’s first military power (the United States) from 2001 to 2010, only to be replaced by another transnational phenomenon, namely cyberterrorism. Similarly, in preparing to authorize a military operation in the Sahel, the UN Security Council emphasized the nature of this transformed security landscape: “The Security Council expresses concern about the serious threats to international peace and stability in different regions of the world... posed by transnational organised crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea, as well as terrorism and its increasing links, in some cases, with transnational organised crime and drug trafficking. The Council stresses that these growing international threats... contribute to undermining governance, social and economic development and stability... The Security Council acknowledges the importance of system-wide UN action, in order to offer coherent and coordinated responses to transnational threats.” UNSC, “Statement by the President of the Security Council”, S/PRST/2012/2, 21 February 2012, p. 1.

<sup>5</sup> See, notably, Herfried Münkler, *The New Wars* (London: Polity, 2005).

<sup>6</sup> See, for instance, Idean Salehyan, “Transnational rebels: Neighbouring states as sanctuary for rebel groups”, *World Politics*, 59, January 2007, pp. 217–242.

<sup>7</sup> See Miles Kahler and Barbara Walter (eds), *Territoriality and Conflict in an Era of Globalisation* (Cambridge: Cambridge University Press, 2006).

poster child of the transnational insecurity that rocked the world in the early 2000s in the wake of the 11 September 2001 attacks the group led on the United States. Subsequently, new features of the problem were revealed in the mid-2000s with the emergence of the so-called “nexus” phenomenon, whereby terrorist groups and organized crime networks started teaming up with growing regularity for their mutual benefit, in the process strengthening their ability to inflict harm.<sup>8</sup>

In sum, transnational threats are in effect characterized by five traits: an ability to generate *insecurity across borders*; *fluidity between headquarters and franchise networks*; *tactical agility* in relying on the portfolios of rogue businesses and terrorist groups; strategic *detritorialization* of their operations; and *elusive leadership* and indeed, at times, leaderlessness.

Such multifacetedness is compounded by the pursuit of activities that *inherently* merge crime, conflict and terrorism, at once displaying traits of each of these dimensions and synthesizing them in hybrid actions now terroristic, now criminal; sometimes in the context of an armed conflict, sometimes transplanting themselves to peaceful settings. In particular, it has become evident that gone are the days of hierarchically structured, single-nationality criminal organizations, replaced by multinational networks adhering to the vagaries of supply and demand.<sup>9</sup> All in all, *versatility* and *indefatigability* are the trademarks of the new transnational actors who represent a strategic threat to individual states, inter-state organizations and, ultimately, the international system of peace and security.

### **Adapting, managing and forecasting**

The challenges of these new transnational threats are therefore not exclusive to the OSCE. The transnational threat has, in effect, risen in the face of failure by states and international organizations to recognize its importance and register its revolutionary nature (thus generating so far

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<sup>8</sup> Rollie Lal, “Terrorism and crime join forces”, *New York Times*, 24 May 2005; Antonio Nicaso and Lee Lamothe, *Angels, Mobsters and Narco-Terrorists – The Rising Menace of Global Criminal Empires* (Mississauga, Ontario: Wiley, 2006).

<sup>9</sup> Annette Hübschle, “From theory to practice: Exploring the organised crime nexus in sub-Saharan Africa”, *Perspectives on Terrorism*, 5(3/4), 2011.

reactive responses).<sup>10</sup> However, this organization, in particular, faces today – as it approaches its fortieth anniversary – the challenge of addressing a qualitative legacy from two previous eras where conflicts were under the sign of (relative) predictability. During the Cold War and its balance of terror, and with the thawing of the frozen ethno-nationalist conflicts during the Eastern and Central European political transitions of the 1990s, the organization’s conflict environment had remained essentially linear. As it stayed more actively on the lookout for the resumption of “frozen conflicts” in the 2000s (and though it embarked on a post-9/11 counterterrorism correction course paying increasing attention to terrorist threats), the OSCE has, by and large, been missing the nature of this new type of conflictuality, which results from new unconventional forms of engagement that escape classical visible elements such as delineated time, identified actor and fixed space.

In December 2003, at the eleventh meeting of its Ministerial Council, gathered in Maastricht, the OSCE adopted its Strategy to Address Threats to Security and Stability in the Twenty-First Century. This document<sup>11</sup> was an important contribution which recognized that “the evolving security environment in the early twenty-first century creates new challenges for all, including for the OSCE” (para. 1), and, accordingly, put forth a “multidimensional concept of common, comprehensive, co-operative and indivisible security” (para. 1). Paragraph 7 of the strategy notes that:

Threats may also arise from the actions of terrorists and other criminal groups. Terrorist acts in recent years have fully borne out the growing challenge of such threats and the priority that must be given to preventing and combating them. Furthermore, *threats often* do not arise from within a single State, but *are transnational in character*. They affect the security of all States in the OSCE area and the stability of our societies. At the same time, the OSCE region is increasingly exposed to threats originating outside it, and developments within

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<sup>10</sup> In that regard, the World Bank notes: “The international system has not been adjusted to keep pace with the emerging analysis of conflict – in particular, recognition of the repetitive and interlinked nature of conflict, and the increasing challenge of organized crime and trafficking.” World Bank, *World Development Report 2011* (Washington, DC: World Bank, 2011, p. 181).

<sup>11</sup> OSCE, “Strategy to Address Threats to Security and Stability in the Twenty-First Century”, December 2003, [www.osce.org/mc/40533](http://www.osce.org/mc/40533).

our own region may similarly have consequences for adjacent areas.  
(Emphasis added.)

If the Maastricht 2003 strategy undeniably identifies the transnational character of the new threats – and if admittedly it constitutes a comprehensive framework – a specific unpacking of such transnationality is nonetheless absent, and discussion of the threats is organized along the lines of the more traditional and recognizable categories of “inter-State and intra-State conflicts” (highlighted as remaining “the broadest category of threat to participating States and to individuals”, para. 9), “discrimination and intolerance”, “threats of a politico-military nature” and “economic and environmental degradation”. Short paragraphs (10 and 11) are devoted, respectively, to “terrorism” and “organized crime”. The section on addressing the latter two threats anchors counterterrorism and the fight against organized crime in UN conventions and protocols, supported by OSCE decisions.

As noted, the Maastricht document represents a valuable and proactive contribution to identifying transnational threats as the key marker of the new security landscape. It does not, however, offer much in terms of the operationability of the concept and is confined explicitly to remarking that “threats of terrorism and organized crime are often interlinked, and synergetic approaches to deal with them will be further explored” (para. 35). Whereas there is, today, a need for updated and specific responses, transnational threats are still dealt with in a “politico-symbolic” manner.<sup>12</sup> Adopted in December 1994, the OSCE Code of Conduct on Politico-Military Aspects of Security does not, for instance, take into account transnational threats, although it notes that participating states “will consider jointly the nature of the threat” (Art. 5) and “will take appropriate measures to prevent and combat terrorism in all its forms” (Art. 6), as well indeed as stressing “the importance of early identification of potential conflicts” (Art. 18).

To the extent that the OSCE region regards itself, and in ways functions, as an interconnected ensemble, the loose interpenetrating nature of transnational threats is increasingly finding an enabling

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<sup>12</sup> Wolfgang Zellner, “Addressing transnational threats and risks: A key challenge for the OSCE”, *Helsinki Monitor*, 16(3), 2005, pp. 214–217. Also see Wolfgang Zellner, “The OSCE and transnational security threats”, *Security and Human Rights*, 19(4), 2008, pp. 311–321.

environment in such a space. Another feature of the problem is that there exists interrelatedness among the activities and throughout the region, and these aspects benefit from the interdependence of the OSCE countries. Specifically, the destabilizing nature of these criss-crossing actors can come to constitute a transnational arc of threats in and around the OSCE, from Afghanistan to the Sahel by way of Central Asia and the Levant. The weakening of states in large parts of these areas underscores such development, which extends to sub-Saharan Africa (notably the Central African Republic and the Great Lakes region).

Firstly, the so-called “Af-Pak” (Afghanistan-Pakistan) region has long been at the forefront of the nexus issue, featuring active drug-trafficking networks (relying, in this case, on domestic production of drugs) and home to Al Qaeda’s central headquarters, as well as to several other groups (e.g. the Haqqani network) and indeed single individuals (e.g. the Khan network of Abdul Qadeer Khan, who allegedly traded nuclear expertise) beaming transnationally. In recent years state-building stabilization has not been achieved in that region, the death of Osama Bin Laden in 2011 did not bring to an end the menace represented by the group he had led, and the looming transition in 2014 will in all likelihood release transnational threats (as has been the case in Iraq following the exit of US forces and in Libya following the exit of NATO). In effect, the latter pattern was already visible in the period 2009–2013, with a distinct rise in the overall level of violence of an insurgent-driven character.<sup>13</sup> Early, proactive planning on that front is hence key and, for instance, the UN Office on Drugs and Crime (UNODC) launched in December 2011 the Regional Programme for Afghanistan and Neighbouring Countries as a framework for cooperation.

Secondly, in the Sahel, the northern region of Mali has become over the past ten years a zone where transnational terrorism, transnational crime and armed conflict have merged to generate a security crisis of national, regional, continental and, in time, global dimensions. The March–October 2011 NATO intervention in Libya and the subsequent instability in that country have triggered further volatility, releasing weapons and a variety of actors (Tuareg secessionists, Al Qaeda in the Islamic Maghreb,

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<sup>13</sup> Anthony H. Cordesman, “Transition in Afghanistan, 2009–2013”, Center for Strategic and International Studies, Washington, D.C., 1 August 2013. Cordesman notes that the forthcoming transition “requires common planning by the US, other donors and the Afghans at levels that have never existed”.

terrorists and regional and international drug traffickers<sup>14</sup>) into an area with weak(ened) state authorities. The collapse of the Malian government in March 2012 and its re-establishment at the hands of a French military operation in January 2013, as well as the deployment in July 2013 of the UN Multidimensional Integrated Stabilization Mission in Mali (Mission multidimensionnelle intégrée des Nations Unies pour la stabilisation au Mali), have been developments triggered primarily by transnational threats. The ongoing developments in the Sahel are directly relevant to the OSCE, if anything through reverberations by way of the organization's Mediterranean Partners for Cooperation (Algeria, Egypt, Israel, Jordan, Morocco and Tunisia<sup>15</sup>).

Finally, another key area of concern to the OSCE should be the Levant, where in Syria transnational forces have been increasingly merging with criminal networks generating geostrategic instability. Two-and-a-half years into this conflict, radical forces have come to dominate the landscape of a complex crisis wherein the original local dimension (i.e. the "Arab Spring" peaceful uprising against the rule of Bashar al-Assad) is arguably no longer the major element. Beyond Hezbollah's involvement from Lebanon, Al Qaeda in the land of Mesopotamia from Iraq and the Syrian Jabhat al Nusra, there has been a steady influx of foreign fighters. This should cause concern to the OSCE, particularly in light of reports regarding the involvement of several hundred (in one September 2013 estimate<sup>16</sup>) individuals who have come to join the different radical groups active in and around Syria. In that regard, from Central Asia and the North Caucasus, Chechen, Dagestani and Azerbaijani fighters have reportedly been joining the Syrian front. In September 2013 extremists from the Caucasus formed their own group called the Mujahedin of the Caucasus and the Levant, led by Emir Abu Omar al Chichani (the Chechen).

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<sup>14</sup> See West Africa Commission on Drugs, *Not Just in Transit – Drugs, the State and Society in West Africa*, an independent report of the West Africa Commission on Drugs, June 2014

<sup>15</sup> Half of these partners – Egypt, Israel and Jordan – will also be increasingly affected by the security deterioration playing out transnationally and on the same criminality-cum-terrorism mode in the Sinai area.

<sup>16</sup> National Security Program, Homeland Security Project, "Jihadist terrorism: A threat assessment", Bipartisan Policy Centre, Washington, DC, September 2013.

### Proactive, flexible and versatile

How can the OSCE address the *conundrum of transnationality* and this *specific arc of threats*? To begin with, it would be remiss to conceive of transnational threats in a regional understanding. Use of a generic, conceptual name underwritten by a *de facto* geographic reading generates dissonance and, potentially, accusations of stigmatization by cooperation partners. As the terrorist incidents in Oslo (July 2011), Toulouse (March 2012), Boston (April 2013) and London (May 2013) – not to mention the Al Qaeda attacks in Madrid on 11 March 2004 and London on 7 July 2005 – have demonstrated, we are witnessing the rapid, steady and global rise of a novel type of conflictuality of which the groups active in Afghanistan, Mali and Syria are but spectacular examples. Part of the problem is indeed that state actors and institutions are engaging in outdated and inherited understandings of the nature of terrorism and counterterrorism.

Undeniably, the OSCE has acted in important ways in relation to these transformations, and the creation of the TNT desk is a clear step ahead, as is the existence of the OSCE Strategic Consolidated Framework for the Fight against Terrorism. (Although, truth be told, the interest came late, in 2007–2008, and in the context of security deterioration in Afghanistan.) However, reactivity in lieu of proactivity is not a viable basis for a long-term security framework on this issue. The *systemic* nature of the problem, the increased *sophistication* of the groups and the *proliferation* of crisis spots where the problem is featured call for the definition of a coherent strategy – particularly so as the composite nature of transnational threats weakens the focus on a centre of gravity. The multifaceted nature of the phenomena requires an ensemble, a portfolio of responses, which in turn need to involve a wide array of actors.

If the OSCE can bring comparative advantage to action on this matter, what could be the components of its transnational framework? Firstly, the TNT Department is but one stone. As recently pointed out by Lars-Erik Lundin, it is vital that its work be “complemented by parallel initiatives on behalf of the Chair, the Secretary-General and the full cooperation on the part of other OSCE institutions and active engagement on the part of participating states”.<sup>17</sup> The appointment of a special

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<sup>17</sup> Lars-Erik Lundin, "OSCE and Transnational Threats", OSCE Focus Seminar, Geneva: DCAF, 2012, p. 1.

representative on transnational threats can, for instance, build up the capacity of the OSCE to understand the problem, provide it with visibility and identify a plurality of responses.

Secondly, while some in the past have urged prioritization, this paper argues that given the amplitude and latitude of the problem, simultaneous efforts are needed on multiple fronts. Instead of focusing on an all-encompassing approach, the OSCE should disaggregate and list the threats specifically. A blanket approach to the problem perpetuates an unfocused strategy and generates inefficiency. Only systematic canvassing of a fast-changing and confusing scene can allow a more complete and more reliable picture to emerge. Too, prioritization implies that the decision-making process is familiar with the issues and chooses on the basis of that knowledge. In the case at hand, needed knowledge is precisely at the centre of the strategy pursued. Increasing our understanding requires that we pursue several leads at once – if only to phase out some of those tasks down the road if proven not fertile.

For instance, it may well be that the nexus analogy is itself misleading, as it implies association between two distinct specializations: on the one hand criminals motivated by profit, and on the other terrorists moved by ideology. In point of fact we are in the latest phase, seeing hybrid new actors that partake *equally* of both dimensions. There is growing recognition of the need for reconceptualization. As one recent workshop noted, “What is – and is not – defined as organised crime is a political decision with implications for strategies of states, institutions and civil society... It is crucial to conceptualise organised crime in an appropriate way, taking into account all context-specific and actor-specific circumstances.”<sup>18</sup>

Similarly, in the next phase it can be expected that transnational threats will in particular make use of the situation of transitioning states. As noted, by nature transnational threats are deterritorialized. However, the groups and networks are empowered particularly in settings where state authority is either lacking or weakened. Extreme cases of collapsed states<sup>19</sup>

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<sup>18</sup> Federal Department of Foreign Affairs of Switzerland, Directorate of Political Affairs, Human Security Division, “Organised crime and its impacts on peacebuilding endeavours”, workshop final report, pp. 2–3, 2–3 July 2013, Hotel d'Angleterre, Geneva.

<sup>19</sup> See, notably, William Zartman, *Collapsed States – The Disintegration and Restoration of Legitimate Authority* (Boulder, CO: Lynne Rienner, 1995).

(e.g. Somalia circa 1990s) or ungoverned spaces<sup>20</sup> provide particularly fertile springboards for the groups. Afghanistan, Mali and Syria will be immersed in volatile and dangerous transitions in the coming years.

Other dimensions of such a strategy could include, *inter alia*, strengthened transborder cooperation; the pursuit of multidisciplinary partnerships and synergies with a wider net of organizations beyond the UNODC to include a number of other regional organizations, notably the League of Arab States and the African Union; the updating of training curricula incorporating the use of transnational new technologies to understand transnational threats (e.g. patterns of financial activities); the re-examination of law enforcement responses to diffuse threats (remedying legal gaps, transgression, anticipatory approaches, use of intelligence evidence, effective prosecution, protection of sources, collection of information) while respecting the human dimension;<sup>21</sup> and factoring in societal dimensions (civil society, countering radicalization, migration, feeling of community security, etc.) and a focus on the democracy-building transnational strengths of the OSCE (expert advice and analysis, legislative assistance, police reform, experience with 1990s' post-Soviet transitions).

Therefore, what might be needed is not merely ready-made responding, but understanding and mapping out an OSCE-wide perspective on the phenomenon, i.e. a thematic discussion anchored in a cluster of competence. In the final analysis, the persistent nature of transnational threats calls for lasting responses as part of a comprehensive approach to new and emerging security issues besetting the OSCE. Such an endeavour can be pursued in a medium-term perspective initiated on the occasion of the Swiss and Serbian chairmanships over the next two years.

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<sup>20</sup> See, for instance, Anne L. Clunan and Harold A. Trinkunas, *Ungoverned Spaces – Alternatives to State Authority in an Era of Softened Sovereignty* (Stanford, CA: Stanford University Press, 2010).

<sup>21</sup> The OSCE Charter on Preventing and Combating Terrorism (2002) is explicit on this in Article 20, stating that OSCE participating states “are convinced of the need to address conditions that may foster and sustain terrorism, in particular by fully respecting democracy and the rule of law... by engaging civil society in finding common political settlement for conflicts”.



## COMPARING HUMAN RIGHTS INSTRUMENTS OF THE OSCE, UNITED NATIONS AND COUNCIL OF EUROPE

*Andrei Zagorski*

### Introduction

This paper provides a comparative analysis of instruments of the OSCE, the Council of Europe (CoE) and the United Nations set up to improve the compliance of states with their commitments and obligations to respect human rights and fundamental freedoms. The three organizations are selected not least because they involve all or almost all participating states of the OSCE. It is worth noting, at the same time, that the number of international institutions engaged in this area is not limited to these three – the European Union in particular seeks to institutionalize a structured and result-oriented human rights dialogue with a number of partner countries.

The role that international institutions can play in promoting implementation of the obligations and commitments related to respect for human rights and fundamental freedoms has been a highly politicized issue all through the CSCE/OSCE history, with a short exception in the early 1990s. It was and remains a highly sensitive issue, as it transcends states' understanding of their sovereign "right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".<sup>1</sup>

The OSCE participating states agreed, at an early stage, that "in exercising their sovereign rights, including the right to determine their laws and regulations, they will conform with their legal obligations under international law; they will furthermore pay due regard to and implement

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<sup>1</sup> 1975 Helsinki Final Act, Principle VIII, Equal rights and self-determination of peoples.

the provisions in the Final Act of the Conference on Security and Cooperation in Europe”.<sup>2</sup> However, practical implementation of the relevant commitments and obligations was, for a long time, considered to remain at the discretion of the individual states, while the possibility of establishing and invoking cooperative mechanisms to address human rights issues beyond states’ borders remained a highly contested issue within the OSCE as well as within the United Nations.

Contemporary international human-rights-related activities in the OSCE area range from education on human rights and fundamental freedoms to assistance to individual states or legal remedies available in individual cases. Their thematic scope has considerably expanded and is no longer limited to civil and political rights and fundamental freedoms, but extends to such issues as good governance, rule of law, election assistance and observation, assessment of domestic legislation, etc. Procedures and institutions established within the United Nations, CoE and OSCE to deal cooperatively with human rights issues have also undergone a profound transformation in the last ten to 15 years.

This paper does not cover the entire spectrum of those activities and instruments, but concentrates on tools available to address alleged non-compliance with commitments and legal obligations related to respect for human rights and fundamental freedoms. To make the available instruments and procedures of the three institutions comparable, it firstly elaborates on the main components that need to be in place to make cooperative protection of human rights commitments work. The paper then seeks to identify the relevant ingredients in the established procedures and practices of the three institutions. In conclusion, it elaborates on the possible avenues to strengthen human dimension cooperation within the OSCE.

### **1. Basic components of a cooperative human rights mechanism.**

The understanding of the ways in which international human rights mechanisms can operate in the most effective and cooperative way

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<sup>2</sup> 1975 Helsinki Final Act, Principle X, Fulfilment in good faith of obligations under international law. The two parts of this formula were brought together in the 1989 CSCE Vienna Document.

possible is based on experiences gained within the CoE, which has established the most advanced mechanism for international human rights protection based on the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) and the creation, in 1959, of the European Court for Human Rights (ECHR). These experiences were subject to thorough review in special colloquia that were held from the 1960s through the 1980s at five-years intervals. Conclusions gained from that review have decisively influenced not only the evolution of the CoE instruments but also the debate over the reform of UN human rights mechanisms, as well as the development of the relevant CSCE/OSCE tools.

In a generalized way, the main components of a cooperative mechanism aimed at improving the compliance by individual states with their commitments and obligations related to the protection of human rights and fundamental freedoms include the following.<sup>3</sup>

1. The international commitments and obligations concerning human rights and fundamental freedoms, as well as admissible temporary derogations from them, shall be formulated as precisely as possible to allow for their uniform interpretation and tracking compliance by individual states.
2. Communications (complaints) addressed to the relevant institutions shall be allowed not only from states parties but also from individuals and non-governmental organizations (NGOs).
3. States shall be responsive to questions concerning individual cases of alleged violations of human rights and fundamental freedoms. The commitment to respond to specific requests for information shall be as binding as possible.
4. Cooperative fact-finding or investigation of individual cases of alleged violation shall be confidential in order to guarantee the state concerned that it would save the face if it appropriately remedies the violation.

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<sup>3</sup> On this see Andrei Zagorski, “Chelovechesloe izmerenie obshcheevropeiskogo processa (The human dimension of the pan-European process)”, in Yurii Borko, Sergei Karaganov and Andrei Zagorski (eds), *Obshchii evropeiskii dom: chto my o nem думаем? (Common European House: What Do We Think of It?)* (Moscow, Mezhdunarodnye otnosheniya, 1991, pp. 213–220).

5. Should the state concerned refuse cooperation, or not remedy the violation, there shall be a phased procedure of raising awareness by informing and engaging the international community and making the case(s) public.
6. Legal remedies.
7. All existing instruments depend primarily on the cooperation of states concerned. In case of non-cooperation and/or grave non-compliance, a few institutions provide for the possibility of introducing sanctions to enforce compliance. Those vary considerably, but in all cases remain extremely limited due to the sensitivity of the sovereignty issue.
8. Priority is given to regional instruments for the protection of human rights and fundamental freedoms as compared to universal ones.

Promoting compliance with obligations to respect human rights and fundamental freedoms in a cooperative way alongside the procedures described above has proven to be a practical way of addressing sensitive issues, and has helped to depoliticize the human rights debate to the extent possible. However, the successful functioning of those procedures depends, first and foremost, on cooperation of the states concerned.

## **2. Individual communications (complaints or applications)**

### **United Nations**

Initially the UN Commission on Human Rights, the predecessor of the Human Rights Council (HRC) established in 2006, was not entitled to receive communications from individuals or NGOs, and was limited to considering communications from member states. Although the 1966 Optional Protocol to the International Covenant on Civil and Political Rights (in force from 1976) established its competence “to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant”, this competence did not extend to states non-parties to the protocol. For a long time several OSCE participating states abstained from joining the procedures established by the optional protocol.

Nowadays the HRC is entitled to receive “communications submitted by individuals, groups, or non-governmental organizations that claim to be victims of human rights violations or that have direct, reliable knowledge of such violations”. However, the list of requirements that make a communication eligible for consideration by the HRC is much longer than that of the optional protocol and includes rather ambivalent definitions. Like in many other instruments, individual complaints are not admitted for HRC consideration if they refer to violations already being dealt with by a special procedure, a treaty body or another UN or regional complaints procedure in the field of human rights, or as long as domestic remedies have not been exhausted.

Apart from this, the HRC does not deal with individual cases as such, but rather is entitled to consider, on the basis of the cases brought to its attention, whether they manifest *consistent patterns of gross and reliably attested violations* of human rights and fundamental freedoms in any specific country.

### **Council of Europe**

The CoE has the most elaborate procedure for dealing with individual complaints through the ECHR, and has a long tradition of cooperating with human rights NGOs.

However, as a result of the enlarged number of CoE member states in the past 20 years, as well as a dramatic increase in numbers of individual communications from the new member states, the primary focus of the continuous reforms of the ECHR effective since 1998 has been on reducing the overload of the court, which is not capable of operatively processing incoming complaints.

As a consequence, the procedures that had evolved from the 1960s through the 1980s have been substantially amended, not least making access to the remedies provided by the ECHR more formal and less feasible.

### **OSCE**

The OSCE does not have a procedure to receive and process individual communications and complaints. Individual cases of alleged violation of

human rights and fundamental freedoms have always been brought to the attention of participating states through individual delegations.

While some delegations had a long tradition of receiving relevant information from NGOs, in 1980, during the Madrid CSCE follow-up meeting, a procedure was established that appeals by individuals and NGOs, including those related to human rights issues, would be made available to all delegations through the Secretariat. Since then, access of NGOs to OSCE work has been expanded by a series of decisions, but this does not change the nature of processing the input from individuals or human rights groups within the OSCE.

The current annual OSCE human dimension implementation meetings (HDIMs) do not change the nature of the interaction between human rights NGOs and the organization. Although the meetings provide NGOs with a platform and expand their access to the OSCE institutions, further pursuit of issues and cases raised at the HDIM remains at the discretion of individual participating states.

### **3. Requests for information**

#### **United Nations**

Communications not rejected by the HRC Working Group on Communications in an initial screening are transmitted to the state concerned to obtain its views on the allegations of violations. Both the author of a communication and the state concerned are informed of the proceedings at each stage.

Admitted communications are examined by the Working Group on Situations and the HRC in cooperation with the state concerned. Related procedures are confidential. The relevant HRC meetings are closed.

#### **Council of Europe**

Member states concerned are informed of individual complaints and cooperate within the relevant ECHR procedures.

## OSCE

Requests for information concerning individual cases of alleged human rights violations and the possibility of discussing them in bilateral or multilateral meetings represent the early stages of the OSCE Human Dimension Mechanism (HDM), established in 1989 and upgraded in 1990 and 1991 (widely known as the Moscow mechanism). Particularly the initial phase of requesting clarification on any specific case of alleged violations is confidential.

This part of the HDM was intensively used in the early 1990s. Arie Bloed and Peter van Dijk identified 103 cases in which the first phase of the HDM (request for information) had been invoked in 1989 and 1990. Some of those cases progressed to further stages. Reviewing the implementation of the HDM procedures in their early stage, Bloed and van Dijk come to the conclusion that “the provisions concerning the mechanism have not been a dead letter” – to the contrary, “most of the contracting States have signaled their preparedness to use them”.<sup>4</sup>

Applying the HDM did not remove the issue of compliance with the commitment to respect human rights and fundamental freedoms from the then CSCE agenda, but was extremely instrumental in helping to deal with the relevant issues in a cooperative way.

It is important to note that the early success of the HDM was largely due to the background against which it was established and applied in the early 1990s. This was a brief period in which human rights and democracy discourse was advancing in the OSCE area, accompanied by increased cooperation of the participating states in addressing individual issues of human rights violations. Indeed, the majority of specific cases resolved in that period of time were concluded without formally resorting to the OSCE HDM.

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<sup>4</sup> Arie Bloed and Pieter van Dijk, “Supervisory mechanism for the human dimension of the CSCE: Its setting-up in Vienna, its present functioning and its possible development towards a general procedure for the peaceful settlement of CSCE disputes”, in A. Bloed and P. van Dijk (eds), *The Human Dimension of the Helsinki Process – The Vienna Follow-up Meeting and Its Aftermath* (Dordrecht, Boston, MA, and London: Martinus Nijhoff Publishers, 1991, p. 79).

#### **4. Cooperative fact-finding (investigation)**

##### **United Nations**

Apart from examination of individual communications within the working groups and by the HRC itself, a core element of the UN human rights investigation mechanism is *special procedures*, established by the former Commission on Human Rights and assumed by the HRC. Special procedures include, *inter alia*, *fact-finding through country visits* by special rapporteurs, special representatives, independent experts and working groups. These are appointed by the HRC and enjoy freedom of enquiry in the countries they visit.

Ninety-four states, among them 48 OSCE participating states, have issued *standing invitations* to special procedures mandate holders – otherwise the mandate holders need to request a visit to a country and receive an invitation. Forty-two OSCE participating states have been the target of special procedures country visits over the past few years.

Although the major purpose of special procedures is to assess the general human rights situation at the national level, they also act on individual cases and concerns. Mandate holders receive information on specific allegations of human rights violations and send appeals or letters of allegation to states asking for clarification. They may also send letters to states seeking information about new developments, submitting observations or following up on recommendations. Communications sent and the responses received are reported at regular sessions to the HRC. After their visits, special procedures mandate holders submit a mission report that includes their findings and *recommendations*.

The procedure is, as a rule, confidential and builds upon cooperation with the state concerned.

##### **Council of Europe**

Before the substantial reform of the ECHR, effective from 1998, confidential investigation of received eligible individual complaints in close cooperation with the respondent states was the major task of the Commission on Human Rights, which was part of the two-tier system that had existed for almost 30 years. The commission, however, was abolished as part of the

ECHR reform. Individual complaints are now filtered and examined by the court itself (Registry).

The cooperative and confidential investigation procedure as part of the ECHR has thus been effectively abolished. However, a *friendly settlement procedure* and *unilateral declarations* by respondent government(s) acknowledging the violation and undertaking to provide the applicant with redress are still options to resolve a case at an early stage within ECHR procedures.

The Parliamentary Assembly of the CoE has a special monitoring mechanism pursued by the Committee on Honouring of Obligations and Commitments by Member States of the Council. This mechanism provides, *inter alia*, for regular visits by *rapporteurs* to the countries concerned, and submission of progress reports and recommendations. Currently, ten countries are subject to this monitoring procedure while a further four are engaged in “post-monitoring dialogue”.

This procedure entails, *inter alia*, regular country visits by rapporteurs and their teams, and an intensive dialogue with both government and non-governmental actors. It also often has very specific terms of reference, as the rapporteurs are entitled to monitor and report on the implementation of specific obligations and commitments by the member states, such as the abolition of the death penalty. In this respect, they perform a relevant fact-finding mission.

However, this procedure does not adequately substitute for the abolished cooperative investigation previously implemented by the Commission on Human Rights. It does not operate on the basis of individual complaints, and is often accompanied by releasing public reports already at an early stage and by a debate at Parliamentary Assembly meetings. It is not surprising that it occurs the most politicized instrument of the CoE.

## **OSCE**

The OSCE Human Dimension Mechanism provides for both optional and mandatory fact-finding procedures – appointing missions of experts (optional) or rapporteurs (mandatory) following requests for information and holding bilateral meetings in which individual cases are discussed. Apart from gathering information necessary for carrying out their tasks, such missions are expected to offer good offices and mediation services to

promote dialogue and cooperation among states concerned, and advise them on possible solutions to the issues raised. Observations and comments made by the groups of experts or rapporteurs remain confidential until brought to the attention of the Permanent Council, which may consider any possible follow-up mission.

However, the availability particularly of the mandatory fact-finding procedure is limited. The HDM was developed at a time when some OSCE participating states were not members of the CoE. Persons under their jurisdiction thus did not have access to the ECHR, nor to the individual complaints procedure under the 1966 Optional Protocol to the International Covenant on Civil and Political Rights. The Moscow mechanism stipulates that “in considering whether to invoke” the procedure of appointing rapporteurs, “participating States should pay due regard to whether that individual’s case is already *sub judice* in an international judicial procedure”.<sup>5</sup> This clause immunized CoE members from becoming subject to the mandatory HDM fact-finding procedure provided the case raised had been brought before the ECHR. At the same time, it did not immunize in a similar way countries which were not members of the CoE.

The situation changed substantially after the number of CoE member states had expanded and many post-communist countries had acceded to it. The HDM mandatory fact-finding procedure can thus now be primarily invoked with regard to ten OSCE participating states which are not members of the CoE.

There is a certain niche, though, which eventually can be filled by the OSCE HDM. Since the HDM does not have any further restrictive eligibility criteria, such as the exhaustion of national remedies, it can be invoked at early stages before an individual case has been brought before the ECHR. This may be particularly important in urgent cases of alleged human rights violations.

The functioning of these HDM procedures, however, depends on cooperation of the states concerned. Such cooperation should not be taken for granted. In two cases when the Moscow mechanism was invoked more recently – with regard to Turkmenistan in 2002 and Belarus in 2011 – it did

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<sup>5</sup> Document of the Moscow meeting of the Conference on the Human Dimension of the OSCE, (<http://www.osce.org/odihr/elections/14310?download=true>) para. 16.

not work appropriately due to a lack of cooperation by the states concerned.

This is not least due to the fact that the fact-finding procedure is activated at a later rather than an earlier stage of the functioning of the HDM. Particularly invoking the mandatory fact-finding procedure was designed as a step within a phased process of increasing the pressure on a state provided a specific case is not resolved at earlier stages. As a result, states concerned rightly tend to regard the invocation of the mandatory part of the HDM as a sort of offence, and particularly so if they are the target of a short-cut mandatory emergency procedure which is not preceded by the earlier steps of initiating dialogue and seeking to resolve the case in a cooperative manner.

It is also important that the invocation of HDM fact-finding procedures remains entirely in the hands of the OSCE participating states, thus leaving space for the suspicion that a political bias underlies decisions on whether to invoke the mechanism or not. As long as the decision on whether to raise or silence specific issues of alleged violations of human rights remains exclusively at the discretion of the participating states, the procedure appears doomed to politicization.

The OSCE Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR), being an independent or autonomous institution, is in some way involved in the implementation of the HDM. However, its role is extremely limited and rather technical. In particular, ODIHR may serve as a venue for bilateral meetings within the HDM and as a channel for information sharing whenever participating states deem it necessary to bring specific cases or their observations to the attention of other participating states. ODIHR keeps a resource list of experts appointed by the participating states who can be included on the relevant missions within the HDM. It also processes notifications of the invocation of a mandatory fact-finding mission of OSCE rapporteurs.

In this respect the OSCE HDM differs substantially from the human rights protection mechanism of the CoE, where the ECHR acts as an independent institution while the Committee of Ministers is involved only at the mature phases of dealing with relevant issues.

## 5. Awareness raising

A phased process of raising awareness of unresolved issues related to respect for human rights and fundamental freedoms among participating states and, ultimately, raising public awareness represents an important element in a chain of sequenced steps available in case of uncooperativeness of the respondent state at early phases of cooperation, fact finding and the confidential review of individual cases. It is supposed to raise the political cost of uncooperativeness and lack of redress for the states concerned.

### United Nations

Based on the findings of country visits, the Working Group on Situations may *refer a case to the HRC*, which examines it in closed meetings in a confidential manner at regular sessions. The HRC may decide, by a majority of votes, to:

- keep the situation under review and request the state concerned to provide further information within a reasonable period of time
- keep the situation under review and appoint an independent and highly qualified expert to monitor the situation and report back to the HRC
- discontinue considering the situation when further consideration or action is not warranted
- discontinue reviewing the matter under the confidential complaint procedure in order to take up public consideration of the case.

All materials provided by individuals and governments, as well as the decisions taken at the various stages of the procedure, remain confidential and are not made public. This also applies to situations the examination of which by the HRC has been discontinued.

As of January 2013, several cases related to OSCE participating states had been reviewed by the HRC under the confidential compliance procedure. These include:

- human rights in Turkmenistan
  - twice in 2008, discontinued in 2009 at the tenth session
  - again in 2012, discontinued at the nineteenth session
- human rights situation in Tajikistan, examined three times in 2011, discontinued in 2011 at the eighteenth session
- human rights situation in Uzbekistan in 2007, discontinued at the fourth session
- human rights situation in Kyrgyzstan in 2006, discontinued at the second session.

In 2012 the HRC appointed a special rapporteur on the situation of human rights in Belarus.

The *Universal Periodic Review* is a more public states-driven process of reviewing the record of implementation of obligations of all UN members related to human rights. It is rooted in the previous pattern of the UN Commission on Human Rights and provides states with the opportunity to self-report, or to declare what actions they have taken to improve the human rights situations in their countries and fulfil their human rights obligations.

At the same time, all states are supposed to review which recommendations issued to them they have implemented and which they have not. The discussion of countries' reports is open to human rights NGOs and is often critical.

### **Council of Europe**

The monitoring procedure in particular includes several options to raise awareness of enduring non-compliance of member states with their obligations and commitments subject to the procedure. Apart from making relevant reports public, issuing respective resolutions and extending the monitoring, the Parliamentary Assembly may decide, by a qualified majority of votes, to bring a country case to the attention of the CoE Committee of Ministers, where the case is handled in a confidential manner.

The patterns of execution of the ECHR, and particularly of unsatisfactory execution, are regularly brought to the attention of the Committee of Ministers by the court.

## OSCE

The awareness-raising procedures within the OSCE are supposed to go through several phases, and remain state-driven at all of them.

In the early stages of the CSCE, the debate concentrated on:

- whether the compliance debate within the CSCE would be based, as it was at that time within the United Nations, on a self-reporting procedure in which states declare steps taken to implement their commitments, or whether it would be based on dialogue enabling any participating state to raise any issue of alleged non-compliance
- whether the compliance debate would be institutionalized within the CSCE by arranging that each follow-up meeting should begin with an implementation debate to precede discussion of new proposals
- how many sessions of the follow-up meetings would be open to the public.

All these issues were ultimately resolved between 1989 and 1991, and the debate culminated at the Moscow meeting of the Conference on the Human Dimension of the CSCE. In the document adopted in Moscow the participating states “categorically and irrevocable” declared that “the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the state concerned”.<sup>6</sup> This conclusion was recently reconfirmed in the Astana Commemorative Declaration adopted by heads of state and government in 2010.

The introduction of the HDM in 1989 strengthened CSCE/OSCE awareness-raising procedures. Should requests for information and holding of bilateral meetings not help to resolve an issue, participating states which have triggered the mechanism have the option of drawing the attention of

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<sup>6</sup> Ibid., preamble, p. 2.

other participating states to the specific cases (circulating the relevant information through ODIHR). This can be followed by the appointment of missions of experts (optional) and/or rapporteurs (mandatory). The findings and observations of these missions are brought to the attention of the participating states and the Permanent Council, which may decide on further steps. A rapporteurs' report remains confidential until it has been discussed in the Permanent Council.

The ultimate phase of raising awareness, as designed at the Vienna follow-up meeting in 1989, was discussed at three meetings of the Conference on the Human Dimension of the CSCE scheduled between 1989 and 1991. These were tasked to review the implementation of the HDM in both closed and public sessions.

In 1992 the CSCE Helsinki summit decided to transform the conference into the annual human dimension implementation meeting organized by ODIHR and supported by a series of seminars on relevant themes within the human dimension. While initially the HDIM was supposed to be held at the level of experts from participating states and granted human rights NGOs only the right to circulate written inputs, at later stages it opened up for the direct participation of NGOs. Over time the HDIM has largely decoupled itself from the OSCE HDM and is no longer operational in that context.

For the time being the HDM procedures are dormant at best, and are invoked by states extremely rarely. This is not least due to the fact that other remedies for human rights abuses are now available to more participating states and non-governmental actors, the most important of which is the CoE human rights protection mechanism.

## **6. Legal remedies and consequences**

The single, and thus unique, international human rights protection mechanism that provides individuals with the access to some sort of legal remedies is the Council of Europe.

It needs to be noted, however, that on the one hand the ECHR does not have jurisdiction over the national affairs of member states, i.e. its judgments cannot revoke those of national courts. At the same time, on the other hand, its judgments have rather strong legal consequences which go

far beyond the previous redress requirements. Judgments of the ECHR are now *binding* on member states, although the legal consequences flowing from those judgments are translated into national legal practice by the relevant action of national courts.

Few CoE member states are happy about cases which they lose in the ECHR: several ECHR judgments have triggered emotional political echoes in member states. At the same time, none of them went as far as to withdraw cooperation with the court.

## **7. Enforcement**

Due to the highly sensitive nature of the human rights discussion for any sovereign state, international practice does not provide for enforcement mechanisms in cases of non-compliance with obligations and commitments. Enforcement remains at the discretion of the national authorities. Measures available to the international community are extremely limited and, in most cases, provide for the possibility of public condemnation of the violation of human rights.

### **United Nations**

The procedures of the UN HRC are focused on drawing the attention of the respondent state to alleged or established violations of human rights in the expectation that it would remedy them. Otherwise, the major goal of the HRC is to remind states continuously of their responsibility fully to respect and implement all human rights and fundamental freedoms.

In rare cases, the HRC can establish a gross violation of human rights and fundamental freedoms in a specific country.

### **Council of Europe**

CoE practices provide for the opportunity to take measures which would be considered as a sort of sanctions, although not enforcement measures. As a result of the monitoring procedure, the Parliamentary Assembly can suspend the participation of a national delegation in its meetings, while the

Committee of Ministers may eventually decide to suspend the membership of an individual country. In very rare cases it has done so.

However, the predominant trend within the CoE is to regard such sanctions as a measure of last resort, while preference is given to continuing to engage member states in a dialogue over human rights issues even if such a dialogue appears to be lengthy, extremely uneasy and frustrating, and is accompanied with regression in compliance with the relevant obligations.

The binding nature of ECHR judgments is considered the most powerful tool in generating changes in the legal systems and practices of the relevant member states over a longer period of time.

## **OSCE**

The OSCE is essentially bound to cooperation among its participating states within the existing structures, institutions and procedures. It does not enforce the implementation of relevant commitments, although the participating states are regularly reminded of the need to do so.

The single opportunity for the OSCE, apart from raising relevant issues, is provided by the 1992 Prague decision of the ministerial Council that decisions can be taken on the basis of the “consensus minus one” procedure, particularly in cases of violation of human rights commitments. However, this option is limited to the possibility of adopting a political statement, which would not need consensus from the state concerned.

It is also important to note that this procedure has never been invoked in the OSCE. The suspension of Yugoslavia in May 1992, decided in the “consensus minus one” procedure, represented a different matter.

## **Conclusions: Consequences for the OSCE**

Those involved in the practical work of promoting compliance with human rights commitments and obligations reasonably note particular strengths of the OSCE in a number of extremely important areas. These include a unique niche filled by the OSCE Representative on Freedom of the Media, the OSCE

High Commissioner on National Minorities and the OSCE field missions and offices in participating states, as well as elections observation by ODIHR.<sup>7</sup>

Those strengths, however, do not compensate for the weakness of the OSCE – the *absence of an adequate depoliticized cooperative procedure of addressing alleged violations of human rights and fundamental freedoms within the OSCE region*.

The HDM, as it was designed and practised in the early 1990s, no longer performs appropriately and remains a dormant rather than an operational procedure. As a result, the OSCE has fallen back into the mode of exchanging public statements by participating states without resourcing, or seeking recourse to cooperative problem-solving procedures.

The OSCE now faces several challenges in cooperatively promoting compliance with commitments to respect human rights and fundamental freedoms.

*Firstly*, the OSCE lacks the authority to receive complaints concerning alleged human rights abuses from individuals or NGOs and investigate them at an early stage.

*Secondly*, the HDM and debate in the OSCE are excessively states-driven, thus not allowing for more depoliticized (but not less dedicated) action by independent (or autonomous) institutions.

*Thirdly*, the practical protection of human rights in the OSCE area has largely migrated into other institutions which provide both an individual complaints procedure and an independent body to process those complaints in a confidential manner. In doing so, these autonomous bodies help to keep the issues away from the political agenda of the relevant institutions and allow their cooperative settlement. In this respect, those institutions, and particularly the CoE, have a clear competitive advantage as compared with the OSCE.

*Finally*, over the past 20 years the competencies to address issues of compliance and assist participating states have been splintered among various OSCE institutions, in particular between ODIHR, the OSCE Representative on Freedom of the Media and the High Commissioner on National Minorities. The high commissioner in particular, who implements his/her mandate in the most discreet and cooperative manner as compared

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<sup>7</sup> Nils Mužnieks, “The future of human rights protection in Europe”, *Security and Human Rights*, 24(1), 2013, p. 48.

to other institutions, enjoys the largest support and appreciation within the OSCE, although his/her work is not entirely uncontroversial either.

Over the past years, proposals have been put forward repeatedly to remedy this situation and depoliticize the OSCE human rights debate by outsourcing particularly the compliance monitoring tasks to institutions and structures which are, to the extent possible, independent from OSCE political bodies and the states-driven debate.<sup>8</sup> This proposal did not either gather consensus or attract attention within the organization. It would not be an easy task to produce consensus on a roadmap for comprehensive amendment of the relevant mechanisms so as to give the OSCE a cooperative procedure allowing it to address compliance or, rather, non-compliance issues and fill an appropriate niche among other regional and global instruments for the protection of human rights and fundamental freedoms.

Any amendment of the OSCE HDM aimed at substantially improving the effectiveness of that mechanism, however, could not avoid the following issues.

1. The OSCE should be empowered to receive and process complaints or communications concerning alleged violations of human rights and fundamental freedoms from individuals and NGOs as well as from participating states.

Since the human rights *aquis* of the OSCE and the Council of Europe largely although not entirely overlap, the decision to address individual complaints to either the OSCE or the ECHR should be left to the applicants. It should be forbidden, however, for one and the same issue to be treated simultaneously in the relevant institutions of the OSCE and the CoE.

Admitting the possibility for the OSCE to receive individual complaints would give access to a regional cooperative mechanism for protection of human rights particularly to individuals under the jurisdiction of the participating states which do not have access to the ECHR.

At the same time, the specific niche of the OSCE would be the opportunity to address issues of alleged non-compliance cooperatively at an early phase, before they have become eligible to be addressed within

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<sup>8</sup> See, *inter alia*, Andrei Zagorski, "Make the OSCE institutions less dependent on politics, not more", *Helsinki Monitor, Quarterly on Security and Cooperation in Europe*, 16(3), 2005, p. 212.

the Council of Europe. Should the OSCE fail to resolve those issues in a cooperative way, they may be turned over to the ECHR at a later stage.

**2.** To minimize the politicization effect of the states-driven human dimension procedures, there should be an independent OSCE institution which would be authorized to receive and process individual complaints and communications. Given its expertise in the area of human rights, ODIHR would be an obvious choice. At the same time, a clear division of labour with other OSCE institutions dealing with human rights (freedom of the media, minority rights) should be delineated.

Based on received complaints and communications from individuals, NGOs and participating states, ODIHR or another authorized OSCE institution should be authorized to invoke the HDM or otherwise request information from the states concerned, and implement fact-finding, good offices and mediation services in seeking to find solutions in close cooperation with the states concerned and in a confidential manner.

ODIHR or another authorized OSCE institution will no less than once a year report to the Permanent Council on cooperation with participating states in processing individual complaints and communications. The Permanent Council would be authorized, by a majority vote, to turn specific unresolved issues which meet CoE eligibility criteria to the ECHR.

**3.** OSCE participating states cannot and shall not be deprived of the right to raise any issue, including specific issues related to the implementation of OSCE commitments to respect human rights and fundamental freedoms, in the Permanent Council at any time. They should be encouraged, however, to make use of available cooperative procedures of the human dimension before they raise those issues in the Permanent Council.

The best way of encouraging them to do so would be for other participating states to demonstrate firm commitment to addressing human rights issues in a cooperative way through available procedures. Should they cooperate with ODIHR, or another authorized OSCE institution, in a result-oriented procedure, they would send a strong message that this form of addressing the relevant issues is more appropriate and more effective than simply raising them in the Permanent Council or outside.

4. Whether a reformed annual OSCE human dimension implementation meeting would be integrated into the cooperative mechanism for promoting the implementation of the human dimension commitments by participating states or not is another important issue in the discussion. For the purposes of this study, however, it is important to state that any reform of the HDIM, if singled out of the more general context of improving cooperative procedures in addressing the implementation of human rights commitments by participating states, would miss its objective.



## POSSIBILITIES FOR ADVANCING ARMS CONTROLS IN EUROPE

*Wolfgang Richter*

### **Current status of conventional arms control in Europe and conceptual questions**

The Treaty on Conventional Armed Forces in Europe (CFE),<sup>1</sup> which for almost two decades was referred to as the “cornerstone of European security”, has lost its political attention and conceptual role as an essential element of pan-European security, for the following reasons.

*First*, after 20 years of fundamental changes of the security environment in Europe, the CFE Treaty of 1990 no longer corresponds to the security situation today. Though the need to adapt the treaty was already widely agreed in the late 1990s and an adaptation agreement (ACFE) was signed in 1999,<sup>2</sup> its entry into force has been blocked since 2001 because of political linkages to unresolved territorial disputes in Georgia and Moldova.<sup>3</sup>

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<sup>1</sup> Treaty on Conventional Armed Forces in Europe, [www.osce.org/library/14087](http://www.osce.org/library/14087), signed on 19 November 1990 and entered into force on 9 November 1992 with 29 states parties. The split of the Czech and Slovak Republics brought the number of states parties to 30 (Prague Agreement, 12 January 1993).

<sup>2</sup> “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, in OSCE (ed.), *OSCE Istanbul Summit 1999* (Istanbul Document), PCOEW389 (Istanbul: OSCE, January 2000, pp. 118–234). The agreement was signed by all CFE states parties on 19 November 1999 but ratified only by Belarus, Kazakhstan, the Russian Federation and Ukraine.

<sup>3</sup> The ACFE was complemented by a Final Act which contained a number of political commitments of states parties, including Russian, Georgian, Moldovan and OSCE commitments regarding the withdrawal of Russian stationed forces from Abkhazia and Transdnistria. “Final Act of the Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe”, in OSCE (ed.), *OSCE Istanbul Summit 1999* (Istanbul Document), PCOEW389 (Istanbul: OSCE, January 2000, pp. 235–251, in particular p. 236 (with reference to para. 19 of the Istanbul Document), Annex 13 (p. 250) and Annex 14 (p. 251)).

*Second*, in the meantime NATO's enlargement has continued and rendered the treaty's bipolar limitation concept obsolete, as it is still geared to a fictitious balance of numerically equal military forces of two politically coherent groups of states resembling the former membership of NATO and the Warsaw Treaty Organization at the end of the Cold War.<sup>4</sup>

*Third*, within the enlarged alliance the political focus on the stabilizing role of conventional arms control in Europe got lost when the United States shifted its strategic interest to new global security risks and challenges, with an interlude during the era of President George W. Bush of another geopolitical power competition between the United States and Russia in Eastern Europe, Central Asia and the Caucasus region.

*Fourth*, at the same time, after their accession to NATO a number of new allies did not feel any more committed to the political objective of inclusive pan-European security cooperation previously agreed in the OSCE<sup>5</sup> and NATO-Russia<sup>6</sup> framework. Instead, they fell back in a camp thinking based on historically founded anti-Russian resentments, which they saw as fuelled by Russia's action in its "near abroad" neighbourhood. Their desire for alliance forward defence guarantees contrasted with the desire of "old" European NATO member states, in particular Germany, to pursue the OSCE vision of an inclusive pan-European security area without dividing lines, which should have included Russia.

*Fifth*, in consequence, NATO's internal discussion on the future role of conventional arms control, in particular regarding Russia, has been shaped by contrasting positions. The outcome so far is a compromise on a strategic concept which both underlined defence commitments to Eastern European allies and, at the same time, proposed security cooperation with Russia and the renewal of conventional arms control in Europe.<sup>7</sup> However,

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<sup>4</sup> Treaty on Conventional Armed Forces in Europe, note 40 above, Article II 1(A).

<sup>5</sup> See OSCE, "Charter for European Security", in OSCE (ed.), *OSCE Istanbul Summit 1999* (Istanbul Document), PCOEW389 (Istanbul: OSCE, January 2000, pp. 1–44, in particular pp. 1–3, 7 (No. 1, 7–11, 28–30)).

<sup>6</sup> See NATO/Russian Federation, "Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation", Paris, 27 May 1997, [www.nato.int/cps/en/natolive/official\\_texts\\_25468.htm](http://www.nato.int/cps/en/natolive/official_texts_25468.htm); see also NATO, "Statement on CFE. Adaptation of the Treaty on Conventional Armed Forces in Europe (CFE): Restraint and flexibility", Brussels, 1998, [www.nato.int/docu/pr/1998/p98-141e.htm](http://www.nato.int/docu/pr/1998/p98-141e.htm).

<sup>7</sup> NATO, "Active engagement, modern defence. Strategic concept for the defence and security of members of the North Atlantic Treaty Organization adopted by heads of state and

the latter was not without conditions, but linked to “key principles and commitments” – which means, in particular, progress on certain unresolved territorial conflicts with respect to “host nation consent” for Russian stationed forces.<sup>8</sup>

*Sixth*, Russia responded with growing suspicion and frustration to the delay in ACFE ratification by NATO, and at the end of 2007 suspended the CFE Treaty. Since then, and after unsuccessful attempts to revive security cooperation and conventional arms control against the background of Russian President Medwedjew’s proposal on a European security treaty<sup>9</sup> and US President Obama’s “reset policy”, Moscow’s interest in the CFE Treaty, including its adaptation agreement, has waned and lost support, particularly in the Russian military establishment.

*Seventh*, the Georgian war of 2008, the recognition of the independence of Abkhazia and South Ossetia and the stationing of forces by Russia without Georgia’s consent further complicated attempts to revive conventional arms control. The continued insistence by the United States, Georgia, Moldova, Azerbaijan and a number of Eastern European allies on *host-nation consent* as a precondition for substantial negotiations and the refusal by Russia to change its position on two breakaway regions led to the failure of informal talks “at 36” in 2011 and the fourth CFE review conference in September 2011.<sup>10</sup>

This development has not only deteriorated the political role of conventional arms control in Europe but also produced a conceptual gap between the objectives and regulations of the CFE Treaty and the actual security needs of our time. Its current status might be described as follows.

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government in Lisbon”, No. 4, pp. 16ff., 26, 33, 34, Lisbon, 2010, [www.nato.int/cps/en/natolive/official\\_texts\\_68580.htm](http://www.nato.int/cps/en/natolive/official_texts_68580.htm).

<sup>8</sup> NATO, “Lisbon summit declaration issued by the heads of state and government participating in the meeting of the North Atlantic Council in Lisbon”, NATO PR(2010)0155, Nos 31, 32, Lisbon, 20 November 2010, [www.nato.int/cps/en/natolive/official\\_texts\\_68828.htm?mode=pressrelease](http://www.nato.int/cps/en/natolive/official_texts_68828.htm?mode=pressrelease); NATO, “Chicago summit declaration”, Chicago, 20 May 2012, No. 63, <http://nato.email.com/t/r-tw-hlkuyky-mahidkkt-r/>. See also NATO, “Deterrence and defence posture review”, No. 29, NATO Press Release (2012)063, 21 May 2012.

<sup>9</sup> President of Russia, “European security treaty. Draft”, unofficial translation, 29 November 2009, <http://eng.kremlin.ru/text/docs/2009/11/223072.shtml>.

<sup>10</sup> In November 2011 NATO ceased implementing CFE information and verification obligations with regard to the Russian Federation. NATO, “Chicago summit declaration”, note 47 above.

1. The bipolar regional limitation concept of the 1990 CFE Treaty is outdated and does not reflect the current security situation in Europe, while its information and verification regime still entails a valuable degree of transparency and predictability.
2. Maximum national levels of holdings (MNLH) agreed within the two groups of states parties provide the only existing national ceilings for treaty-limited armaments and equipment (TLE), although these two groups have become politically irrelevant.<sup>11</sup> Furthermore, with the exception of a number of states in the CFE southern “flank area”, the holdings of most states parties stay far below such ceilings.
3. Irrespective of Russia’s suspension, the CFE regional limitation regime including its “flank rule” (detailed below) failed to contribute to stability in the southern Caucasus and prevention of subregional conflicts and arms races
4. The 1999 ACFE modified the CFE Treaty in the context of the first enlargement of the North Atlantic alliance. However, it did not enter into force because of disputed interpretations of Russian “Istanbul commitments” regarding the breakaway entities of Abkhazia and Transdniestria.<sup>12</sup> In the meantime, two new waves of NATO enlargement

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<sup>11</sup> Treaty on Conventional Forces in Europe, note 40 above, Article VII, in particular Nos 1, 2, 6; No. 7 stipulates that changes of the MNLH have to be consulted within the groups of CFE states parties to ensure they are in compliance with group ceilings.

<sup>12</sup>“Istanbul commitments” mean the political commitments of a number of states parties enshrined in the ACFE Final Act, note 42 above, agreed during the OSCE summit in Istanbul on 19 November 1999. It also contains a reference to paragraph 19 (on Moldova) of the Istanbul Summit Declaration. However, even inside NATO there was no unitary position on the substance of Russian commitments regarding the withdrawal of stationed forces from Abkhazia and the Transdniestrian region. A number of allies held that they did not include Russian peacekeeping forces in these two areas – with South Ossetia not even mentioned at all – since their mandates were enshrined in ceasefire agreements which were authorized and monitored by the CIS and the United Nations (Abkhazia) as well as the OSCE (Transdniestria, South Ossetia). UN Security Council Resolution 1808 (2008) of 15 April 2008, p. 7, stresses “the importance of close and effective cooperation between UNOMIG and the CIS peacekeeping force as they currently play an important stabilizing role in the conflict zone, and recalling that a lasting and comprehensive settlement of the conflict will require appropriate security guarantees”. See also paragraph 18 of the Istanbul Summit Declaration on the conflict in Transdniestria/Moldova, stating: “We take note of the positive role of the joint peacekeeping forces in securing stability in the region.” (Still today the joint

altered the security situation in Europe again, which also put into question the relevance of certain provisions of the ACFE such as the regulations on temporary deployment (see below).

5. Currently the “old” CFE Treaty of 1990/1992 with its outdated limitation regime is used by 29 states parties, of which 22 are member states of NATO, four of the GUAM<sup>13</sup> group and three of the Collective Security Treaty Organization (CSTO), while the Russian Federation, the largest military power of Europe, suspended treaty operations in December 2007. This has left a significant transparency gap, although Russian political intentions and military capabilities stay far from putting NATO’s security at risk.<sup>14</sup>

6. The Vienna Document,<sup>15</sup> with the participation of 56 out of 57 OSCE member states (except Mongolia), still provides basic information on military developments and activities and allows for limited verification. However, compared to the CFE Treaty its intrusiveness of information and verification is much lower and the threshold values for notification and observation of exercises and other unusual military activities still represent large-scale alliance warfare scenarios perceived at the end of the Cold War. They are far too high to reflect the military reality in today’s Europe. Attempts to modify the Vienna Document substantially have fallen victim to the political blockade of the CFE follow-up process: while Western countries

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peacekeeping force is composed of Russian, Moldovan and Transdniestrian units.) After the withdrawal of Russian stationed forces from Georgia in 2007 only two Russian Istanbul commitments remained open. After the Russian-Moldovan draft accord on a settlement of the Transdnistria conflict (Kosak Memorandum) had failed due to US and EU intervention, Russia in 2004 stopped the withdrawal of ammunition from Kolbasna storage site (Transnistria); 20,000 tonnes of ammunition and several hundred Russian guards have been left on the spot. On Abkhazia, the question under dispute was whether 200 (mandated) Russian peacekeepers were entitled to use facilities of a former Russian military base in Gudauta. Since ratification of the ACFE was a substantial Istanbul commitment, also under dispute was whether NATO was entitled to delay ratification of the ACFE by CFE Final Act stipulations other than the Russian obligation to comply with the legally binding flank rule.

<sup>13</sup> Georgia, Ukraine, Azerbaijan and Moldova.

<sup>14</sup> The Supreme Allied Commander Europe, General Philip Breedlove, in an interview on 14 December 2013 denied that Russian forces posed a threat to NATO. He added that Russia should not feel threatened by NATO either. *Stuttgarter Nachrichten*, 14 December 2013, p. 4.

<sup>15</sup> Vienna Document on Confidence and Security Building Measures 2011, [www.osce.org/fsc/86597](http://www.osce.org/fsc/86597). For an overview on Vienna Document modification requirements see Wolfgang Richter, “A new start for the Vienna Document”, *OSCE Magazine*, 4/2010, pp. 16–18.

are interested in bridging the transparency gap, Russia fears that substantial improvements of the document would only satisfy Western interest without resolving a future arms control regime and the Russian interest in limitations.<sup>16</sup>

7. Without stipulating particular objectives, such as restraint or limitations, the Treaty on Open Skies<sup>17</sup> is meant to support transparency in general and the verification of other arms control treaties and agreements in particular. It provides a valuable tool for cooperative aerial observation, with a wider territorial coverage than the CFE Treaty or the Vienna Document, ranging from “Vancouver to Vladivostok”. Technically, however, it is bound to be less intrusive than on-site inspections, which are the principal verification means of the CFE Treaty and the Vienna Document. Furthermore, recent events have shown that the Open Skies Treaty is vulnerable to Russian-US disputes on treaty interpretations regarding modernization (e.g. on digital cameras) and Russian-Georgian and Greek-Turkish disputes on territorial conflicts.<sup>18</sup>

This short reflection shows the conceptual limitations and political fragility of current arms control and confidence-building agreements, which

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<sup>16</sup> The Vienna Document of 1990 was revised in 1992, 1994, 1999 and 2011. According to Chapter V, military activities have to be notified if they involve at least 9,000 personnel or 250 battle tanks (BT), 500 armoured combat vehicles (ACV), 250 artillery systems (artsys) or 200 aircraft sorties; or 3,000 personnel for amphibious or heliborne landing or parachute assault operations. According to Chapter VI, threshold values for observation are 13,000 personnel or 300 BT, 500 ACV, 250 artsys or 3,500 personnel in case of amphibious or heliborne landing or parachute assault operations. According to Chapter VIII, military activities are constrained to one within three years if they exceed 40,000 troops or 900 BT, 2,000 ACV or 900 artillery pieces. Further constraints pertain to the number of exercises carried out in one calendar year, or simultaneously if they are subject to prior notification. The informal understanding reached in 2012 in the Forum for Security Cooperation to notify at least one major military exercise per year independently of Vienna Document thresholds was a step forward.

<sup>17</sup> Treaty on Open Skies, [www.osce.org/library/14127](http://www.osce.org/library/14127); after a ten-year period of provisional application it entered into force on 1 January 2002, with currently 35 states parties.

<sup>18</sup> The certification of a new Russian digital camera is currently blocked by the United States claiming that the restriction and timely deletion of digital data are not ensured. The Open Skies Consultative Commission from 2011 to summer 2013 was at an impasse due to a Greek-Turkish dispute over the agenda reflecting the application by the Republic of Cyprus to accede to the treaty. In April 2012 Georgia unilaterally suspended its participation in the operations of the Open Skies Treaty towards the Russian Federation. See also G. Delawie, “Enhancing security cooperation in Europe”, Vienna, 20 June 2013, [www.state.gov/t/avc/rls/2013/211055.htm](http://www.state.gov/t/avc/rls/2013/211055.htm).

also explains their waning political impact. At the same time, there is renewed commitment by NATO to further security cooperation and revitalize arms control,<sup>19</sup> and by all OSCE participating states to create a common space of equal security without dividing lines and, to that end, to reinvigorate a pan-European conventional arms control regime.<sup>20</sup>

Divergent views have been expressed on the future purposes of conventional arms control, and doubts have been voiced whether traditional conventional arms control with limitations is still necessary at all. Given the political obstacles to reach a new limitation regime and the uncertainties of the development of future military capabilities, a number of experts came to the conclusion that verified transparency might be politically attainable and conceptually quite sufficient to ensure military stability in Europe.<sup>21</sup> Another position holds that existing arms control instruments should be modified and further adapted to current security needs.<sup>22</sup>

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<sup>19</sup> See notes 46 and 47 above.

<sup>20</sup> See OSCE, note 44 above, Nos 28–30; “Astana Commemorative Declaration: Towards a security community”, SUM.DOC/1/10/Corr.1, 1–2 December 2010, in OSCE, *Astana Final Document 2010*, ASI0EW34 English, Astana, 2 December 2010, pp. 3–5, in particular No. 8; OSCE Ministerial Council, “Declaration on furthering the Helsinki +40 process”, MC.DOC/1/13, Kiev, 6 December 2013 (MC20EW15), in particular paras 2 and 3.

<sup>21</sup> See among others Hans-Joachim Schmidt, “Verified transparency. New conceptual ideas for conventional arms control in Europe”, PRIF Report No. 119, PRIF, Frankfurt am Main, 2013; Jeffrey D. McCausland, “Developing a new approach to conventional arms control”, paper presented at OSCE Security Day, Vienna, 15 March 2013; Jacek Durkalec, “Rethinking conventional arms control in Europe: A transparency-centred approach”, Polish Institute of International Affairs Strategic File No. 7(34), September 2013.

<sup>22</sup> See Valentyn Badrak, “Future CFE treaty – A Ukrainian view”, 12 November 2013, [www.europeanleadershipnetwork.org/future-cfe--a-ukrainian-view\\_912.html](http://www.europeanleadershipnetwork.org/future-cfe--a-ukrainian-view_912.html). Ukraine as OSCE chair in 2013 tried to reinvigorate the traditional CFE-based arms control *acquis* and bring the ACFE back to the agenda with a view to further modifications. The failure of this attempt became obvious at the OSCE Ministerial Council held in Kiev on 5–6 December 2013. Traditional approaches to revitalize the ACFE and, in particular, its flank regime are also supported by Turkey. See Haldun Solmaztürk, “Turkey’s perceptions and interests in the context of European conventional arms control”, in Wilton Park, *Conference Papers. Conventional Arms Control and the Euro-Atlantic Security Environment*, WP 1208, 11–12 October 2012; Mustafa Kibaroglu, “Conventional arms control: A Turkish perspective”, 12 November 2013, [www.europeanleadershipnetwork.org/conventional-arms-control-a-turkish-perspective\\_914.html](http://www.europeanleadershipnetwork.org/conventional-arms-control-a-turkish-perspective_914.html).

Against this background, several conceptual questions have to be answered.

- What objectives should a future arms control regime serve? Given the many divergent risk assessments and security interests of states, is there a common denominator which could provide benefits for all and enable compromises?
- Could verified transparency sufficiently contain security concerns, or are limitations still necessary? What intrusiveness of transparency is needed; and, if required, what kind of limitations should be considered?
- Which type of military armaments and equipment should be subject to a new regime, and how can qualitative aspects be covered?
- Who should participate in a new regime, and what should be the area of application?
- Should unitary rules and regulations be applied for a pan-European area of application, or do special requirements of certain geographical areas need to be reflected by special rules?
- Can a new regime ignore unresolved territorial conflicts? And if not, how can they be hedged taking into account the role of non-state actors? Can they be directly linked to a pan-European regime or are supplementary agreements necessary?
- Should a future conventional arms control regime be created from scratch or build on existing regimes? Should it be politically or legally binding?

This paper does not intend to analyse all these questions in detail but focuses on some observations and theses, starting with a comparison of the current security situation in Europe with that of 1990 to which the concept of the CFE Treaty was geared. This approach aims at filtering out the conceptual gaps of existing arms control instruments as opposed to the security needs of today. It seems self-evident that a new concept should reflect such needs and take into account current risk perceptions and national security interests.

**Existing arms control instruments and security requirements:  
Conceptual gaps**

The CFE Treaty of 1990 was perfectly in line with the security requirements of the time, i.e. the outgoing Cold War at the end of the 1980s when Europe was divided into two camps entrenched in a fundamental political, ideological and military confrontation. The focus was on Central Europe, in particular Germany, where massive concentrations of forces caused high risks of military escalation. The CFE Treaty addressed these risks, setting the objectives of eliminating potentials for launching major offensive operations or regional surprise attacks and, to that end, reducing imbalances and establishing a balance of numerically equal forces of both alliances at reduced levels.<sup>23</sup>

After the collapse of the Soviet Union, the political fragmentation of the post-Soviet states and NATO's enlargement to the east, the CFE assumption of a political cohesion of the "eastern group of states parties" became obsolete. The expected bipolar security cooperation between two alliances was replaced by the integration into NATO and the European Union of all non-Soviet member states of the former Warsaw Treaty Organization and a fragile cooperation between an enlarged NATO and two remaining groups of countries which pursue divergent political goals: Russia did not succeed in its attempts to reunite post-Soviet states; within Europe only four states joined the CSTO; and GUAM states pursue different political interests, with two of them (Georgia and Ukraine) being candidates for future NATO membership.<sup>24</sup>

Though the political and military security environment had changed, CFE reductions were carried out most successfully and enabled the largest peacetime disarmament in European history.<sup>25</sup> Based on growing

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<sup>23</sup> See Treaty on Conventional Forces in Europe, note 40 above, preamble, paras 7 and 9 and Articles IV and V.

<sup>24</sup> NATO, "Bucharest summit declaration issued by the heads of state and government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008", No. 23, [www.nato.int/cps/en/natolive/official\\_texts\\_8443.htm](http://www.nato.int/cps/en/natolive/official_texts_8443.htm).

<sup>25</sup> According to US counting, more than 72,000 pieces of heavy conventional military equipment were eliminated on the basis of CFE obligations. Delawie, note 57 above. In addition, around 30,000 pieces were reduced due to voluntary transformation of forces reflecting the new level of trust and confidence reached in Europe. Almost 10,000 pieces were destroyed in accordance with the Article IV agreement of Annex B of the Dayton Peace Accord.

confidence and stability, most European countries, the United States and Russia transformed their forces to purposes beyond the East-West equation enshrined in the CFE Treaty, and thus complemented obligatory reductions by voluntary military reforms. In consequence, the CFE objective to eliminate potentials for launching major offensive operations or regional surprise attacks in an alliance context has been achieved. Today the military holdings of most states parties – except for southern flank states – stay far below MNLH. Major alliance warfare scenarios, particularly in Central Europe, are no longer a realistic option (not to speak of political reasons or intentions).

Russia still remains the largest military power in Europe and, given its wide geographical extent, it enjoys the strategic advantage of the “inner line” for subregional concentration of forces. However, its conventional military weight in Europe cannot be compared to that of the former Soviet Union. Since the conclusion of the Agreements of Tashkent and Oslo (1992) Russia has been entitled to only 15–20 per cent of all armaments in Europe limited by the CFE Treaty (TLE),<sup>26</sup> and in reality it has stayed below these limitations even after suspension of the treaty.<sup>27</sup>

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<sup>26</sup> With the Agreement on the Principles and Procedures for the Implementation of the Treaty on Conventional Armed Forces in Europe signed in Tashkent on 15 May 1992, eight post-Soviet states with territory in the CFE area of application between the Atlantic and the Urals agreed upon the distribution of CFE-relevant military equipment (TLE) ceilings among these newly independent states. They applied the “sufficiency rule” in accordance with CFE Treaty Article 6, which limits the holdings of states to 60 per cent of the ceilings allowed for one group of states, with some advantages for Russia as to combat aircraft. Within the CFE eastern group of states parties (former members of the dissolved Warsaw Treaty Organization), the former Soviet Union had been already curtailed to 60 per cent of the group ceilings. Zentrum für Verifikationsaufgaben der Bundeswehr (Hrsg.), *Vertrag über Konventionelle Streitkräfte in Europa (KSE-Vertrag) – Textsammlung* Band 2, Geilenkirchen, 2006, S. 55–68 (German translation). At the Oslo Conference on 5 June 1992 CFE states parties modified the treaty to include the new post-Soviet states parties and the respective distribution of former Soviet TLE. See “Final document of the extraordinary conference of states parties to the Treaty of Conventional Armed Forces in Europe of 5 June 1992”, in Zentrum für Verifikationsaufgaben der Bundeswehr (Hrsg.), *Vertrag über Konventionelle Streitkräfte in Europa (KSE-Vertrag) – Textsammlung* Band 2, Geilenkirchen, 2006, S. 10–17 (German translation).

<sup>27</sup> According to the last available CFE information from the Russian Federation of 15 December 2006 (for 2007), Russian TLE holdings amounted to 60–80 per cent of MNLH. Despite the suspension of treaty operations in December 2007, Russia up to 2010 provided an annual matrix with numbers on basic holdings to inform CFE partners that it still complied with CFE limitations with the exception of the flank rule. Notwithstanding force

In contrast, and despite all reduction and transformation of forces, the enlarged NATO in Europe enjoys conventional superiority in numbers of both CFE entitlements and actual holdings. What strategically counts even more is the fact that the territories of NATO countries have extended to the east by more than 1,000 km towards Russian borders. NATO's eastward enlargement rendered two further objectives of the CFE limitation concept obsolete, namely the goal of a balance of numerically equal forces between two alliances in Europe, and the strategically well-construed regional limitation regime focusing on Central Europe.

The goal of a balance of numerically equal forces between two alliances became obsolete simply because one alliance together with its leading military superpower disappeared and all its former non-Soviet member states, the three Baltic states and three states "south of Vienna", joined the other alliance voluntarily. The idea that a single state could make up for this "strategic loss" and alone keep the CFE intended balance against 28 states in Europe is flawed; it is politically unrealistic and economically unattainable. The CFE Treaty itself prevented such a dominance of a single state by its sufficiency clause under Article VI.

Today, all states in the CFE Central Region,<sup>28</sup> which are obliged to establish a balance with each other, and the majority of states in the CFE Extended Central Region<sup>29</sup> are NATO members. Up to 1994 all Russian forces were withdrawn from Central Europe and the Baltic states. While major mobile ground operations in Central Europe cannot be perceived any more, the regional limitation regime does not produce any stabilizing effect in the new sensitive neighbourhood of Russia, its CSTO partners and Russian stationed forces on the one hand, and its neighbours and NATO member states on the other.

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modernization efforts, there are no indications that Russia has substantially increased these numbers since then.

<sup>28</sup> According to Article IV.4 of the CFE Treaty, in the central limitation area the western group of states parties comprises Belgium, Germany, Luxembourg and the Netherlands; the eastern group is the Czech Republic, Hungary, Poland and Slovakia.

<sup>29</sup> According to Article IV.3 of the CFE Treaty, the extended central limitation area includes the territories of all countries mentioned under Article IV.4 and in addition, for the western group of states parties, Denmark, France, Italy and the United Kingdom; for the eastern group of states parties, the former Soviet Carpathian and Kiev military districts (today parts of Ukraine), Belarus and the former Soviet Baltic military district, of which only the Kaliningrad *oblast* has remained in the CFE area of application after the withdrawal of the Baltic states from the CFE Treaty in October 1991.

While forces were reduced particularly in Western and Central Europe, an imbalance has developed in regard to the CFE southern “flank” countries.<sup>30</sup> There, reductions were carried out reluctantly, while advanced but superfluous equipment from Central Europe was used to replace older equivalents in Southeast Europe. In the Caucasus arms races have continued for several years, with one CFE state party exceeding CFE limits<sup>31</sup> and non-state actors acquiring large amounts of armaments limited by the treaty but not accounted for (UTLE).<sup>32</sup>

In 1996, in the context of NATO’s first enlargement project, all CFE states parties agreed that the outdated CFE limitation regime needs adaptation. Consequently, the ACFE signed in Istanbul in November 1999 replaced the bipolar balance of forces concept and subsequent regional limitations by national and territorial ceilings for every state party irrespective of any alliance membership.<sup>33</sup> At the same time, by opening the treaty for accession to all OSCE participating states with territory between the Atlantic and the Urals, the ACFE carried the potential of a pan-European arms control regime and supported the OSCE security strategy, namely to create a common space of equal security without dividing lines.<sup>34</sup>

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<sup>30</sup> The flank limitation zone (Art. V.1, CFE Treaty) covers three subregions in Northern Europe, the Balkans and the Black Sea/Caucasus area which are not geared to thin out force concentrations in Central Europe in accordance with Article IV.2–4 of the treaty. It includes for the western group Norway, Iceland, Greece and Turkey, and for the eastern group Bulgaria, Romania, and the former Soviet military districts of Leningrad (Russia), Odessa (Ukraine, Moldova), North Caucasus (Russia) and Trans-Caucasus (Georgia, Armenia, Azerbaijan). The Russian and Ukrainian flank areas were revised in 1996 to facilitate Russian “anti-terror operations” in the North Caucasus. The ACFE had replaced group limitations by national and territorial ceilings, but left Russia and Ukraine with a territorial subceiling for the revised CFE flank area.

<sup>31</sup> “Auswärtiges Amt. Bericht zur Rüstungskontrolle, Abrüstung und Nichtverbreitung 2007”, Berlin, 7 May 2008, S. 44; “Auswärtiges Amt. Bericht zur Rüstungskontrolle, Abrüstung und Nichtverbreitung 2012”, Berlin, 27 February 2013 (17. Bundestag Drucksache 17125), S. 54. Azerbaijan exceeds CFE ceilings, while Nagorno-Karabakh holds the largest amount of UTLE in the CFE area of application.

<sup>32</sup> According to information delivered by Azerbaijan in 2007 and 2009 to the Joint Consultative Group in Vienna, Nagorno-Karabakh’s holdings amount to far more than 300 BT, 400 ACV and 400 artsys. Even if the reliability of such figures might be questioned in detail, the magnitude of such UTLE holdings becomes clear if compared to the equal MNLH of both Azerbaijan and Armenia: 220 BT, 220 ACV and 285 artsys.

<sup>33</sup> “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, note 41 above, Arts 5 and 6 (adapted CFE Arts IV and V).

<sup>34</sup> *Ibid.*, preamble, paras 6 and 10 and Art. 18 (adapted CFE Art. XVIII).

The ACFE concept was further strengthened by NATO-Russia commitments to exercise restraint with respect to the stationing of *additional substantial combat forces* after NATO's enlargement in East-Central Europe and, reciprocally, in the Kaliningrad and Pskov *oblasts*.<sup>35</sup> Such pledges complemented an earlier Russian-Norwegian commitment regarding the High North, including the former military district of Leningrad.<sup>36</sup> These commitments – though not clearly defined and thus open to interpretation – remain valid, while the ACFE did not enter into force because of political disputes over various territorial conflicts.<sup>37</sup>

In the meantime, more significant changes of the European security landscape, in particular further enlargements of NATO and foreign interventions in unresolved territorial conflicts, put into question the relevance of certain provisions of the ACFE.

- In the Baltic states and the western Balkans NATO's collective defence commitments cover territory which is excluded from the current CFE area of application and respective regional limitations for stationing national and allied forces. Mutual NATO-Russia commitments provide certain but undefined reassurances (see above).
- The accession to NATO by two CFE "eastern group" states located in the east Balkans subregion of the flank zone and the stationing of rotating US forces there have changed the strategic situation on the Black Sea coast in close proximity to the Transdnestrian conflict

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<sup>35</sup> See NATO/Russian Federation, note 45 above, Section IV, Op. 12; NATO, note 45 above; "Final Act of the Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe", note 42 above, preamble, paras 8–9 and Annex 5.

<sup>36</sup> Letter from the foreign minister of the Russian Federation to the foreign minister of Norway, 25 March 1999.

<sup>37</sup> During the extraordinary conference of CFE states parties (Vienna, 12–15 June 2007) Russia demanded the definition of the term "substantial combat forces"; NATO held the position that a definition could only be agreed upon in the context of a general settlement of unresolved CFE problems, including *host-nation consent* for Russian forces stationed in Georgia and Moldova, the *flank* question and the return of Russia's return to the implementation of the (old) CFE Treaty of 1990. This "parallel action package" also aimed at reaching the conditions for NATO member states to initiate national ratification processes. Bilateral US-Russian negotiations ceased in summer 2008.

with remaining Russian peacekeepers and the Kolbasna ammunition storage site guards.<sup>38</sup>

- In the South Caucasus irreconcilable interests of the United States, Russia, Georgia and Turkey as well as Armenia, Azerbaijan and non-state actors clash over unresolved territorial conflicts. These evolved into war in 2008 in Georgia,<sup>39</sup> while today it is rather the tensions around Nagorno-Karabakh which run the risk of turning into open war.<sup>40</sup>

In all these sensitive areas in close neighbourhood to new NATO countries, Russian stationed forces and states with unresolved conflicts, the CFE regional limitation system including the flank regime does not produce any stabilizing effects. The reason for this is that CFE regional limitations focus on Central Europe and provide for ceilings pertinent to major alliance warfare scenarios envisaged at the end of the Cold War. In the flank region, such ceilings are too high to prevent dangerous force concentrations at subregional levels – there, conflicts take place on a much smaller scale and within the same CFE group of states against the background of ethnical and political tension in a fragmented post-Soviet landscape. Thus the flank rule failed to contribute to stabilizing the situation in the southern Caucasus and to hedging subregional conflicts, arms races and major powers' geopolitical zero-sum games.<sup>41</sup>

<sup>38</sup> As agreed bilaterally in summer 2007, the United States stationed small land and air combat groups in Romania and Bulgaria.

<sup>39</sup> On the causes and course of the war in August 2008 see IFFMCG (EUSR), “Independent International Fact Finding Mission on the Conflict in Georgia: Report”, Vols I–III, Geneva, September 2009. It states (Vol. I, pp. 10–11, 19–23), *inter alia*, that Georgian forces on the evening of 7 August 2008 shelled the town of Zchinvali with massive artillery fire (including by multiple-rocket launchers) followed by a full-fledged attack against South Ossetian militias and Russian peacekeepers. Russia reacted within 24 hours after the advance of Georgian combat brigades into the security zone, which was monitored by the OSCE, and deployed ground forces into South Ossetia and two days later into Abkhazia. See also Wolfgang Richter, “Initial military operations during the war in Georgia in August 2008”, *Caucasus Analytical Digest*, 10, 2009, pp. 5–9.

<sup>40</sup> The statement of Ziyafat Asgarov, deputy speaker of parliament, of 9 July 2012 exemplifies the situation. He underlined that Azerbaijan would use all means to re-establish territorial integrity. See “Azerbaijan to use all means to free occupied lands”, *Today.Az*, 9 July 2012, [www.today.az/print/news/politics/110061.html](http://www.today.az/print/news/politics/110061.html).

<sup>41</sup> The CFE flank rule did not provide any thresholds which could have prevented the Georgian attack against South Ossetia in August 2008 nor the subsequent Russian military intervention: Russia used predominantly forces that were stationed in the region already in

In contrast to the security needs of today, the CFE flank rule was intended to supplement the Germany-centred CFE limitation regime. Its purpose was to prevent forces withdrawn from Central Europe being used in new concentrations in the remaining border areas between NATO and the former Warsaw Treaty Organization, i.e. the High North, the eastern Balkans and the southern Caucasus. There is no other rationale for putting in one and the same limitation zone three far-distant subregions that otherwise are not connected by any common operational purpose. Thus the flank rule aims at strategic stability in an outdated scenario but does not provide for stability in the areas of conflict. To the contrary, it is particularly the southern flank area which remains a hotspot of unresolved conflicts and continuing instability.

In sum, the bipolar regional limitation regime of the 1990 CFE Treaty is outdated and has disconnected from the changing security situation in Europe. Neither the CFE regional limitation regime as a whole nor the flank rule in particular provides any stabilizing effect in the most sensitive geographical areas of today's Europe: the contact zones between NATO and Russia/the CSTO as well as the areas of territorial conflict.

Despite reset policies, past attempts to renew conventional arms control by overcoming political hurdles and bridging the conceptual gap have failed so far. On the other hand, there is a clear need and a common OSCE and NATO interest and commitment to cope with new security risks originating from outside Europe, and to promote pan-European security cooperation. However, that objective obviously has not yet been attained, as Europe is still divided over a range of different risk perceptions and disputes on alleged geopolitical strategies, territorial conflicts, intervention policies, missile defence, etc. As long as such risk perceptions and remaining security concerns prevail, there will not be unfettered support for pan-European security cooperation and common global action. Obviously, there is a need for carefully designed reassurances which secure strategic restraint by all states parties in Europe in order to reduce such concerns.

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peacetime without exceeding flank limits, as well as forces not restricted by the flank rule such as air, helicopter and missile units, interior security forces, amphibious landing units deployed by the Black Sea fleet, some reinforcements in transit, reconnaissance, command, control and communication, logistical support units, etc.

The leading questions, therefore, are how conventional arms control could be brought in line with today's security needs, and which contributions a viable arms control concept could make to reduce still-existing risk perceptions inside Europe, thus building confidence and enhancing pan-European security cooperation.

From these observations two conclusions can be deduced as to the purpose and focus of a new arms control regime.

1. It should aim at alleviating remaining security concerns in Europe to support pan-European stability and security cooperation.
2. It should be geared to stabilizing the military situation in those subregions where excessive concentration of forces have or could have destabilizing effects.

**A realistic concept: Responding to national risk assessments and security interest**

Such approaches will have to take into account diverging views on what risks future arms control should respond to and which contributions are required to meet national security interests. The many differences in detail notwithstanding, three major strands of assessments seem to shape the future discussion.

One group of NATO countries is of the view that – despite some unresolved local conflicts and disputes over global security questions – the current security situation in Europe is generally calm, the Cold War over, arms reductions successful, NATO-Russia relations stable and NATO in a favourable security situation with no strategic threat generated from inside Europe. Some experts even believe that traditional arms control by its very nature would re-establish bipolarity and thus perpetuate a split of Europe rather than promote security cooperation against new global risks, which they regard as the main emphasis of future common action.

In this view, limitations are dispensable while verified transparency seems to be sufficient to ensure that such favourable security conditions in Europe would not change without early warning. Such an approach would

also circumvent political obstacles to ratification proceedings and conceptual uncertainties about the significance of future military technologies for the stability in Europe and the feasibility of their restriction.<sup>42</sup>

In contrast, another group of countries perceives political action and military development of certain partners in Europe as still being a concrete security risk.

- Russia has voiced concern about NATO's enlargement to the east, and in particular the potential shift of its military infrastructure and substantial combat forces closer to Russian borders. It also complains about the elimination of the balance of forces enshrined in the CFE Treaty, and expresses concerns about rapid reinforcement and long-range precise strike capabilities of the alliance.<sup>43</sup> It has argued that such concerns are not unjustified against the background of military interventions of major NATO powers in Kosovo, Iraq and Libya without or beyond Security Council mandates.

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<sup>42</sup> See Schmidt, note 60 above; McCausland, note 60 above; Durkalec, note 60 above; Dmitry Suslov, "From parity to reasonable sufficiency", *Russia in Global Affairs*, 8(4), pp. 51–64; Ulrich Kühn. "Conventional arms control 2.0", *Journal of Slavic Military Studies*, 26(2), 2013; James Cox, "Tailoring arms control to the needs of the twenty-first century" and "Cyber defense: An overview of the challenges", presentations to RACVIAC, Zagreb, 22 November 2012 (unpublished). The US Senate in its instrument of ratification of the CFE flank modification (1996) of 14 May 1997 established 14 caveats referring to the withdrawal of Russian forces from foreign countries where *host-nation consent* for the stationing did not exist (Georgia, Moldova). See also Rüdiger Hartmann and Wolfgang Heydrich, *Die Anpassung des Vertrags über konventionelle Streitkräfte in Europa. Ursachen, Verhandlungsgeschichte, Kommentar, Dokumentation* (Baden-Baden: Nomos Verlagsgesellschaft, 2002, p. 51).

<sup>43</sup> During the extraordinary conference of CFE states parties (Vienna, 12–15 June 2007) Russia demanded six points be addressed to re-establish the relevance of the CFE Treaty: ratification of the (modified) ACFE by NATO; accession of the Baltic states to the ACFE (with respective limitations to restrict stationing of foreign forces); definition of the term "substantial combat forces" which was used in NATO-Russia restraint commitments; re-establishing a proper balance of forces in Europe, i.e. for NATO to adhere to collective CFE ceilings for the "western group of states parties"; compliance by four East-Central European states with their Istanbul commitments to notify the lowering of their territorial ceilings; and deletion of the "flank rule" since it had been overtaken by the accession to NATO of "eastern group" flank countries and the stationing of US forces, and thus would only serve to "discriminate" against Russia.

- Several Central and Eastern European countries, however, perceive Russian action in the “near abroad”, in particular the intervention in the Georgian war in 2008 and the subsequent recognition of Abkhazia and South Ossetia, as a security concern in regard to other territorial disputes or minority issues.<sup>44</sup> In this context, the inherent geostrategic advantage of Russia to concentrate forces in neighbouring subregions is assessed a security risk. A similar view holds that such options of subregional accumulation of forces could destabilize particularly the sensitive South Caucasus subregion.<sup>45</sup>

With such mutual and complementary threat perceptions, Russia and its neighbours come to similar conclusions: they view military activities in bordering areas with suspicion, put emphasis on strengthening defence options and regard arms control with some scepticism since it could unduly curtail defence capabilities. Thus keeping open sufficient flexibility for individual or collective defence, avoiding non-reciprocal restrictions on own territory and preventing subregional force concentrations in sensitive geographical areas seem to be common denominators for approaching future arms control. However, on the role of limitations for certain subregions there are different positions: some accept limitations only if reciprocity and equal security are guaranteed; some give priority to defence over reciprocity of restrictions, and therefore prefer transparency without limitations; some insist on special limitations for the North Caucasus area without reciprocity, claiming that this principle was offset by geostrategic asymmetries.

These considerations on how to approach arms control in Europe are further complicated by unresolved territorial conflicts. States facing such conflicts see their national security, territorial integrity and sovereignty under permanent threat. Some even perceive a continuous state of war in which major military operations are only interrupted by a

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<sup>44</sup> This view is particularly popular in Georgia, Moldova, the Baltic states, Poland, the Czech Republic and Romania. During the US presidential election campaign the Republican candidate Mitt Romney even called Russia America’s “number one geopolitical foe”. See Amy Willis, “Mitt Romney: Russia is America’s ‘number one geopolitical foe’”, *Daily Telegraph*, 27 March 2012.

<sup>45</sup> This view is held particularly by Turkey, which insists on the validity of the CFE flank rule for the stability of the Caucasus region. The position is also supported by a number of other flank countries.

fragile ceasefire, while violent clashes at the lines of contact occur on a daily basis and could again unleash open war at short notice.<sup>46</sup> In some cases, subregional concerns and strategic considerations overlap. In this context, a number of countries tend to link pan-European arms control initiatives to the desired outcome of conflict settlement. To that end, they use arms control interest of others as a lever to enforce international support or block progress.<sup>47</sup> Such approaches pose a serious challenge to developing a meaningful arms control concept. Obviously, it cannot succeed in the foreseeable future if it were made subject to prior conflict settlement with solutions to the future political status of seven disputed areas in Europe.<sup>48</sup>

### **Overcoming political blockades: Territorial conflicts and principles**

Territorial conflicts in the post-Soviet CFE southern flank area have proven to be the major stumbling block to revitalizing conventional arms control in Europe. The goal of extending the traditional East-West approach to a pan-European arms control instrument will have to take into account other unresolved territorial conflicts as well. Given the vested interest of major players and regional powers in certain (though not all) territorial conflicts, such areas cannot be excluded from a pan-European arms control concept. Pending political conflict settlement, the question is to what extent such a concept can attract the interest of concerned states without assuring the desired political status for breakaway areas. One important rationale could be derived from the lessons learned that subregional conflicts cannot be solved when they are perceived as political symbols and strategic cornerstones on the chessboard of a larger geopolitical rivalry between

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<sup>46</sup> This observation particularly applies on the Nagorno-Karabakh conflict and the mutual threat perceptions of Azerbaijan and Armenia.

<sup>47</sup> In this context Azerbaijan, Georgia and Moldova, partially supported by some NATO member states, vetoed a number of OSCE draft decisions and declarations during the OSCE summit in Astana (2010) and the Ministerial Council meetings in Vilnius (2011) and Dublin (2012) in order to enforce respective statements on their territorial integrity and the illegality of breakaway entities and stationing of forces without host-nation consent.

<sup>48</sup> Abkhazia, South Ossetia, Transdniestria, Nagorno-Karabakh, northern Cyprus, Kosovo and Gibraltar.

major powers.<sup>49</sup> Only if such connotations can be overcome and no party involved has to fear geopolitical losses might they be willing to agree face-saving compromises on issues which are essentially local problems.

Apart from calming down geopolitical worries, arms control can directly aim at secondary goals such as achieving transparency of and, possibly, restrictions on stationed forces and UTLE of non-state actors, though without giving them legal status as recognized states. The Dayton Peace Accord's Annex B Articles II and IV agreements and various ceasefire agreements for post-Soviet territorial conflicts have provided precedent on how to include non-state actors with rights and obligations in a subregional security framework, to the benefit of all parties to the conflict without providing international legal recognition as independent states.

However, it will be difficult to enshrine such precarious stipulations in a pan-European agreement between states, since they might be interpreted as legal recognition of the political status or armaments of non-state actors, thus separate but interconnected subregional agreements might be the better alternative. They could be linked to a pan-European agreement by respective annexes and supplemented by special commitments of all states which exert political and military influence in the zones of conflict, such as:

- adhering to the principle of peaceful conflict settlement and increasing efforts to mediate political solutions
- providing transparency of stationed forces and promoting transparency of non-state actors' militias
- facilitating OSCE observation of such forces

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<sup>49</sup> In this context it should be recalled that the unification of Germany could only be attained within the framework of a larger détente, i.e. the end of the Cold War, which was achieved by mutual strategic reassurances such as the Treaty on Intermediate-range Nuclear Forces, the CFE Treaty, the Charter of Paris on a future cooperative security order in Europe and the pledge enshrined in the "Two-plus-Four-Treaty" that Germany would not station foreign forces and nuclear delivery means in the territories of the former GDR and Berlin once the Soviet (Russian) forces had been withdrawn. See Konferenz für Sicherheit und Zusammenarbeit in Europa, "Charta von Paris für ein Neues Europa vom 21.11.1990", in Auswärtiges Amt (Hrsg.), *Von der KSZE zur OSZE. Grundlagen, Dokumente und Texte zum deutschen Beitrag 1993–1997*, S. 103–133; "Vertrag über die abschließende Regelung in bezug auf Deutschland (12.9.1990)", Art. 5, in Albrecht Randelzhofer (Hrsg.), *Völkerrechtliche Verträge* (12. Aufl.), 2010, S. 98.

- exercising restraint in stationing additional forces and weapons' deliveries to the zones of conflict.

These measures could be taken without prejudice to the final outcome of status talks and without compromising the principles of sovereignty and territorial integrity. It also seems attainable to enshrine in a new agreement the principle of *host-nation consent* for the stationing of forces, though in a generic way. To that end one could copy the relevant text from the ACFE, which has enjoyed overall recognition.<sup>50</sup> However, any attempt to prejudge for specific cases the results of political status talks undertaken at the appropriate forums would again lead to an impasse. Moreover, such attempts would be highly selective given the many different aspects of at least seven different territorial conflicts in Europe.<sup>51</sup>

In line with international law and the existing OSCE *acquis*, there are further important principles which should be reflected in a future agreement, such as non-use of force, equal security of states within a common security space without dividing lines, reciprocity of security-building measures and non-discrimination of all participating states. Furthermore, for arms control to be of relevance as a cornerstone of European stability it must be militarily effective and, at the same time, leave sufficient flexibility for individual or collective self-defence. Against a background of budgetary constraints, a new agreement should not add new financial burdens to states. In particular, it should not require new reductions of armaments or restationing of units where the status quo does not pose a threat and seems acceptable to neighbours.

### **Enhancing security: Military considerations**

#### *Preventing destabilizing concentration of forces*

A number of states regard undue accumulations of forces in their geographical neighbourhood as a potential threat. However, with the

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<sup>50</sup> “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, note 41 above, Art. 2 (replacing CFE Art. I), No. 3. The Russian Federation in informal talks in 2010 indicated it was prepared to accept the ACFE formulation on host-nation consent if it was not connected with a reference to the territorial status of Georgia before the August war in 2008.

<sup>51</sup> As listed in note 87 above.

exception of territorial conflicts where forces are in position close to the lines of contact, it is noteworthy that in most of Europe it is not the status quo which is regarded a threat but rather the potential future stationing or short-term build-up of forces. In such cases, no reductions seem to be required but rather reassurances that the status quo does not change. To that end, one might consider reciprocal commitments to exercise restraint over additional force deployment in sensitive areas and to ensure a high degree of transparency. The military effectiveness of such provisions will depend on the pertinent geographical depth of these areas. They should reflect operational requirements for launching offensive operations in combined-arms battles and restrict the assembly, forward movement and combat support of mobile forces in strategic key zones close to borders. In this context, the five TLE categories of the CFE Treaty are still highly relevant.

#### *Flexibility*

To leave the necessary flexibility for collective defence one might also consider an acceptable margin for temporary deployment of additional forces for the purposes of exercises or emergency cases. However, such deployment should not exceed a reasonable duration and level of forces, and should be accompanied by additional intrusive information and verification. To that end, one can build on precedence such as NATO-Russia commitments not to station additional substantial combat forces,<sup>52</sup> the Vienna Document provisions on information on and observation of exercises<sup>53</sup> and the ACFE inspection of designated areas in accordance with Section IX of the Adapted Protocol of Inspections.<sup>54</sup> However, such provisions need modification in order to meet today's security needs.

#### *Net-centric operations and modern warfare capabilities*

Militarily effective arms control in our times cannot ignore modern military capabilities and net-centric operations. These allow rapid reinforcement,

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<sup>52</sup> See NATO/Russian Federation, note 45 above; NATO, note 45 above.

<sup>53</sup> See the details outlined in note 55 above.

<sup>54</sup> The ACFE allows for limited temporary deployments exceeding territorial ceilings. For such cases, Section IX of the adapted Protocol on Inspections provides for large-area inspections (up to 10,000 km<sup>2</sup> in size) with a three-day presence of multinational teams, the right to overflights and splitting into subgroups for parallel action.

fire support and precise long-range destruction missions from decentralized geographical locations outside the key zones from which offensive ground operations could be launched. These capabilities are linked to global reconnaissance, target detection, positioning and command, control and communication capabilities, and essentially brought to bear by strategic air and sea mobility, long-range air-to-surface missiles, air- and sea-launched cruise missiles and ballistic missiles with conventional warheads. Such munitions can be launched from distant ground positions or by ships, submarines and long-range combat aircraft supported by air refuelling. In addition, amphibious capabilities and sea-landing forces provide important reinforcement options.

The fact that such capabilities can be used for global action but also inside Europe poses a conceptual challenge. Consequently, certain land- or sea-based capabilities located outside the zone of direct neighbourhood should be made subject to arms control provisions if and when they affect security in Europe, i.e. their geographical location allows a direct operational impact inside such zones or beyond. From a military viewpoint it seems logical to include relevant sea-based capabilities once they enter the sea area adjoining Europe, littoral seas and coastal waters. However, as impressive as such new war-fighting potentials in asymmetrical wars might be, one should put in perspective their operational impact in a scenario in which equally equipped adversaries conduct combined-arms battles and mobile air-ground operations. In such scenarios the five TLE categories of the CFE Treaty are still most relevant.<sup>55</sup>

### *Geographical asymmetries*

Operationally effective arms control will have to take into account geographical asymmetries. The geographic extent of its frontiers grants

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<sup>55</sup> For offensive operations in symmetric warfare scenarios in Europe, the strategic importance of global observation, detection, positioning, command, control, guidance and communication assets can be brought to bear only if at the end of this chain kinetic energy and mobility can be applied on the ground. This is basically achieved by the use of land and air TLE as defined in the CFE Treaty. Long-range precise-destruction weaponry alone does not provide the capability to launch and sustain offensive ground operations or secure territory. Furthermore, modern air and missile defence systems are able to reduce significantly the effects of air and missile attacks. Without combined-arms and electronic warfare operations the survivability of presently available combat drones in symmetric warfare is low. The satellite-based system of net-centric operations is vulnerable to electronic countermeasures and anti-satellite operations of equally advanced adversaries.

Russia the operational freedom of shifting forces on its own soil in the whole of Eastern Europe and concentrating them in subregions between the High North and the Caucasus (flank rationale). On the other hand, it faces numerous neighbours at its outer periphery, and equal rules on temporary deployments for every state would allow a group of smaller allies to accumulate high numbers of forces in adjacent subregions (ACFE problem).<sup>56</sup> So it seems that the principles of non-discrimination and reciprocity occasionally collide with military implications of geographical asymmetries. That will require sensible compromises which take into account a strategic view of alliance defence commitments and superior collective warfare potentials beyond subregional equations.

However, what might work in a strategic context of pan-European stability might not have any effect with respect to areas of territorial conflict. Here, where forces are entrenched and confronting each other over short distances it is not the large extent of the operational depth which counts, but rather the short-range tactical requirements of small-scale combat. Also, the recognition of the military status quo as a baseline is insufficient to prevent escalation and stop arms races. Instead, it is important to set up local demilitarized and heavy weapons restricted zones under international observation in order to stabilize the situation on the ground; arms reductions are needed to contain the risks of destabilizing arms accumulations.

#### *Transparency and limitations*

Establishing limitations for defined armaments within certain geographical areas only makes sense if they are assured by information and verification. So the concept of verified transparency should not be portrayed as

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<sup>56</sup> The ACFE allows for limited and monitored temporary exceeding of territorial ceilings. In the former flank areas this provision is limited to 153 BT, 241 ACV (for Russia, 0) and 140 artsys per country. To all other CFE states parties a three times higher ceiling is granted, namely 459 BT, 723 ACV and 420 artsys per country. After NATO's repeated enlargements and under the assumption that the six non-CFE member states did accede to the ACFE with limited temporary deployment rights only, NATO's accumulated deployment flexibilities would amount to 8,109 BT, 12,733 ACV and 7,420 artsys. If one only takes the eight NATO countries bordering Russia or the Black Sea coast (with one full and seven limited temporary deployment rights), the accumulated numbers of additional combat units still amount to 1,530 BT, 2,410 ACV and 1,400 artsys. Obviously this ACFE flexibility concept does not serve the purpose of preventing destabilizing concentration of forces, and probably exceeds current deployment capabilities by far.

contrasting with or having advantages over limitations.<sup>57</sup> The question is whether verified transparency alone is sufficient to alleviate security concerns of states, or whether and which limitations are required in addition. Of course, finally only negotiations will find out what is acceptable. However, ignoring the fact that a number of states insist on limitations does not seem to be a reasonable starting position. Furthermore, when it comes to a cooperative evaluation of what constitutes destabilizing military activities, such an approach will also face some problems of practicability.

Each concept requires an initial detailed exchange of information on the current status of forces, plus subsequent updates. Where states deem the current status acceptable and only fear a reconstitution of military capabilities or short-term build-up of more forces, the status quo automatically becomes a baseline against which further development of military force will be assessed, e.g. fielding new weaponry and stationing of additional units. Consequently, for all practical purposes the status quo becomes a threshold value. In the absence of common standards any exceeding of such thresholds will give rise to controversies over whether such action poses a security concern and constitutes a destabilization of the situation in violation of the spirit of an agreement. That might result in yet another political dispute on compliance and antagonize partners rather than ensure stability.

Therefore, it seems advisable to define what constitutes a destabilizing concentration of forces, and which modest increase or temporary deployment could be acceptable within the necessary margin of flexibility for legitimate defence purposes. At the same time, one should assume that any unusual military activity would be limited in time, preceded by specific information requirements and monitored by additional intrusive inspections to reassure states on the purposes and extent of temporary deployments. Consequently, certain threshold values must be introduced which trigger these notifications and observations and, at the same time, limit such temporary deployments.

Occasionally the argument is made that the value of limitations was doubtful since the revolution in military affairs progressed rapidly and its impact could not be properly assessed yet.<sup>58</sup> Furthermore, new military

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<sup>57</sup> Such an impression is given by Durkalec, note 60 above.

<sup>58</sup> *Ibid.*, pp. 3–5.

technologies could be used inside and outside Europe. However, uncertainties about the qualitative aspects of new military equipment are not new. They accompanied military assessments in the past, and also influenced CFE negotiations but did not render arms control compromises impossible.<sup>59</sup> They rather confirm the need for constant review and adaptation in light of future developments.<sup>60</sup> What could be considered, however, is a step-by-step approach which stipulates threshold values and limitations in certain geographical key zones while transparency measures monitor capabilities beyond such areas, particularly as they could be used for global purposes as well.

**Initiating a new arms control process:  
Role of multinational and regional organizations**

The bipolar division of Europe at the end of the Cold War shaped the bloc format of CFE negotiations and the bloc structure of its limitation concept. The CSCE as a whole with its vision of pan-European security cooperation provided the political umbrella for the CFE negotiations from the late 1980s onwards and – renamed the OSCE in 1994 – remained the conceptual framework for negotiations on the ACFE in the late 1990s.<sup>61</sup> However, though the objective of the ACFE was to attain an arms control instrument open to accession by all OSCE participating states in Europe irrespective of

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<sup>59</sup> During the CFE and ACFE negotiations qualitative aspects were not disregarded, but were to some degree reflected in the definitions of TLE providing for minimum calibres, weights or certain weaponry and capabilities. On the difficult negotiations on definitions see Rüdiger Hartmann, Wolfgang Heydrich and Nikolaus Meyer-Landrut, *Der Vertrag über konventionelle Streitkräfte in Europa. Vertragswerk, Verhandlungsgeschichte, Kommentar, Dokumentation* (Baden-Baden, 1994, pp. 73–100). Furthermore, qualitative differences of weaponry *within* both alliances were significant, so in a bipolar approach quality aspects would not offset the numerical balance of forces *between* both alliances. During ACFE negotiations delegations came to the conclusion that new global force capabilities were dependent on the global political and military context but less relevant and less tangible in a regional scenario. See Hartmann and Heydrich, note 81 above, p. 69.

<sup>60</sup> The need for regular review and adaptation has been acknowledged by the CFE states parties and the signatories of the ACFE. See Treaty on Conventional Forces in Europe, note 40 above, preamble, para. 11; “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, note 41 above, preamble, para. 10.

<sup>61</sup> See Treaty on Conventional Forces in Europe, note 40 above, preamble, para. 2; “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, note 41 above, Art. 1, preamble, paras 2, 5–6.

their membership in any alliance,<sup>62</sup> the actual impact of the OSCE on the outcome of the negotiations was small. While the negotiation process reflected old bloc formats and focused on NATO-Russia relations, the role of the OSCE chair and non-aligned and neutral OSCE participating states was limited to regular information and inputs through questions and statements.<sup>63</sup> In 2010/2011 this bloc approach was even reinforced by including in the informal negotiation process NATO member states which are not states parties to the CFE Treaty while non-aligned and neutral states were excluded.

The European Union as such was not involved in the negotiations and nor did it coordinate a coherent position of its member states on the CFE follow-up process. A number of NATO member states among EU partners hold the view that “hard security” and defence issues are still the exclusive responsibility of the alliance. Since arms control affects the security of allies, and given NATO’s role as a collective defence organization, it is not surprising that for advancing arms control NATO will remain the driving force in the foreseeable future. However, this implies that NATO will be in a position to develop a coherent arms control concept and negotiate it successfully. Should it fail, EU member states might come to the conclusion that the European Union should take more responsibility for European arms control.<sup>64</sup>

NATO’s strategic concept gives clear priority to common responses to global security challenges such as proliferation of weapons of mass destruction, international terrorism and failed states. At the same time, it acknowledges that this security focus needs common international action, including pan-European security cooperation. In consequence, the alliance has committed to pursue conventional arms control in Europe and, in spring 2013, NATO started an internal discussion process on its future objectives, principles and elements.<sup>65</sup> These will be discussed with CFE

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<sup>62</sup> “Agreement on Adaptation of the Treaty on Conventional Forces in Europe”, *ibid.*, Art. 18 (replacing CFE Art. XVIII).

<sup>63</sup> See Hartmann et al., note 98 above, pp. 31–33.

<sup>64</sup> On *global* arms control, disarmament and non-proliferation issues as well as *confidence-building measures* in Europe such as the Vienna Document, small arms and light weapons, etc., the European Union for almost two decades has been coordinating common statements, positions and approaches.

<sup>65</sup> This new internal discussion process follows the commitments reached in NATO, “Chicago summit declaration”, note 47 above, No. 63; NATO, “Deterrence and defence posture review”, note 47 above, No. 29.

partners once a common conceptual position has been agreed. Against the background of diverging national positions it remains unclear when NATO will come up with a coherent and coordinated concept to advance conventional arms control in Europe. The United States has not yet developed a new coherent approach, while major European players such as France and the United Kingdom seem politically fully absorbed by crisis response action in Africa and the Middle East and, like many other European allies, devote little attention to advancing conventional arms control. In contrast, in November 2013 the foreign ministers of Denmark, Germany and Poland publicly voiced strong interest in and support for revitalizing conventional arms control in Europe.<sup>66</sup> The prominent support by the government of Poland shows that anti-Russian resentments are gradually being superseded by a more sober approach recognizing that security cooperation with Russia is necessary. At the same time, a number of southern flank allies cling to traditional arms control instruments and aim at another modest adaptation.<sup>67</sup>

Russia seems prepared to re-engage, but only in response to NATO proposals without taking any political and conceptual initiative itself. While it remains in a passive “wait and see” position, it fears being confronted with a ready-made concept which leaves little flexibility for change to reflect its interest in a subsequent negotiation process. Also other non-NATO CFE states parties, such as Ukraine, South Caucasus states and Belarus, are concerned that their interests might not be properly reflected through predisposed bloc positions.

For the time being the OSCE chair has only limited leverage to influence the negotiation process. A cautious approach is advisable, since any attempt to take a dominant role at an early stage might be perceived as interference in NATO’s internal discussions and trigger resistance of some of its member states. However, the OSCE will continue to provide the only existing pan-European security framework in which all participating states, including non-aligned and neutral states, can pursue collective security interests and where arms control can and should unfold its stabilizing effects for the whole OSCE area. In this context, the OSCE chair should not

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<sup>66</sup> Radoslav Sikorski, Guido Westerwelle and Villy Sovndal, “Let’s reshape arms control in Europe”, *Financial Times*, 29 November 2013. See also Radoslav Sikorski, Guido Westerwelle and Villy Sovndal, “European security needs an upgrade”, *International Herald Tribune*, 3 July 2013.

<sup>67</sup> Ukrainian and Turkish views are detailed in note 61 above.

only insist on information obligations regarding the status of negotiations; in line with recent OSCE commitments and the Helsinki +40 process it should also continue instilling the perspective of an undivided pan-European security area and the role of arms control for overall security cooperation. Open-ended formats were well suited to overcome past bloc thinking and ensure that the interests of all OSCE participating states are taken into account. On the other hand, the process must be guarded against early blockades of narrowly defined national interest. The OSCE presidency could and should support such an approach by preserving the focus on pan-European security and advancing negotiation processes on unresolved territorial conflicts in the OSCE area, with a view to achieving a peaceful *modus vivendi* until a final settlement can be reached.

### Conclusions and recommendations

1. A future conventional arms control regime should aim at alleviating remaining security concerns in Europe in order to promote European stability and facilitate overall security cooperation in the face of new global security risks. It should be geared to support a pan-European security space without dividing lines, and allow for accession by all OSCE participating states within the area of application.
2. European arms control should focus on stabilizing the military situation in those subregions where unusual concentration of forces has or could have destabilizing effects.
3. Where existing force structures and deployments do not give rise to security concerns, the confirmation of the status quo and the prevention of future subregional force accumulations would sufficiently reassure against destabilizing concentration of forces.
4. Regulations should provide appropriate flexibility for individual or collective self-defence and exercises. They should strike a reasonable balance between the needs of reciprocity and geostrategic asymmetries, taking into account the strategic

implications of alliance defence commitments and their superior military capabilities beyond subregional equations.

5. Verified transparency is an indispensable tool to reassure partners of compliance with agreed rules. To enable cooperative risk assessments, common standards such as threshold values should be established against which the significance of force concentrations could be measured.
6. In the context of offensive air-ground and combined-arms operations in Europe, the five TLE categories of the CFE Treaty are still relevant. In addition, arms control should cover rapid reinforcement and long-range precise-strike capabilities located outside sensitive subregions whenever these could affect security in Europe.
7. European arms control cannot ignore remaining territorial conflicts. It should diminish their geopolitical significance, contain local arms races, prevent tensions from turning into open war and thus promote military stability to allow for peaceful conflict settlement. To that end, states should commit to subregional transparency and exercise restraint with respect to stationing of forces and arms deliveries to zones of conflict.
8. Stabilization of conflict areas must take into account the military potentials of non-state actors without giving them international legal status as recognized states. Separate but supplementary subregional agreements by the parties to a conflict and mediating states might be necessary. They could be linked to a pan-European instrument by annexes and the commitment of all involved states.
9. Arms control agreements should be based on relevant principles of international law and the OSCE *acquis*, such as non-use of force and peaceful conflict settlement, respect for the sovereignty and territorial integrity of states, host-nation consent for

stationing of foreign forces, undiminished and equal security of states in a common security space without dividing lines, the right to individual and collective self-defence, non-discrimination and reciprocity of rights and obligations. In regard to territorial conflicts, however, arms control cannot prejudge the outcome of status talks undertaken in the appropriate forums.

10. While a European arms control regime should be open for accession by all OSCE participating states, uncompromising linkages to particular interests of parties to a territorial conflict might result in an early blockade. It is thus advisable to start negotiations with a core group which guards the pan-European focus of an open-ended process.
11. A complete new start of negotiations from scratch entails the risk of lengthy and probably futile mandate discussions on all basic elements, such as definitions of the area of application, exclusion zones<sup>68</sup> and principal force categories that should be covered. To avoid that, it would be wise to build on relevant ACFE provisions and keep the talks focused on issues which require urgent modification to regain the relevance and validity of arms control.
12. Whether a future arrangement should be legally or politically binding will be a question of its character and of opportunity. A regime with limitations might require more legal foundation than a transparency regime. But politics is the art of the possible; while a legally binding treaty would give some states the perception of more reliable reassurance, a politically binding agreement would be preferable to no agreement at all.

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<sup>68</sup> During past CFE mandate and ACFE negotiations the definition of the Turkish exclusion zone, in particular the coverage of the harbour of Mersin as a logistical base for Turkish military operations in northern Cyprus, has sparked Turkish-Greek disputes which endangered final East-West agreements. See Hartmann et al., note 98 above, pp. 30–31, 74–75; see also Hartmann and Heydrich, note 81 above, p. 133–134.



## **RESPONDING TO ENVIRONMENTAL CHALLENGES WITH A VIEW TO PROMOTING COOPERATION AND SECURITY IN THE OSCE REGION**

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### *Abstract*

Meeting environmental challenges together is one way for OSCE member countries to improve cooperation and mutual security. This paper suggests that such cooperation could be enhanced by working within the parameters provided by the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities, which gives guidance to actors seeking to improve security through substantial reduction of disaster losses in lives and in the social, economic and environmental assets of communities and countries. The paper ends by encouraging the OSCE to adopt a disaster risk reduction policy as part of its environmental security strategy, building on the already active disaster risk reduction efforts of its member countries – whether in fulfilment of the Hyogo Framework or through wholly independent activities that contribute to disaster risk reduction, such as their work on environmental disputes. It is further suggested that the OSCE engages in an international process to develop and implement a successor to the Hyogo Framework, to be adopted at the World Conference on Disaster Risk Reduction on 14–18 March 2015 in Sendai, Japan.

**Introduction: Environmental challenges – A threat to security?**

On 17 April 2007 the UN Security Council held an unprecedented meeting on climate change. The meeting was controversial for its suggestion of a link between security and climate. In 2013 China and the Russian Federation blocked the subject from being discussed again, but it did not deter the convener, the United Kingdom, from continuing to bring climate change to the Security Council's attention. On 15 February 2013 the United Kingdom organized, in conjunction with Pakistan, an informal briefing on climate change attended by Secretary-General Ban Ki-moon.<sup>1</sup>

The diplomats' mixed attitude stands in contrast to that of the armed forces. An unlikely stakeholder in the environmental movement, the military establishment has long considered the security implications of climate change and other environmental challenges. As early as 1994, the German Federal Ministry of Defence produced a white paper in which it noted that "military risks will only be part of a wide spectrum of variables influencing security policy... Environmental pollution caused by man is developing into a global threat to the natural bases of existence of all mankind. The warming of the biosphere, air pollution and nuclear contamination such as that caused by Chernobyl threaten large and densely populated areas of the world. The consequence could be migration waves of undreamt-of dimensions." The Ministry of Defence further noted that "challenges in the transformed environment cannot be tackled by any country or any of the existing security institutions alone. On the contrary, cooperative and collective approaches are called for. It is thus necessary to develop the apparatus of conflict prevention and crisis management in such a way that in the future it will also be possible to defuse crises at an early stage below the level of war and violence."<sup>2</sup>

Continuously informed by direct observation and experience, military thinking evolved to include changes to the definition of security itself. "There is... a need for a new definition of security especially in our

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<sup>1</sup> Potsdam Institute for Climate Impact Research. (2013). Climate scientist Schellnhuber to brief UN Security Council [Press release]. Available at <http://www.pik-potsdam.de/news/press-releases/climate-scientist-schellnhuber-to-brief-un-security-council>.

<sup>2</sup> German Federal Ministry of Defense. (1994). White Paper 1994: The Security of the Federal Republic of Germany and the Situation and Future of the Bundeswehr. Bonn. Available at <http://www.resdal.org/Archivo/d0000066.htm>.

military strategic concepts, and maybe additional military tasks. The impact of climate change must be involved in planning,” wrote Brigadier General Alois Hirschmugl of the Austrian armed forces in 2008.<sup>3</sup>

The military’s preoccupation with an expanded definition of security led, in 2009, to outreach efforts going beyond the military circle. In the lead-up to the Fifteenth Conference of Parties climate change conference in Copenhagen (COP15), a group of military persons including Rear Admiral Neil Morisetti, the then UK special representative on climate and energy security, who would later become his country’s special representative for climate change, called on all governments to ensure that the security implications of climate change were integrated into their respective military strategies.<sup>4</sup> A few years later, calling itself the Global Military Advisory Council on Climate Change, this group of both retired and active high-level officers pledged to turn their attention towards strategizing against climate-related threats. These were defined as “resource wars, mass-migrations, extreme weather events and power struggles amidst food shortages”.<sup>5</sup> The pledge came in November 2013, at a time when a strongly worded draft report from the Intergovernmental Panel on Climate Change was leaked to the press outlining a decline in the supply of maize, wheat and rice by 2 per cent each decade due to climate change.<sup>6</sup>

Disasters have been characterized as a threat to security in other parts of the world as well. A national inventory of hazards, vulnerabilities and capacities of Indonesia’s local governments had found that out of 494 districts, 396 (80 per cent) are located in high-risk zones and highly vulnerable to various types of disasters.<sup>7</sup> At the 2012 Asian Ministerial

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<sup>3</sup> Hirschmugl, A. (2008). *The Impact of Climate Change on the Military and its Training Systems*. Available at <http://www.dmat.at/wp-content/uploads/hirschmugl.pdf>.

<sup>4</sup> Singh, A.K. & Spencer, T. (2009, October 29). First statement of the Military Advisory Council. Institute for Environmental Security. Available at <http://www.envirosecurity.org/news/MACStatement.pdf>.

<sup>5</sup> Institute for Environmental Security. (2013). *GMACCC Meets on Climate Change and Security* [Press release]. Available at <http://www.envirosecurity.org/news/single.php?id=359>.

<sup>6</sup> Bryce, E. (2013, November 7). Leaked IPCC report links climate change to global food scarcity. Message posted to <http://www.theguardian.com/environment/world-on-a-plate>.

<sup>7</sup> United Nations International Strategy for Disaster Reduction. (2012). Disasters are “greatest threats to our national security” [Press release]. Available at <http://www.unisdr.org/archive/29378>.

Conference for Disaster Risk Reduction, President Susilo Bambang Yudhoyono called tsunamis, earthquakes, forest fires, floods, landslides and volcanic eruptions “the greatest threats to [Indonesia’s] security and public well-being”. At the start of his administration the Indian Ocean tsunami struck the northern and western coasts of Sumatra; in the worst-hit town, Banda Aceh, at least 120,000 people were killed and many more left homeless. The president noted that the city of Yogyakarta, the location of the conference, was hit by an earthquake in May 2006 that claimed over 5,000 lives and damaged more than 150,000 homes.<sup>8</sup>

In Europe, home to most OSCE countries, flooding is the most significant peril of all the hazards. Scientific evidence links climate change to a higher risk of wet weather in Europe compared to 50 years ago. While there are more reasons behind flooding than just heavy rainfall,<sup>9</sup> it is nevertheless one of the causes of bursting river banks that lead to frequent and devastating floods across the continent. Given Europe’s 200 transboundary rivers, 40 lakes and around 120 transboundary aquifers, this is a matter of cross-border concern for the OSCE. Furthermore, 20 European countries depend on neighbouring states for more than 10 per cent of their water resources and five countries draw 75 per cent of their resources from upstream countries. Hungary, for example, receives between 50 and 75 per cent of its total water resources from next-door neighbours.<sup>10</sup> Thus, for OSCE countries, achieving resiliency against the effects of climate change is needed in order to manage a vast, joint water system.

But environmental challenges to security do not end with natural resource management.<sup>11</sup> Other conditions such as unplanned urbanization, poorly managed infrastructure development and uncontrolled population growth in hazard-prone locations are just as threatening and deserving of

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<sup>8</sup> Ibid.

<sup>9</sup> Hope, M. & Pidcock, R. Linking UK floods and climate change: A discussion notable by its absence? Message posted to <http://www.carbonbrief.org/>.

<sup>10</sup> Bernardini, F. (2007). The UNECE Water Convention: A unique framework to foster transboundary water cooperation and security. In: Second Preparatory Conference to the 15<sup>th</sup> OSCE Economic and Environmental Forum, Zaragoza, Spain, 12-13 March 2007. Available at [http://www.unece.org/fileadmin/DAM/trans/osce/osceunece/misc\\_Zaragoza.pdf](http://www.unece.org/fileadmin/DAM/trans/osce/osceunece/misc_Zaragoza.pdf).

<sup>11</sup> Femia, F. & Werrell, C.E. (2011). The Nile Basin: Prevention Water Conflict. The Center for Climate and Security. Retrieved from <http://climateandsecurity.files.wordpress.com/2012/04/nile-basin-preventing-water-conflict.pdf>.

attention.<sup>12</sup> Indeed, interaction of these other factors with natural hazards such as drought, floods, earthquakes and wildfires poses grave socio-economic risks. A multi-year drought starting in 2000 in Central and Southwest Asia and the Caucasus region affected 60 million people, causing significant losses (as much as 6 per cent of GDP was lost in Georgia in 2001<sup>13</sup>). The effect of floods on the economy is of equal concern – heavy rainfall over Europe in June 2013 caused the Danube, Vltava, Rhine, Main and Neckar Rivers to burst their banks, creating a disaster not seen in years across Germany, Austria, Switzerland, Hungary, Slovakia, Poland and the Czech Republic. Tens of thousands of people were evacuated. Damage to property and infrastructure, combined with business closures in manufacturing, retail, transport, agriculture and tourism,<sup>14</sup> led to a combined economic loss totaling to €17 billion (US\$22 billion).<sup>15</sup> In terms of earthquakes, the border area of Armenia, Georgia, Iran and Turkey faces high seismic hazard of damaging proportions, as do the areas bordering Turkmenistan and Iran, Kazakhstan and the Russian Federation, and Kyrgyzstan and Tajikistan. Wildfires occur regularly in the South Caucasus and Russian Federation, costing billions in damages.<sup>16</sup> Japan, OSCE's Asian Partner for Cooperation, has been devastated by a costly earthquake and tsunami, and Australia, another Partner for Cooperation, experiences heavy flooding that cripples the functioning of ports and other economic facilities.

As the need to deal with environmental threats becomes increasingly urgent among OSCE countries, there is a possibility of greater

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<sup>12</sup> [Jayaram, D. \(2013\). Six Reasons Why the UN Security Council Should Not Discuss Climate Change. \*E-International Relations\*. Available at <http://www.e-ir.info/2013/04/26/six-reasons-why-the-un-security-council-should-not-discuss-climate-change/>.](http://www.e-ir.info/2013/04/26/six-reasons-why-the-un-security-council-should-not-discuss-climate-change/)

<sup>13</sup> The World Bank. (2005). Europe and Central Asia Region, Environmentally and Socially Sustainable Development Department. *Drought: Management and Mitigation Assessment for Central Asia and the Caucasus*. Available at <http://siteresources.worldbank.org/INTECAREGTOPRURDEV/Resources/CentralAsiaCaucasusDroughtAssessment-Eng.pdf>.

<sup>14</sup> Holman Fenwick Willan. (2013). Central European Floods. Available at <http://www.hfw.com/Briefing-Central-European-Floods-July-2013>.

<sup>15</sup> Aon Corporation. (2013). European flood damage causes \$22bn economic loss; insurance payout breaches \$5bn, according to Aon Benfield catastrophe report [Press release]. Available at <http://www.prnewswire.com/news-releases/european-flood-damage-causes-22bn-economic-loss-insurance-payout-breaches-5bn-according-to-aon-benfield-catastrophe-report-214913511.html>.

<sup>16</sup> International Peace Institute. (2011). Responding to Natural Disasters: What Role for the OSCE? Retrieved from [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_1489.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_1489.pdf).

engagement by the OSCE in the field of disaster risk reduction. There exist over 40 years of knowledge and practice in this field, to which the work of OSCE countries in areas such as data management, legislation and other fields is highly relevant. This paper ends by suggesting ways for the OSCE and the disaster risk reduction community to work jointly to advance the disaster risk reduction agenda through practical application of its models and approaches.

### **Disaster risk: How it accumulates**

In a disaster, human society conspires as both sufferer and instigator. A major earthquake in an empty desert has a very different impact to one whose epicentre is a city that is home to millions of people. Short-sighted development practices, such as unplanned urbanization and lax enforcement of building standards, are major contributors to a disaster – more so than the earthquake itself, which is merely a trigger. Impacts such as toxic spills and fires, damage to industrial installations, the disruption of electricity supply, destruction of homes and businesses, and the displacement of people can go on to cause long-term threats to human and environmental health.

The 1988 Spitak earthquake in the northeastern region of Soviet Armenia, population 1 million, brought together such a confluence of factors. Measuring 6.8 in magnitude, the earthquake of 7 December 1988 affected the cities of Spitak, Gyumri, Vanadzor and Stepanavan and over a hundred smaller villages and towns. A significant number of homes were destroyed, leaving 514,000 people without shelter. Some of the strongest shaking occurred in industrial areas with chemical and food-processing plants, electrical substations and power plants. An estimated 170 manufacturing plants and a significant number of cattle-breeding facilities – a major industry in the area – collapsed.<sup>17</sup> The Metsamor nuclear power plant, around 75 kilometres from the epicentre, experienced minor shaking and no damage, but was eventually closed for a period of six years due to

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<sup>17</sup> Armenian National Survey for Seismic Protection. (1995). Spitak 1988 Earthquake. Available at [http://www.nssp-gov.am/spitak\\_eng.htm](http://www.nssp-gov.am/spitak_eng.htm).

vulnerability concerns.<sup>18</sup> The effects of the Spitak earthquake are still prevalent today: some 25 years later, thousands of families continue to live in temporary containers and are waiting for government-provided homes. Thousands of jobs and livelihoods were lost in the quake and never recovered. Armenia's economic damage amounted to 13 billion Soviet roubles.<sup>19</sup>

When risks go unmanaged and are allowed to accumulate, they may have further and longer-term effects such as reduced economic growth, declining human development and increasing poverty.<sup>20</sup> In Spitak, a former industrial city, unemployment resulting from the loss of livelihoods after the earthquake remains high. By the end of 2012 approximately 4,600 residents of Spitak, amounting to 30 per cent of the population, had fallen below the poverty line and nearly 3,000 were in need of housing. On the twenty-fifth anniversary of the quake in 2013, city authorities were still repeating promises made two decades earlier to move earthquake victims out of temporary housing.<sup>21</sup> In Gyumri, Armenia's second-largest city, a stagnant economy has hindered the ability of its people to rebuild their lives. Half the population have left in search of work elsewhere and not returned. The Shirak region, of which Gyumri is the capital, has the country's highest poverty rate at 46 per cent, a rate exceeding that in other regions by at least 11 per cent, according to official statistics.<sup>22</sup>

The causes and impacts of earthquakes and other hazards are increasingly well understood, but most countries have yet to find effective ways of preventing the risks of those impacts from becoming too great. The reason lies partly in the tendency to view the root of disaster impacts as an extraneous force lying outside human responsibility. Four years after the Spitak earthquake, civil engineer A. H. Hadjian observed: "It is distressing to

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<sup>18</sup> Lavelle, M. & Garthwaite, J. Is Armenia's Nuclear Plant the World's Most Dangerous? *National Geographic Daily News*. Available at <http://news.nationalgeographic.com/news/energy/2011/04/110412-most-dangerous-nuclear-plant-armenia/>.

<sup>19</sup> Oxfam Great Britain. (2010). Armenia: Predicting the unpredictable. Retrieved from <http://www.preventionweb.net/english/professional/news/v.php?id=15853>.

<sup>20</sup> Geneva Association. (2013). *On Risk and Insurance: Issues and Practice*. Palgrave MacMillan, London, England.

<sup>21</sup> Martirosyan, A. (2013). Problems of temporary housing and unemployment in Spitak remain unsolved. *Caucasian Knot*. Available at <http://eng.kavkaz-uzel.ru/articles/26664/>.

<sup>22</sup> Abrahamyan, G. (2013). Armenia: Residents Still Living the Spitak Earthquake. *EurasiaNet*. Available at <http://www.eurasianet.org/node/67839>.

note that the emphasis at the Spitak-88 International Seminar... was on seismology rather than on the understanding of the [human] causes of the damage.” He noted that more papers were presented on earthquake prediction than on understanding how poor urban planning contributed to the disaster.<sup>23</sup> Comparing the experiences of two earthquakes – in Mexico (1985) and Armenia (1988) – he concluded that the concentration of buildings of the same design was a likely contributor to the earthquake damage. For many years following the Second World War the Soviets practised a methodical top-down approach to urban planning and building, constructing a large number of uniformly built row-style apartment units. After the Spitak earthquake, two groups of Soviet and American architects each devised separate outlines for rebuilding the town of Spitak. The Soviets’ plan did not diverge from this traditional top-down approach. The Americans’ plan included finer details of how commercial centres and government facilities were grouped together in an open and communal style. Following an invitation by the Soviets for a critique of their plan, the American proposal was ultimately accepted as the way forward.<sup>24</sup>

The architect behind the American initiative was Ron Altoon, an American of Armenian origin. The chief of the Armenian division of the Soviet state construction agency was reported to have told Mr Altoon: “You have understood the culture of our land better than we ourselves have. You have helped us understand our past and the vital role it can play in our future.”<sup>25</sup> Though it may not have been deliberate, the state construction agency was praising Mr Altoon for applying the principles of disaster risk reduction.

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<sup>23</sup> Hadjian, A.H. (1992). The Spitak, Armenia earthquake – Why so much destruction? In: Earthquake Engineering, Tenth World Conference. Retrieved from [http://www.iitk.ac.in/nicee/wcee/article/10\\_voll\\_5.pdf](http://www.iitk.ac.in/nicee/wcee/article/10_voll_5.pdf).

<sup>24</sup> Out of Earthquake’s Rubble Rises Soviet-U.S. Teamwork. (1989, April 21). *The Los Angeles Times*. Available at [http://articles.latimes.com/1989-04-21/news/vw-2353\\_1\\_yuri-platonov-armenian-soviet-socialist-republic-soviet-city](http://articles.latimes.com/1989-04-21/news/vw-2353_1_yuri-platonov-armenian-soviet-socialist-republic-soviet-city).

<sup>25</sup> Ibid.

**Disaster risk reduction as an approach for managing environmental security**

International cooperation on disaster risk reduction contributed several key concepts that advanced the development of national systems of risk management: national institutions should measure and monitor the impact of hazards on lives and livelihoods of their citizens; they should know how to predict the potential impact of hazards before they strike and learn to anticipate them; they must take action not to create new disaster risks or exacerbate existing ones; and they must enable partnerships across disciplines to create shared responsibility for minimizing actual and potential impact of disasters. Over the years costly disasters such as the 1970 Bhola (Bangladesh) cyclone, 1995 Kobe (Japan) earthquake and 2004 Indian Ocean tsunami provided impetus to collect scientific information about potential impact and building early warning systems to evade loss. In the 1980s countries began to formalize civil defence and emergency relief structures to speed up response and pave the way for earlier recovery. In the 1990s institutions focusing on prevention and preparedness sprung up, organizing around land-use planning, building codes, risk assessment systems and insurance. Regional and international conferences began serving as venues for exchanging expertise and knowledge, and the “International Decade for Disaster Reduction” was declared to rally support. Through regional organizations, groups of countries shared experiences and developed joint plans using common disaster loss databases as a basis for discussion. Standardization was enhanced through indexes to measure preparedness, underpinned by a succession of frameworks to stimulate deeper and broader forms of cooperation and engagement.

The latest version, the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities, was adopted by countries at the Second World Conference on Disaster Reduction in January 2005 and unanimously endorsed by the UN General Assembly that same year. The main objective of the Hyogo Framework is to reduce disaster losses in the form of lives and social, economic and environmental assets. It calls for a cross-disciplinary approach to identify ways to lessen the susceptibility of people and assets to damage and loss; and reduce the losses of people, infrastructure and other economic and social assets located in hazard-prone areas. In terms of environmental security, the

Hyogo Framework lists its key activities as to “encourage the sustainable use and management of ecosystems, including through better land-use planning and development activities to reduce risk and vulnerabilities”, and “implement integrated environmental and natural resource management approaches, including structural and non-structural measures such as integrated flood management and appropriate management of fragile ecosystems”.

The premise behind disaster risk reduction is that disasters are a consequence of inappropriately managed risk. In the language of the Hyogo Framework, disaster risk is a function of hazard, exposure and vulnerability. “Hazard” refers to phenomena such as floods, storms, droughts and earthquakes. They may be low in severity but high in frequency, such as frequently occurring flash floods, or low in frequency but high in severity, such as a tsunami. “Exposure” refers to people, factories, offices or other business assets that lie unprotected in hazard-prone areas. Risk also comes from “vulnerability”, which refers to the degree of susceptibility of assets to suffer damage and loss. In the case of people, vulnerability refers to their incapacity to anticipate, cope with, resist, adapt to and recover from hazard. Thus “disaster risk reduction” is achieved by becoming aware of existing risks and taking steps to address them, preventing the build-up of new risk and taking actions that strengthen resilience. Corrective risk management addresses pre-existing risks; better planning helps avoid the creation of new risks; compensatory risk management, such as insurance, helps people share and spread risks; and disaster management measures such as business continuity planning aid with preparedness and response. In 2005 countries requested the UN Office for Disaster Risk Reduction, the steward of the Hyogo Framework within the UN system, to “update and widely disseminate international standard terminology related to disaster risk reduction”. The revised 2009 definitions now apply to the risk-related activities of many international organizations and are also used by many governments for guidance.<sup>26</sup>

Recognizing the need to raise the profile of disaster risk reduction at the policy level and ensure that related activities are adequately resourced, the Hyogo Framework gave countries one decade to advance in the substantial reduction of disaster losses, measured in terms of lives lost

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<sup>26</sup> Brauch, H.G. et al (Eds.). (2011). *Coping with Global Environmental Change, Disasters and Security* (pp.61-106). Springer-Verlag Berlin Heidelberg.

as well as destruction of social, economic and environmental assets. This is achieved through three political goals, which it calls “strategic”: the full integration of disaster risk reduction into sustainable development policies and planning; the strengthening of institutions and capacities to build resilience; and the systematic incorporation of risk reduction approaches into emergency preparedness, response and recovery programmes. Almost ten years after the UN General Assembly endorsed the Hyogo Framework, the models and approaches it promotes are proving effective in stimulating countries to shape governance arrangements to manage disaster risk. In 2013 almost 90 per cent of countries report the integration of disaster risk reduction in some form with public investment and planning decisions. At least 85 countries have established multisector national platforms for disaster risk management. In cases where responsibilities have been successfully decentralized, budget lines are established to augment the efforts of local governments.

Finally, the Hyogo Framework is notable for contributing significantly to the evolution of:

- a)** cooperative mechanisms for disaster risk reduction at the global, regional and national levels
- b)** member peer review and voluntary enforcement of national and regional monitoring actions
- c)** mobilization of joint action by private entities and government
- d)** leveraging all partners’ knowledge, experience and resources
- e)** promoting and practising cooperation among partners
- f)** promoting continuous education, training and information sharing
- g)** belief in the importance of local action (self-organized communities).

OSCE countries themselves have reported a variety of approaches for disaster risk reduction through use of the Hyogo Framework. Since 2007 national governments all over the world, including within the OSCE, have been assessing progress in disaster risk reduction through a voluntary self-reporting review and monitoring mechanism called the HFA Monitor. An area of substantial progress reported by OSCE member states relates to the establishment of legal and regulatory frameworks for disaster risk reduction. In some cases, countries enacted new legislation to address disaster risk

reduction; in other countries, existing legislation was amended to remain current and relevant to the changing risk landscape.<sup>27</sup> Poland reported that its policy framework now includes current work on a climate change adaptation strategy and elaboration of flood defence programmes for at-risk regions. The Netherlands has legal requirements for stakeholders (national, provincial, regional and local governments as well as private sector businesses) to fulfil responsibilities and commit budgets for disaster risk reduction – for example, local governments collect taxes to pay for flood protection measures.

For transboundary risks, countries report specific achievements in establishing systems to monitor and disseminate data on key vulnerabilities. Albania, with its partners, is upgrading its hydro-meteorological services network by installation of a central data management system. Data will be collected and shared with other national meteorological and hydrological services in Southeastern Europe via a public website. In Central Europe a project is under way to develop software for highly refined weather forecasts; this was expected to be complete in September 2013. The project partners (Austria, the Czech Republic, Germany, Hungary, Slovakia, Poland, Italy and Slovenia) expect to establish a web portal with real-time forecasts to enhance the safety of the local population.<sup>28</sup>

As a security organization, the OSCE is already taking action to address disaster risk – whether or not the term is used – through its economic and environmental forum, seminars organized by its section for external cooperation and programmes such as the Environment and Security Initiative. What the disaster risk reduction community would like to encourage is for an overt link to be made between the Hyogo Framework and the work of the OSCE so that the volume of disaster risk management knowledge and practice amassed over four decades can be put to use to achieve the security level the OSCE desires.

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<sup>27</sup> United Nations International Strategy for Disaster Reduction. (2013). Implementing the Hyogo Framework for Action in Europe: Regional synthesis report 2011–2013. UNISDR: Author. Geneva, Switzerland. Available at [http://www.unisdr.org/files/33275\\_hfa13web.pdf](http://www.unisdr.org/files/33275_hfa13web.pdf).

<sup>28</sup> Ibid.

### **The application of disaster risk reduction to transboundary environmental risks**

Some of the most dramatic environmental battles in Europe have been over water engineering projects, revealing shortcomings in the international legal system that regulates responses to transboundary environmental issues. In the 1980s the Soviet-inspired Gabčíkovo-Nagymaros cross-border barrage system – promising flood prevention, improved river navigability and clean electricity for Czechoslovakia and Hungary – led to massive opposition in Hungary. After growing pressure from Hungarian environmental groups, the Gabčíkovo-Nagymaros project was unilaterally halted by Hungary in 1997 for being harmful to the Danube ecosystem.<sup>29</sup> Escalating tensions eventually prompted the European Union to persuade the two countries to submit their case before the International Court of Justice.<sup>30</sup> The case was said to have helped cause an upwelling of political opposition that eventually brought down the communist government in Hungary in 1989.<sup>31</sup>

Tension over water has also been brewing among the Central Asian republics. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan depend on the water resources of the Aral Basin, where the shrinking body of water in the Aral Sea is causing concern. The area of irrigated land in the Aral Basin has nearly doubled since 1960 to 80 thousand square kilometres; over the same period the population has grown from 18 million to 45 million.<sup>32</sup> Confronted with rapid population growth and an agricultural industry revolving around one highly water-intensive crop, cotton, countries of the region are also finding food production under threat. In the Fergana Valley with its 14 million inhabitants, where Uzbekistan, Tajikistan

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<sup>29</sup> Nevelina I. Pachova, Mikiyasu Nakayama and Libor Jansky (Eds). (2008). *International Water Security: Domestic Threats and Opportunities*. Tokyo: UNU Press.

<sup>30</sup> Ibid.

<sup>31</sup> Pearce, Fred. (2013). A Successful Push to Restore Europe's Long-Abused Rivers. *Yale Environment 360*. Available at [http://e360.yale.edu/feature/a\\_successful\\_push\\_to\\_restore\\_europes\\_long-abused\\_rivers/2718/](http://e360.yale.edu/feature/a_successful_push_to_restore_europes_long-abused_rivers/2718/).

<sup>32</sup> Hilton, I. (2009). Central Asia's Water Problem. *Open Democracy*. Available at <http://www.opendemocracy.net/article/openeconomy/central-asias-water-problem>.

and Kyrgyzstan border each other, the struggle for land and water has already resulted in violent conflicts.<sup>33</sup>

Thus many factors that lie outside the environmental realm contribute to environmental insecurity, ranging from infrastructural to institutional, political, social and financial. As shown by the Gabčíkovo-Nagymaros example, the evolution of sovereignty, among other factors, has changed both the decision-making context and the composition and power balances of the different actors involved in decision-making. The increased leverage and capacities of domestic non-state actors to influence traditionally foreign policy debates have been identified as characteristic of that change.<sup>34</sup> Addressing environmental challenges, therefore, requires interdisciplinary collaboration across sectors, communities and political borders so that the potential conflicts over environmental resources between sectors and states are adequately managed.

For its part, the disaster risk reduction community notes in the text of the Hyogo Framework that countries which develop policy, legislative and institutional frameworks for disaster risk reduction have greater capacity to manage risks and achieve widespread consensus for, engagement in and compliance with risk reduction measures across all sectors of society. It stipulates through the Hyogo Framework that communities and authorities must both be empowered to manage and reduce disaster risk, by having access to the necessary information, resources and authority to implement actions for risk reduction. Furthermore, multisectoral national platforms with designated responsibilities at the national and local levels should facilitate coordination across sectors. These national platforms should also facilitate coordination across sectors, including by maintaining broad-based dialogue at national and regional levels.

This aligns with prevailing attitudes in Europe, where the European Commission's "Strategic Objectives 2005–2009 – Europe 2010: A Partnership for European Renewal: Prosperity, Solidarity and Security" stated that "the challenges facing European institutions have become so wide and so complex that they can only be tackled in partnership: all levers

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<sup>33</sup> OSCE. (2007). *Yearbook on the Organization for Security and Cooperation* (pp. 313-216). University of Hamburg. Available at <http://www.core-hamburg.de/documents/yearbook/english/07/SnoyBaltes-en.pdf>.

<sup>34</sup> Pachova et al., note 134 above.

must be brought to bear and all actors must work together – not just the institutions, but national parliaments, governments, social partners and civil society at all levels. Most importantly, individual citizens must be brought into this partnership: through clarity about what Europe is trying to achieve, and participation in the common effort.”

Under one of its key security themes, the document lists “managing risk in the modern world” with the comment:

Environmental and health risks such as the increased threats of floods or droughts following climate change, the fallout from potential biological, chemical or radiological attacks of serious outbreaks of disease have immediate EU-wide implications. They must be tackled in two ways: by the ability to offer early warning and immediate response to a particular crisis, and by long-term prevention. Information and surveillance networks need to be effective if they are to cope adequately with cross-border threats.<sup>35</sup>

The European Commission’s strategic objectives also called on countries to “make security work worldwide” to enable Europe “to tackle stability and security issues at their root by strongly promoting sustainable development through both multilateral and bilateral channels”. The European Union’s treatment of security reflects the debate on reconceptualization of security by shifting the focus from military threats to emerging non-military security challenges: countering crime, terrorism and human and drug trafficking; managing disasters and environmental and health risks; energy supply crises and vulnerability of traffic and energy infrastructure; and promoting global solidarity with sustainable development.<sup>36</sup>

Thus the policy goals of the Hyogo Framework and the European Union’s strategic objectives both reflect a reconceptualization and redefinition of security threats, challenges, vulnerabilities and risks with an application to natural hazards.

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<sup>35</sup> European Commission. (2005). Commission Communication: Strategic Objectives 2005-2009 — Europe 2010: *A Partnership for European Renewal — Prosperity, Solidarity and Security*. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401904345813&uri=CELEX:52005DC0012>.

<sup>36</sup> Brauch, H.G. et al, note 131 above.

As values and attitudes converge in this manner, the OSCE is well placed to advance disaster risk reduction within the policy sphere and government institutions of its member countries – which include EU nations but also extend beyond. Bernard Snoy, coordinator of OSCE economic and environmental activities from 2005 to 2008, noted that a key asset of the OSCE is its status as a political security organization that attracts the engagement of prominent officials.<sup>37</sup> As such, the OSCE can help to put disaster risk reduction on the political agenda and then generate political will to address it at the highest level. Additionally, the OSCE has a mandate “to assess potential security risks stemming, wholly or in part, from economic, social and environmental factors” and has been tasked to “catalogue and monitor economic and environmental challenges and threats to security and stability in the OSCE region, in collaboration with relevant international organizations”. And, on a practical level, OSCE field presences can detect – through their daily contacts with national and local authorities, non-governmental organizations, academia and the business community – concrete issues and obstacles to sustainable economic and social development.<sup>38</sup> Supported by disaster risk reduction approaches and models, the OSCE can augment its work as an interlocutor in preventing transboundary environmental disputes while also building local institutional capacities to manage risk.

### **From environmental cooperation to economic cooperation**

One of the greatest qualities of the Hyogo Framework is its applicability across multiple disciplines. In May 2013 the UN Office for Disaster Risk Reduction produced its third Global Assessment Report on Disaster Risk Reduction (GAR13), with a focus on the vulnerability of the tourism industry.<sup>39</sup> GAR13 recognizes that ongoing demand for beach tourism and tourist accommodation close to the water is a root cause of vulnerability in island states such as those in the Mediterranean. At an OSCE meeting on

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<sup>37</sup> OSCE, note 139 above.

<sup>38</sup> Ibid.

<sup>39</sup> United Nations International Strategy for Disaster Reduction. (2013). Global Assessment Report for Disaster Risk Reduction: From Shared Risk to Shared Value – The Business Case for Disaster Risk Reduction. UNISDR: Author. Geneva, Switzerland. Available at: <http://www.preventionweb.net/english/hyogo/gar/2013/en/home/index.html>.

the Mediterranean, participating countries noted the severe stress placed by tourism on the environment and natural resources, particularly where seasonal saturation, over-occupation of the coastline and destruction of nature are already causing alarm.<sup>40</sup> Background studies by GAR13 authors confirm that the situation is made worse by weaknesses in government policy, legislation, regulations and enforcement of compliance.<sup>41</sup> Since return on investment on a tourism project is often only achieved after five to ten years, there is reduced concern for longer-term issues on the part of tourism operators. Consequently, business managers may not consider the prospect of a low-frequency, high-impact event such as a tsunami or the long-term effects of climate change. This is especially true of overseas-based tourism operators.<sup>42</sup>

As the OSCE itself noted, Mediterranean countries for which tourism is one of the most important economic activities have compelling reasons for drawing up and applying more effective environmental protection policies and promoting environmentally sound tourism. An OSCE report on the subject states that tourism-dependent countries should take appropriate steps to reduce seasonal tourist congestion on the coast, such as promoting cultural and low-season tourism and providing tourist facilities inland.<sup>43</sup> The cooperative mechanism developed through the Hyogo Framework has produced robust knowledge and expertise that the OSCE can use to underpin action: business perceptions could be countered by increased tourism industry understanding of hazard concepts and terminology used in the Hyogo Framework, and the economic impact of disasters on tourism investment could be quantified using methods offered by the community of practitioners operating under Hyogo.<sup>44</sup>

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<sup>40</sup> OSCE (1990). Report of the meeting on the Mediterranean of the Conference on Security and Co-Operation in Europe. Available at <http://www.osce.org/ec/16200>.

<sup>41</sup> Wright, N. (2013). Small Island Developing States, disaster risk management, disaster risk reduction, climate change adaptation and tourism: Background Paper prepared for the Global Assessment Report on Disaster Risk Reduction 2013. Available at <http://www.preventionweb.net/english/hyogo/gar/2013/en/bgdocs/Wright,%20N.,%202013.pdf>.

<sup>42</sup> Ibid.

<sup>43</sup> See OSCE, note 144 above.

<sup>44</sup> See Wright, note 145 above.

## Conclusion

For all the success of the Hyogo Framework, there is still insufficient emphasis within countries on anticipating the risk posed by today's development choices to the future of the world. GAR13 notes that the world has become wealthier since the advent of globalization, but the shadow side of those gains is the accumulation of ever-mounting disaster risk. This is reflected in the high cost of disasters year after year, hitting US\$130 billion in 2013,<sup>45</sup> making disaster risk reduction all the more relevant to the environmental security of all nations – and to the security of nations overall.

For the time being, governments have explicit responsibility for the safety of publicly owned assets, including schools, hospitals and clinics, water supplies, sanitation, electricity grids, communication networks, roads, bridges and other parts of the national infrastructure, and have policies to reduce the risk of damage to those assets. They also have policies for protecting lives and private assets of households and communities. But as multiple development decisions and investments interact with the existing stock of risk, there are impacts that may not be immediately apparent.<sup>46</sup> In the case of Europe, for example, a report funded by the European Commission on the impact of river floods places the future cost of damage from flooding at a cumulative total of €20 billion by the 2020s (2011-2040), €46 billion by the 2050s (2041-2070) and €98 billion by the 2080s (2071-2100). The report says these projections reflect the expected rise in value of accumulated capital as cities become bigger and more developed – and at the same time more vulnerable to disaster. In essence, climate change will have a marginal effect on these rising disaster costs, showing that even without climate change flood damage in Europe will rise simply because of development.<sup>47</sup>

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<sup>45</sup> Swiss Re. (2013). Sigma preliminary estimates: natural catastrophes and man-made disasters in 2013 cost insurers worldwide USD 44 billion [Press release]. Available at [http://www.swissre.com/media/news\\_releases/nr\\_20131218\\_sigma\\_natcat\\_2013.html](http://www.swissre.com/media/news_releases/nr_20131218_sigma_natcat_2013.html).

<sup>46</sup> United Nations International Strategy for Disaster Reduction. (2011). Global Assessment Report on Disaster Risk Reduction: Revealing Risk, Redefining Development. UNISDR: Author. Geneva, Switzerland. Available at:

<http://www.preventionweb.net/english/hyogo/gar/2011/en/home/index.html>.

<sup>47</sup> Feyen, L. and Watkiss, P. (2011). Technical Policy Briefing Note 3. The Impacts and Economic Costs of River Floods in Europe, and the Costs and Benefits of Adaptation. Results

In May 2013, at the Fourth Session of the Global Platform for Disaster Risk Reduction in Geneva, Switzerland – the world’s foremost gathering on disaster risk reduction – governments and communities issued a strong call for planners to keep risk in check over the next 20–30 years. A strong insight emerging from three cycles of country progress reports is the difficulty of keeping up with emerging risks. OSCE nations that participate in the voluntary reporting themselves note that identifying, assessing and monitoring disaster risks have grown into a demanding task. Threats have emerged from the use of new technologies that had not previously been identified. Migration patterns shift populations to the location of economic assets, which turn out to be hazard prone. Enhancing the safety of ageing infrastructure and housing continues to be difficult. All the while, climate change is a looming spectre. This is coupled with a reportedly growing lack of financial resources to respond adequately to disaster.<sup>48</sup> The fact remains that new risks for industrialized societies have reached a level that could endanger human life and survival on the planet. These new risks for survival cannot be geographically limited, nor can they be insured against. Inward-looking domestic policies need to work alongside the management of these global risks to survival.<sup>49</sup>

The Hyogo Framework leaves scope for change and innovation. Priority Area 4 of the framework, which talks of underlying risk, points to the need to manage the risks associated with development. It invites us to understand the opportunity embedded in resource use and location choice, and suggests that development planning should be structured around identifying trade-offs between the benefits that accrue from assuming risks and the potential price to be paid for taking those risks. Care should also be taken to spread risks more judiciously and to share benefits more evenly. At the World Conference on Disaster Risk Reduction, 14–18 March 2015, nations and communities have a chance to endorse a successor to the Hyogo Framework that can provide incentives to tackle all these issues – the OSCE and its member countries are urged to take part in consultations throughout 2014.

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from the EC RTD ClimateCost Project. Available at [http://www.climatecost.cc/images/Policy\\_brief\\_3\\_River\\_floods\\_v11\\_lowres.pdf](http://www.climatecost.cc/images/Policy_brief_3_River_floods_v11_lowres.pdf).

<sup>48</sup> UNISDR, note 132 above.

<sup>49</sup> Brauch, H.G. et al, note 131 above.

## Annex 1: PROGRAMME

### OSCE Focus Creating a Security Community to the Benefit of Everyone

11–12 October 2013  
Villa Moynier, Geneva

Time	Friday, 11 October 2013
09:00 - 09:15	<b>Welcome and Introductions</b> Daniel Warner Theodor Winkler Heidi Grau Lamberto Zannier
09:15 – 10:30	<b>Session 1: Tour d’horizon – Helsinki + 40 – What to achieve by 2015</b> Chair: Daniel Warner Speakers: Nataliia Galibarenko Thomas Greminger Vuk Zugic Andrey Kelin
10:30 – 10:45	Coffee Break
10:45 – 12:00	<b>Session 2: Security Sector Reform in the OSCE Region</b> Chair: Wolfgang Zellner Speaker: Heiner Haenggi Discussant: Adam Koberiacki
12:00 - 13:30	Buffet Lunch at Villa Moynier
13:30 – 15:15	<b>Session 3: Responding to environmental challenges with a view to promoting co-operation and security in the OSCE area</b> Chair: Walter Kemp Speaker: Jerry Velasquez Discussant: Yurdakul Yigitgüden
15:15 – 15:30	Coffee Break
15:30 – 17:00	<b>Session 4: Comparing human rights monitoring instruments of the OSCE, UN and CoE</b> Chair: Zdzislaw Kedzia Speaker: Andrej Zagorski Discussant: Janez Lenarcic
19:00	Dinner at La Perle du Lac, with keynote address by Lamberto Zannier, Secretary General

Time	Saturday, 12 October 2013
09:00 – 10:15	<b>Session 5: Possibilities for advancing arms controls</b> Chair: Pal Dunay Speaker: Wolfgang Richter Discussant: Malgorzata Kosiura-Kazmierska
10:15-10:30	Coffee Break
10:30 – 12:00	<b>Session 6: Transnational threats: Counterterrorism in the OSCE Region</b> Chair: Nancy Gallagher Speaker: Mohammad-Mahmoud Ould Mohamedou Discussant: Jean-Paul Rouiller
12:00 – 12:30	<b>Conclusions</b> Chair: Daniel Warner Speakers: Thomas Greminger Istvan Gyarmati Lamberto Zannier
12:30 - 13:30	Buffet Lunch at the Villa Moynier
14:00	Departure of participants

## Annex 2: LIST OF PARTICIPANTS

<b>Mary Albon</b>	Senior Advisor, OSCE Secretariat
<b>Bavaud Serge</b>	Senior Advisor, OSCE Chairmanship Task Force
<b>Ben Buckland</b>	Project Officer, DCAF
<b>Roger Dubach</b>	Chief Policy Advisor, OSCE Swiss Chairmanship Task Force
<b>Pal Dunay</b>	Course Director, Geneva Centre for Security Policy (GCSP)
<b>Nataliia Galibarenko</b>	Deputy Head, Ukraine, OSCE
<b>Nancy Gallagher</b>	Associate Director for Research, Center for International and Security Studies at Maryland (CISSM)
<b>Heidi Grau</b>	Ambassador, Head of OSCE Swiss Chairmanship Task Force
<b>Thomas Greminger</b>	Ambassador, Switzerland, OSCE
<b>Istvan Gyarmati</b>	President, International Centre for Democratic Transition (ICDT), Hungary
<b>Heiner Hänggi</b>	Assistant Director, Head of Research, DCAF
<b>Jan Haukaas</b>	Special Adviser to the Director, OSCE ODIHR
<b>Zdzislaw Kedzia</b>	Chairperson, UN Committee on Economic, Social and Cultural Rights
<b>Andrey Kelin</b>	Ambassador, Russian Federation, OSCE
<b>Walter Kemp</b>	Director, Europe and Central Asia, International Peace Institute, Vienna
<b>Adam Kobieracki</b>	Ambassador, Deputy Head of the OSCE Secretariat, CPC
<b>Kosiura-Kazmierska Malgorzata</b>	Minister-Counselor, Regional Security Coordinator, MFA Poland
<b>Ueli Lang</b>	Head of Euro-Atlantic Security Cooperation, Swiss Armed Forces
<b>Janez Lenarcic</b>	Ambassador, Director, OSCE-ODIHR
<b>Rüdiger Lüdeking</b>	Ambassador, Germany, OSCE
<b>John Maresca</b>	Ambassador, former Chairman of the US Delegation to the OSCE
<b>Philip McDonagh</b>	Ambassador, Ireland, OSCE
<b>Mohammad Mohamedou</b>	Head of Regional Programme, GCSP, Visiting Professor, Graduate Institute
<b>Raphael Nägeli</b>	Minister, Deputy Head of OSCE Swiss Chairmanship Task Force
<b>Ismatullo Nasredinov</b>	Ambassador, Tajikistan, OSCE
<b>Wolfgang Richter</b>	Senior Associate, SWP, Berlin

<b>Jean Paul Rouiller</b>	Director, GCTAT Geneva Center for Training and Analysis of Terrorism
<b>Fred Tanner</b>	Ambassador, Senior Advisor to the OSCE Secretary General and Liaison for the Swiss OSCE Chairmanship 2014
<b>Jerry Velasquez</b>	Chief of Advocacy and Outreach, UNISDR
<b>Daniel Warner</b>	Assistant Director for International Relations, DCAF
<b>Theodor Winkler</b>	Ambassador, Director, DCAF
<b>Yurdakul Yigitgüden</b>	Coordinator of OSCE Economic and Environmental Activities
<b>Andrei Zagorski</b>	Head of Department, Institute of World Economy and International Relations, Moscow
<b>Lamberto Zannier</b>	Ambassador, Secretary General, OSCE
<b>Wolfgang Zellner</b>	Head, Centre for OSCE Research (CORE), Hamburg
<b>Vuk Zugic</b>	Ambassador, Serbia, OSCE