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## OSCE Yearbook 2004

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



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## Preface

In 2004 Bulgaria took on the challenge of chairing the OSCE. This was a tremendous opportunity for my country – and for me personally – to lead this dynamic, comprehensive, and extremely relevant organization.

The world is currently trying to cope with a wide range of challenges: terrorism, climate change, globalization and its effects on sovereignty, the opportunities and threats of more open borders, and the danger of failing states.

The planet has become so interconnected through advances in information exchange, travel, and communication that we can not ignore the effects that events in one part of the world can have in another. Confronting and resolving common problems by speaking together and finding common solutions is in everybody's interest.

This has been the philosophy of the OSCE for the past thirty years, and it seems more relevant today than ever. The OSCE's comprehensive view of security (which looks beyond military security), its co-operative, multi-lateral approach, and its broad membership (plus its Mediterranean and Asian partners for co-operation) makes it well-suited to be *the* European security forum for effective dialogue, conflict prevention, and post-conflict rehabilitation.

Of course, as the world changes so does the OSCE. In the 1970s and 80s, the (then) CSCE was instrumental in uniting a divided Europe. In the 1990s it was a catalyst for post-Communist transition. Today it plays a useful bridging role, bringing the enlarged EU closer to its "new neighbourhood", and providing a unique channel of communication between North America, the Russian Federation, Europe, the Caucasus, and Central Asia on a wide range of important security issues. It also uses its field activities, institutions, political dialogue, and Secretariat to work with participating States to improve democracy and security within states and promote good neighbourliness between states.

New realities in Europe and in the world necessitate changes in the OSCE. That is why the Bulgarian Chairmanship has initiated a dialogue on reforming the Organization. We believe that a consensus can be gradually built on proposals such as enhancing the political dialogue within the OSCE, achieving a new and effective balance between its three dimensions, relocating the Economic Forum to Central Asia and the Human Dimension Implementation Meeting to the South Caucasus, and strengthening the role of the Secretary General, the Chairman-in-Office, and the Parliamentary Assembly.

The 2004 enlargements of NATO and the EU brought the number of OSCE participating States that are members of this, if I may say so, *sui generis* NATO/EU caucus, to 32. The rest of the OSCE participating States are

mainly from the CIS. One of the challenges before us, as I see it, is to intensify the dialogue and interaction between these two caucuses. It is my understanding that the OSCE could act as a bridge over the Black Sea to the participating States from the South Caucasus and Central Asia, and the Chairmanship has suggested shifting budget resources from decreased or discontinued OSCE field activities in the Western Balkans to these two regions, accordingly.

Bulgaria identified implementation as one of its main themes for the Chairmanship. Our view is that the OSCE has now developed a significant *acquis* of hard and soft commitments. Their effectiveness is in their implementation.

Encouraging implementation over the long term means getting states to “domesticize” international commitments, and one way to do this is through education. That is why Bulgaria has tried to move education up the OSCE’s agenda.

A great deal of our agenda in 2004 was set by decisions made in 2003, particularly at the Maastricht Ministerial Council Meeting. This included an OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century, a Strategy Document for the Economic and Environmental Dimension, efforts to strengthen OSCE capacity to combat trafficking in human beings, promoting tolerance and non-discrimination, implementing an action plan on improving the situation of Roma and Sinti in the OSCE area, strengthening our counter-terrorism efforts by focusing more on travel document security, man-portable air defence systems and establishing a counter-terrorism network, and paying increased attention in the politico-military field to small arms and light weapons and stockpiles of conventional ammunition. We were also encouraged to look at ways of developing further dialogue and co-operation with our partners for co-operation and to explore the scope for wider sharing of OSCE norms, principles, and commitments with others.

In 2004, there was considerable focus on “horizontal” issues such as improving the OSCE’s capabilities in policing, border management and security, counter-terrorism, anti-trafficking, and tolerance and non-discrimination. Core activities such as freedom of the media, national minority issues, human rights, and democratization were also key concerns.

As with any Chairmanship, our agenda was also shaped by current events. Georgia was the highest profile example with the buzz of the Rose Revolution humming through the corridors of the Maastricht Ministerial, followed by high-profile presidential and parliamentary elections monitored by the OSCE early in the new year, and then the tensions surrounding the new Georgian government’s efforts to consolidate its position in Abkhazia and South Ossetia, which the OSCE worked hard to keep peaceful.

Kosovo was another example. The explosion of violence in March demonstrated the fragility of the situation and the importance of the interna-

tional community's work in seeking to stabilize and improve inter-ethnic relations in this still volatile region.

OSCE activities in other regions, such as the Western Balkans, Eastern Europe (Ukraine, Belarus, Moldova), and Central Asia, were less high profile but discreetly and constructively instrumental in effecting change for the good, or keeping the spotlight on non-compliance with OSCE commitments.

These and other topical issues are discussed in this year's edition of the OSCE Yearbook. As usual, the Yearbook covers a wide range of OSCE-related issues from various perspectives in a thought-provoking and comprehensive way. This high-quality academic publication allows insiders to express open, informed views, and provides outside experts with a platform to encourage the OSCE community to look at certain issues with fresh eyes.

2004 was a busy year for my country, my government and myself, one we spent grappling with many of the issues that you will read about here. I hope that the legacy of our Chairmanship and the Sofia Ministerial Council (which will no doubt be covered by next year's Yearbook) will contribute to the continued development of the OSCE and to a greater appreciation of its merits and further potential in coping with contemporary European security issues.



## Time Has Come to Build a Comprehensive Partnership between the EU and the OSCE

*Foreword by the EU High Representative for the Common Foreign and Security Policy*

As the Organization for Security and Co-operation in Europe (OSCE) approaches its 30th anniversary, we can take some comfort in the fact that the Europe in which it was created has changed significantly for the better. Old dividing lines have disappeared and more Europeans than ever before live in peace and security. During these thirty years, the European Union has more than doubled its members, significantly increased its population, and gained new neighbours. It is an appropriate time to reflect upon the possibility of building a new and more comprehensive partnership between the EU and the OSCE to meet the challenges and grasp the opportunities of this new Europe in which we find ourselves today.

In the European Union, we are developing new policies and instruments to help us deal with the challenges of the new Europe. The European Security Strategy, adopted in December 2003, commits us to becoming more active, more capable, and more coherent, and focuses on the need for greater involvement in our immediate neighbourhood. In the context of the European Security and Defence Policy (ESDP), we are committed to expanding our capabilities in civilian and military crisis management, aiming to establish a full range of tools for crisis management operations. This process is being conducted in co-operation, and not in competition, with our international partners. Fulfilling the goal we have set ourselves of becoming an “exporter of peace” will require us to work effectively with others. Working together with the OSCE, the EU can further strengthen its capabilities to promote peace and stability on our continent and beyond.

The European Union recognizes the role of the OSCE as an international actor with an essential role to play in propagating peace and comprehensive security from Vancouver to Vladivostok. Thanks to its inclusiveness, the OSCE continues to play an important role in bringing together a wide range of countries that share its global aims. The OSCE has important strengths – its *acquis*, its field presence, and its existing structures – that give it an important role in the European security architecture. It has also continued to make progress in redefining its capacities as confirmed by the important documents agreed by OSCE foreign ministers at the Maastricht Ministerial Council in December 2003. The adoption of its own Security Strategy provides a further basis for our future co-operation.

At the same time, the identification of threats by the European Union through its Security Strategy is the foundation for future EU action. It confirms a broad European consensus over the shape of our response to these threats: ensuring effective multilateralism, building a stable neighbourhood, and acting early to address the causes of conflict.

It is encouraging that there are many similarities between our two security strategy documents. The EU and the OSCE bring a similar message to the rest of the world. Our current co-operation is proof of the willingness of the international community to work together for a better world.

The EU believes that a more united world can only be achieved through effective multilateralism. That is why the development of a stronger international community, well-functioning international institutions, and a rule-based international order remain among the principal strategic objectives of the European Union.

We seek a world of greater unity, but also of greater security. The EU has committed itself to becoming more active in pursuit of security in Europe and in our neighbourhood, particularly in the field of conflict prevention. This ambition requires the European Union to deploy the full spectrum of instruments for crisis management and conflict prevention that it has at its disposal, including political, diplomatic, military and civilian, trade and development activities. In this context, the OSCE's expertise in the field of conflict prevention potentially represents a prime area for enhancing our future co-operation.

Central Asia and the South Caucasus are certainly areas where this co-operation could be enhanced. The OSCE should consider the European Union as its closest and most reliable partner in building security in Europe – the strongest supporter of its values and principles. Following its recent enlargement, the EU now represents 25 of the 55 OSCE participating States, and the EU as a whole is already the Organization's largest financial contributor, providing approximately 70 per cent of its budget. This reflects our belief in the continued relevance of OSCE, and our common vision of the world.

The current modalities of EU-OSCE co-operation are mainly based on practical arrangements that have developed over the years. We have regular contacts and meetings that provide for fruitful co-operation facilitating the guidance, continuity, and coherence of EU and OSCE initiatives. Our structured contacts at political, staff, and field levels are a sound and positive example of how "effective multilateralism" can work.

The European Union is ready to further intensify EU-OSCE relations. The Council Conclusions on EU-OSCE co-operation in the areas of conflict prevention, crisis management, and conflict rehabilitation, adopted on 17 November 2003, represent the first attempt to address the need for a more structured EU-OSCE co-operation. Furthermore, in its Conclusions of 14 June 2004, the Council decided to have an assessment report drawn up on the

EU's role within the OSCE. This report will take into consideration the comparative advantages of the OSCE, the need to avoid duplication, and the EU's overall policy objectives. Through this process, the EU hopes to better define its priorities and, consequently, to improve its presence within the OSCE.

We should continue to advance along this path. The definition of EU-OSCE complementing priorities should encompass both geographical and thematic aspects. The OSCE Strategy Paper adopted at the Maastricht Ministerial Council and the European Security Strategy represent an excellent basis on which to carry this work forward.





## Foreword

The Caucasus: a high mountain range between Europe and Asia, home to over 40 different peoples and ethnic groups, and for centuries the staging ground for bloody wars and conflicts. With indigenous Caucasian-speaking peoples such as the Chechens, Ingush, Adyghe, Abkhaz, and Georgians, Mongolic-speaking Kalmyks, Turkic peoples such as the Karachays and Azeri, Indo-European peoples such as the Armenians, and the Iranophone Ossetians and Talysh, the Caucasus is the most diverse ethnic, linguistic, and religious region of Europe. Over the centuries, the landscape of this region has left its mark on the way of life of its inhabitants. Numerous isolated territorial and economic communities have come into existence. There is a long tradition of resisting conquerors and foreign rulers. Modern administrative structures have been layered on top of ancient tribal and clan structures. Armenians, Azeri, and Georgians now have their own independent republics, while most of the other peoples and ethnic groups live in territorial entities that, while formally part of a greater entity, enjoy a high degree of *de facto* self-governance, such as the Regions and Autonomous Republics of Russia and the three Caucasus republics. The plethora of overlapping and interconnected conflicts makes the entire situation highly confusing. Russia has prosecuted two bloody wars against the separatist republic of Chechnya, and the conflict threatens to spill over into Ingushetia and North Ossetia. For its part, South Ossetia finds itself in a secession conflict with Georgia, which – along with the separatist struggle in Abkhazia – did not end with the change of regime in Georgia. These conflicts, however, also place a strain on relations between Moscow and Tbilisi. The conflict between Armenia and Azerbaijan over the enclave of Nagorno-Karabakh is one of those considered “frozen” and equally not resolved. All these conflicts, whether they are described as inter-ethnic, ethno-national, ethno-territorial, minority, or secession conflicts, share one thing in common. They are, at one and the same time, conflicts of identity and conflicts of interest: Ethnic and religious affiliations appear to play as large a role as economic and political ambitions. The breeding grounds are the economic, social, and political problems of the post-Socialist transformation. Historical factors are mobilized by all sides to legitimize their demands, claims, and actions. A solution to these conflicts seems simply impossible to find. Does Europe need to reconcile itself to the long-term existence of this powder keg, or can external influences contribute to defusing the situation?

The Caucasus, and not only its conflicts, but also positive developments and prospects for the future are the special focus of the OSCE Yearbook 2004. In no less than nine contributions, internationally renowned regional

experts examine the causes and backgrounds of the conflicts, the factors that have caused them to escalate, and the means available to resolve them. They also discuss the latest political developments in the Caucasus republics, examine the role of religion, and explore transregional economic and political interrelationships.

The intense debate over OSCE reform, which has been running for years, is taken up again in this volume. Recently, the stakes have been dramatically raised, not least as a result of heavy and – in the last year increasing – criticism from Russia and a majority of the other CIS states. At the heart of their criticisms – now as before – are three points. While these, which were discussed in detail in last year's Yearbook, concern the OSCE as a whole, they focus in particular on criticism of the OSCE's field missions: the geographical asymmetry of the field presences, the asymmetry in terms of the issues they deal with – expressed as a dissatisfaction with the concentration on the human dimension at the expense of the OSCE's other two dimensions – and the perception of interference by OSCE missions in the internal affairs of their host states. The extent of this problem is made abundantly clear by the fact that it is not only discussed in the course of the regular annual look at developments and prospects in the OSCE but runs like a thread through numerous contributions – not least those on conflict prevention and dispute settlement on the ground. In one contribution, specifically dealing with OSCE field missions, concrete proposals have been made on how to solve the problems or at least to take the sting out of the criticisms.

Further key topics covered in this Yearbook include education – the focus of the Bulgarian OSCE Chairmanship – and, for the first time, anti-Semitism, following the OSCE conference on the topic that was held in Berlin in the spring, and which met with such an excellent response.

It is always interesting to observe which specific issues emerge as shared acute concerns as a result of authors' independent investigations of general topics and problems. The overall picture that is revealed of problems that will need increased attention in the future includes a mixture of "old" topics, such as that of whether international organizations are going to co-operate or compete, and "new" issues, such as conflict economies, organized crime, and corruption. The fact that a chapter dealing specifically with the co-operation between the OSCE and Transparency International is accompanied by four further contributions in which this successful and globally active NGO is also mentioned suggests that "corruption" is becoming one of the most important contemporary issues – one that needs to be tackled more intensively at both national and international levels. Indeed, the blight of corruption is considered one of the greatest obstacles to democratization and the creation of functioning market economies, and a cause of economic and social problems that not only disrupt people's lives, but also create breeding grounds for terrorism and civil war. Another "new" topic, one encapsulated by the motto "out of area or out of business", concerns the expansion of specific OSCE

activities – particularly election monitoring – into neighbouring countries and regions. The OSCE's involvement in the elections in Afghanistan in October 2004, led by the diplomat Robert L. Barry, whose comments on the OSCE's future tasks are carried in this volume, gives an indication of what may come.

To go into detail on all the issues, questions, and problems dealt with in this book would exceed the remit of this foreword. Nonetheless, I would like to repeat a demand that has been made by many within the OSCE – one that is raised in several contributions to this Yearbook. This is the demand for greater *political* commitment on the part of the Organization, especially at the highest political level. To the extent that the missions attempt to avoid opening themselves to accusations of interfering in the internal affairs of their host countries, to the extent that they thereby concentrate instead on specific activities and projects, the Organization as a whole needs to increase the attention it pays to the major questions of security and stability, democracy and human rights, and to economic and environmental developments. These issues must be the common concern of all members of an organization that understands itself as a political community – not only an organization for security and co-operation, but a community of values. In defending the interests of the people living in the OSCE area, “interference” is not only legitimate but essential. And although it already occurs – in the form of the activities of OSCE institutions such as the High Commissioner on National Minorities and the OSCE Representative for Freedom of the Media – it also needs to be realized at the highest political level. The OSCE needs to take clear political positions on the big questions, and to be seen to be committed. The OSCE Secretary General's efforts to mediate between the camps during the Ukrainian election crisis of autumn 2004 and the Organization's comprehensive monitoring of the new elections, which will be of major and previously unsuspected international importance, are a step in this direction. Nonetheless, the question remains as to whether the fact that the OSCE changes its leadership annually does not place it at a long-term disadvantage compared to other organizations. Continuity is only ensured at the administrative level and not at the political, which weakens the Organization's political significance. The OSCE should therefore certainly not let the opportunity to establish itself as a political actor – to “repoliticize” its work – pass by.

In 2004, one year before the OSCE's landmark 30th anniversary, we have celebrated a mini anniversary, the tenth birthday of the OSCE Yearbook. We would like to express our gratitude to the authors whose extraordinary dedication and profound knowledge have made this Yearbook, like all its predecessors, a source of valuable information on conflicts and efforts to resolve them and on the many-sided work of the OSCE.



I.

States of Affairs – Affairs of State



## OSCE: Developments and Prospects





## The Future Tasks of the OSCE

### *The OSCE and Nation Building*

My personal experience with the CSCE/OSCE began virtually with its creation, when the USA began seriously to discuss a Conference on Security and Co-operation in Europe at the 1972 Moscow summit, in which I participated as a junior officer assigned to the USSR. Later, it fell to me and others to help shape these negotiations and sell the idea to the Congress while serving in the Bureau of European Affairs in the Department of State. Still later, as Ambassador to Bulgaria in the early 1980s, I had many occasions to invoke the Helsinki Final Act in dealings with Todor Zhivkov's repressive government. Then, in the mid-1980s, I headed the US Delegation to the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE), convened under CSCE auspices and resulting in agreement on an important range of measures to promote transparency in conventional military activities in Europe. Later still, after the fall of the Berlin Wall and the disintegration of the USSR, I co-ordinated US assistance to the newly emerging democracies, using the tools of the OSCE, and increasingly its field missions, to support US efforts. Finally, from 1998-2001, I had the honour and pleasure of managing the OSCE Mission to Bosnia and Herzegovina, at the time the largest OSCE field mission, and charged with the delicate task of implementing many civilian provisions of the Dayton Agreement, particularly related to democratic governance.

As a strong supporter of the OSCE, I reviewed the history and accomplishments of the Organization in 2002.<sup>1</sup> While I argued that the OSCE was particularly well suited to pursuing many US and EU goals in the areas of terrorism, organized crime, political repression, refugee flows, and nation building, I noted that, with the expansion of NATO and the EU, the OSCE faced a challenge to its relevance. The USA in particular was not well disposed to multilateralism in any form, and had long favoured "hard" security organizations such as NATO to the UN and the OSCE.

Two years later, much has changed. The Bush Administration has come to appreciate the need to prepare for nation building, involving the military and civilian agencies in joint efforts to create stability after a military intervention or to prevent civil conflict from breaking out. They have also been convinced of the advantages of multilateralism, especially when it comes to burden sharing. The US election campaign features both John Kerry and George W. Bush outbidding one another over their desire to emphasize the

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1 Robert Barry, *The OSCE: A Forgotten Transatlantic Security Organization?*, BASIC Research Report 3/2002, London 2002.

roles of the UN and NATO in Afghanistan and Iraq. Crises in Haiti, West Africa, Uzbekistan, Sudan, and the Middle East have given new prominence to peacekeeping, nation building, and “stability operations” as Europeans and Americans look ahead to new situations requiring humanitarian intervention or military operations to deal with terrorism or failed states. Where once politicians consciously avoided learning lessons from past experiences with nation building, today they eagerly debate how we can better prepare for inevitable challenges in the future.

If in 2002 it looked like the UN, the EU, NATO, and the OSCE would be competing with one another to deal with emerging situations in Europe, the demand for intervention now seems to exceed the capacity of the organizations to provide it. The UN is preoccupied with the role it is being asked to play in Iraq, and thus had little capacity to play the lead role in the Afghan presidential elections held in October 2004. NATO is being asked to take on a larger role in the International Security Assistance Force (ISAF) in Afghanistan, but is having trouble doing so, as troop-contributing nations are tied down with other commitments. The EU is assuming greater operational responsibilities, for example by taking over from the UN in providing police training and monitoring in Bosnia, but the need for NATO to redeploy troops from Bosnia to Kosovo in response to an outbreak of violence there suggests that it will be some time before the EU is ready to take over in either Bosnia or Kosovo. Meanwhile, the EU is struggling with the need to supply peacekeeping troops in Africa. Elsewhere, projected Israeli withdrawal from Gaza will create a vacuum that the international community will need to fill.

### *The Evolving Role of the OSCE*

Over the years, the OSCE has adapted well to changing circumstances. In response to the 1995 Dayton Agreement, the OSCE took on a much larger role in nation building in Bosnia than had ever been the case in the past, and the Bosnia Mission also expanded related activities to new levels. In 1998, the OSCE quickly put together the Kosovo Verification Mission, which fielded several hundred monitors to verify the promised withdrawal of Serb forces before being pulled out on the eve of NATO military action in March 1999. In Moldova and Nagorno-Karabakh, the OSCE has been planning robust peacekeeping operations. At the 1999 Istanbul Summit and the Ministerial Meetings in Bucharest (2001), Porto (2002), and Maastricht (2003), new initiatives were launched to tackle with terrorism, conflict prevention, and post-conflict stabilization activities.

Now, however, the time has come for the OSCE to become a more central player in the effort to forge strategies to deal with insecurity and instability in the OSCE area and neighbouring regions. In order to do so, OSCE par-

ticipating States should consider the need to expand the OSCE's capabilities once again, both geographically and functionally.

### *Moving Beyond Europe*

In geographic terms, the OSCE should be doing more with partners for co-operation, particularly in areas bordering on OSCE States. For instance, as mentioned above, the UN needed help in staging the October 2004 presidential elections in Afghanistan, especially as it became more involved in Iraqi election preparations. While the OSCE could not play a lead role in the Afghan poll, an OSCE Election Support Team did make a major contribution, together with the EU. No doubt the OSCE will be called on to play a similar role in the 2005 Afghan parliamentary elections. In other areas where the OSCE has more experience than NATO, such as police training and local governance, an OSCE role should be considered where local security conditions permit. The fact of the matter is that much more international support is needed if the situation in Afghanistan is to be stabilized, and requests for increased OSCE involvement have been made repeatedly.<sup>2</sup>

Elsewhere, there have been a variety of proposals for OSCE co-operation in the Middle East. The Broader Middle East Initiative being promoted by the USA is based on the concept that underlay the Helsinki process. It aims to ensure that the countries of the region embark on a course of reforms that will lead to democracy. But as long as the USA is seen as the sponsor of such a concept, it is unlikely to gain much traction. The OSCE should consider entering into dialogue with the Organization of the Islamic Conference (OIC) to discuss the relevance of the Helsinki Final Act to the Middle East.

More specifically, if Ariel Sharon's proposal for Israeli withdrawal from Gaza eventually succeeds, it could leave behind a failing statelet in the mould of Afghanistan. It is in the interest of the international community to consider how to field a peacekeeping and nation-building presence there, and the OSCE's experience in elections, local governance, police training, etc. have already been looked at as a possible model.

### *The OSCE and Stability Forces*

In functional terms, the OSCE ought to think about what role it can play in establishing a sustainable security environment in post-conflict situations, or in the context of conflict prevention activities. This is a topic being widely

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2 See, for example, US Secretary of State Colin Powell's intervention at the Maastricht Ministerial on 2 December 2003.

debated in the USA and the EU.<sup>3</sup> All recognize the need to provide an integrated approach to law and order – a constabulary, an armed police force, judicial teams, and corrections personnel. As combat troops are not trained to control crowds, investigate crimes, and try accused criminals, they cannot effectively deal with such eventualities. This was demonstrated, of course, in Iraq after major combat activities ended. In Kosovo, immediately after the Serbian withdrawal, international police were needed to restore order. Four years later, in spring 2004, neither KFOR nor the various national and international police units could cope with an outbreak of civil conflict. The approach of the United Nations Civilian Police (UNCIVPOL) is not adequate to meet this challenge, as seven years' experience demonstrates, and so far the EU Police Mission (EUPM) is also falling short and cannot serve as a model for similar cases. What is needed is a robust international force, one that is trained and armed to deal with such situations. The OSCE has a role to play here, but first must reach a consensus that under some circumstances it should countenance armed international police under OSCE control.

To date, the issue of whether such a force should be under military or civilian control has received a lot of attention. The answer clearly depends on the nature of the conflict and the stage in a post-conflict situation. Immediately following military intervention, a stabilization force and its policing components must be under military control. Combat commanders must be able to mix constabulary forces, armed police, and combat units as needed to deal with looting, riots, and insurgencies. They must also hold combat units in readiness to reinforce police or constabulary if they are in danger from heavily armed attackers. This can be accomplished in a NATO command structure, or an *ad hoc* command arrangement such as exists in Iraq.

During a second phase, however, civilian control of a still robust force is required. An OSCE field mission could provide this structure, as could an EU mission or an *ad hoc* arrangement such as the Office of the High Representative (OHR) in Bosnia. Again, such a force would have to be armed, and include the kind of constabulary force needed to deal with violent uprisings.

Although an EU Conflict Prevention Service and a US Stability Corps could in theory exist in parallel, this is not the outcome preferred by either side. At a minimum, they should be structured so that they can be deployed together as part of a NATO- or OSCE-led operation. This means that there should be early discussion of interoperability, equipment, rules of engagement, etc. There should also be discussion within NATO, the EU, and the OSCE of command and control arrangements, so that optimum use of these capabilities could be ensured at an early stage.

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3 See, for example, *Stabilization and Reconstruction Act*, report of the US Senate Foreign Relations Committee; Robert M. Perito, *Where Is the Lone Ranger When We Need Him? America's Search for a Postconflict Stability Force*, US Institute of Peace, Washington 2004; *A Conflict Prevention Service for the European Union*, BASIC Research Report 2/2000, London 2000.

Terror is a means, not an end. Although its reach is longer and more potent today than ever before, it has a much longer history than many Americans realize.

There are many factors that breed terrorism, most of which cannot be eliminated by military action or even law enforcement. The OSCE's comprehensive approach to security offers more tools than any other security organization, but they must be used more boldly if they are to make a difference. Field missions need to expand their mandates, and the Permanent Council should support efforts to deal with emerging problems early. Increased attention to women's issues, discrimination, education, the environment, and poverty all have a role to play in the war on terrorism, as do efforts to improve local governance, limit corruption, and introduce transparency and accountability in government.

The OSCE's role in elections is increasingly important. Working with member governments to improve election laws and their implementation has had a major impact in many cases. Positive OSCE election-monitoring reports can help countries integrate more closely with NATO and the EU. Sharply negative reports can even lead to peaceful transitions of power, as happened in Georgia in 2003. But if OSCE election monitoring is to maintain credibility, missions must avoid the temptation of providing more favourable judgments than circumstances warrant.

The most crucial function of the OSCE in the war on terror is to prevent civil conflict and deal with failing states. While negotiations on Moldova and Nagorno-Karabakh offer little promise at the moment, the Organization must be prepared for a breakthrough and for a "vital role" in an international stabilization force if agreements are reached. Given the demands currently being made on the UN, NATO, and the EU, it is more likely now than before that the OSCE will play a central role in implementing an agreement.

In Georgia, the new government under President Mikhail Saakashvili faces both old and new challenges as it attempts to maintain its territorial integrity and control over internal security. The large OSCE mission there ought to consider what new activities it might be asked to undertake.

In Central Asia, the challenges of transition to independence and democracy are complicated by the spread of militant Islam. The OSCE can play a larger role in conflict prevention, protection of minority rights, and judicial and legal reform – something that should be welcomed by the governments of the region.

## *OSCE Leadership*

With nation building, stability operations, and multilateral organizations back on the agenda in the USA as well as Europe, the OSCE has the opportunity to play a larger role on the international scene. If member states want it to do so, they will need to strengthen the OSCE's leadership.

Uniquely among international organizations, the OSCE has insisted on a Secretary General with a limited political role and a small Secretariat focused on management and administration. Political leadership has been supplied by the Chairman-in-Office – the foreign minister of a participating State, chosen in rotation for a one-year term. This has resulted in wide variations in the kind of leadership provided, depending on the size of the country holding the Chairmanship and the other demands on its foreign minister.

As the OSCE conducts its search for a new Secretary General this year, it should specify a larger political role for him and his supporting staff. The model should be NATO, not the UN: The Secretary General should be a leading political interlocutor, who, directed by the Chairman-in-Office and the Permanent Council, should be more prominent in negotiating with participating States and international organizations. This is no reflection on the individuals who have held either the Chairmanship or the Secretary Generalship in the past, but on the need to alter the roles of the Organization's leaders to meet new demands.

## The OSCE in a New International Landscape – Eleven Theses<sup>1</sup>

During the last fifteen years, the claim has repeatedly been made that the OSCE (formerly the CSCE) needs to adapt its role to suit the radically transformed international landscape. Throughout this decade and a half, this claim has always been linked to the question of the OSCE's relevance or irrelevance. And yet this is not a problem that has only affected the CSCE/OSCE: Against the background of the tectonic upheavals that have rocked the international landscape in the last 15 years, other European and transatlantic organizations are also regularly said to be in a state of crisis that threatens their very existence and *raison d'être*. The OSCE is therefore not alone. Nor is the pressure to transform that it currently faces unique in its history. One may recall the challenges that the CSCE faced as the Cold War it was designed to contain came to an end and the division of Germany and Europe it was intended to bridge ceased to exist. The principles of the Helsinki Final Act – non-violence, human rights, self-determination, peaceful change – had guided these revolutionary events, and the CSCE appeared to have fulfilled its historic purpose. But we know that this apparent ending was, in fact, a new beginning – one that laid the foundation for the emergence of a community of values and established standards for the rule of law and democracy in a shared space. Perhaps a consideration of this historic paradigm shift can help us keep current challenges in perspective and to finally refrain, when analysing the Organization's "perfectly normal" need to adapt, from asking whether the OSCE has served its purpose.

There has never been a master plan for the development of the OSCE and its structures and institutions. Capabilities and institutions were always created *ad hoc* (and not infrequently against the clock) in response to political demand. In order to reach any conclusions on how it is likely to change, it is necessary for us to pose the question of where the need for adaptation comes from and what demands it produces.

1. The first thing that has changed is the *risk environment*. Most of today's armed conflicts do not have their roots in relations between states. The categories of classical military security are unsuited for understanding the forces that drive such conflicts. The spectrum the latter covers is far broader, vaguer, and more difficult to identify. It ranges from acute threats (global terrorism, WMDs) via instability (failing states, organized crime), to risks that can be long-term causes of instability (abuse of power, oppression, abuse of human and minority rights, poverty, corruption, resource depletion).

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<sup>1</sup> This article reflects the personal opinions of the author.

2. Obviously the OSCE with its comprehensive concept of security must have felt a special calling to react to these changes. The Organization's concerns were and remain long-term, comprehensive conflict prevention, crisis management, and post-conflict rehabilitation. Attempts to eliminate the causes of violence, terror and instability need to focus on establishing the rule of law, human rights and good governance. However, it is a long time since the OSCE possessed an monopoly on approaches of this kind. The EU, NATO, the UN, and the OSCE are all now pursuing similar goals: The idea that establishing and maintaining security and stability requires a broad range of instruments that go well beyond merely guaranteeing military security has become generally accepted.

3. However, that is not the only reason for the changing structure of the security system in the OSCE area. There are several mutually reinforcing causes, foremost among them the enlargement of the EU and NATO. Even those states that are not members of these organizations are drawing closer or have become associated with them through instruments such as Stabilization and Association Agreements or membership in the "Partnership for Peace" or the Euro-Atlantic Partnership Council. There have thus been changes in the overlapping memberships of the OSCE and other organizations. This affects not only the OSCE's behaviour in the world, but is also reflected within the Organization itself. For example, since 1 May 2004 – to mention just the most striking example – 25 of the OSCE's 55 participating States have been members of the EU. This certainly has an influence on opinion-forming processes in Vienna when the 25 EU member states co-ordinate their actions in the spirit of their Common Foreign Policy. Not everyone welcomes this, and one notion is doing the rounds in particular: The OSCE is changing from an "organization of individual countries" into a divided organization of "exclusive groupings". But this is misleading, as it appears to imply that the different groupings enjoy different rights. This misses the point: The OSCE is the institutional framework for a comprehensive *acquis* of norms, standards and commitments in the political, military and – above all – human dimensions. These commitments are binding on all OSCE participating States irrespective of membership of other alliances or organizations. No alteration in the "balance of power" between different organizations within the OSCE can weaken or devalue the politically irrevocable commitments entered into directly by the OSCE States. The existence and changing constitutions of blocs within the OSCE is, in this respect, irrelevant.

OSCE commitments apply to all states equally. However, just because the standards and commitments are egalitarian, it does not follow that their implementation is at the same level throughout the entire OSCE area – that is the political reality. Talking of exclusive groupings and the power imbalances they cause distracts from the fact that the imbalances are not and have never been caused by the changing memberships of European security organizations but are rather a result of states' *very different needs* for estab-



lishing, developing, and implementing standards and procedures for ensuring the rule of law.

4. However, as already stated, the changes are not only an internal matter for the OSCE. There are points of resemblance or overlap between the OSCE's approach to security policy and the substantive offerings of the EU, NATO, and the Council of Europe. The same is true of their geographical focus. The overlap between the OSCE, EU, NATO, and the Council of Europe is most pointed in the Balkans and at the external borders of the EU and NATO. That particularly applies to the OSCE's capabilities in the areas of civilian crisis management, institution building and supporting the development of civil society and the rule of law.

- *The Council of Europe and the OSCE* reinforce each other thanks to their contrasting approaches: legally binding rules and highly sophisticated bodies and procedures on the one hand and politically binding (but therefore all the more detailed) norms and instruments for co-operation and consultation on the other.
- *NATO's Partnership Programmes* aim at achieving results that support the OSCE's principles and commitments.
- The most dynamic area is the *European Security and Defence Policy*, within whose scope various civilian instruments have been created for police development, the rule of law, civil administration, and emergency aid. The growing momentum of the EU's Common Foreign and Security Policy – especially the European Security Strategy – is significant for the OSCE. The EU is assuming tasks that – within the OSCE area – were generally seen as the latter's responsibility. There can be no doubt that the EU has offered and deployed instruments and capabilities for institution building that the OSCE could have or already had offered in this region. Examples include the EUPM (European Union Police Mission in Bosnia and Herzegovina), Proxima, the European police mission in Macedonia, and the mission of the European Union to Support the Rule of Law in Georgia (EUJUST THEMIS). Nor is there any question but that EU enlargement, the European Security Strategy, and the EU's broad range of crisis management capabilities have made the EU into a strategic actor with specific interests in security and politics, especially regarding its "new neighbourhood". The pattern that has been emerging since then can be given the label "EU first": When the EU feels concerned by security matters at its periphery, when there is a need for capabilities that the EU can provide, when the EU is expected to act, then it will act. Does this mean that the EU is crowding out the OSCE? And does that mean that the OSCE is losing both its overall importance and its geographical focus? And what does this mean for OSCE's role (which has grown over the years) in managing and containing conflicts,

such as the frozen conflicts in Georgia, Moldova and Nagorno-Karabakh?

5. It would be false to consider the relationship between the EU and the OSCE in terms of political rivalry. Firstly, the OSCE was never an exclusive actor with an exclusive role, not even with regard to civilian crisis-management within the OSCE area. Throughout the last decade, the Organization followed the basic principle of pursuing a rational and results-oriented *division of labour* with other actors such as the UN, NATO, or the Council of Europe – not to mention national governments and NGOs. This basic principle of the division of labour remains as important as ever, despite the addition of new actors and new capabilities. What have changed, of course, are the criteria used to determine how tasks are divided up. It is legitimate and politically reasonable for the EU to offer and deploy its capabilities for crisis management and institution building – to the extent that other actors desire this of the EU and the EU acts in the spirit of meeting these demands for the provision of security and stability. At the same time, it is plausible to conceive of the OSCE retaining or even expanding the role it plays in promoting stability and/or resolving regional conflicts where it can offer *comparative advantages*. Where could that be?

6. The OSCE is the only organization in the Euro-Atlantic area with *comprehensive membership*. It is true, however, that at first glance, this advantage appears only to benefit a steadily shrinking group of states, in particular the states of Central Asia and – to a lesser extent – in the Caucasus and the Western states of the former Soviet Union. As far as these states are concerned, the OSCE is the only organization that allows them to discuss their concerns with European and transatlantic partners as equals on a regular basis. Precisely that speaks in favour of the OSCE continuing to perform its role in *regional conflict resolution* and conflict containment.

7. Equally, it is the OSCE's *established regional presence* that makes it especially well suited to perform a role in early warning and conflict resolution in those states. The Organization has a significantly denser network there than the EU or NATO. With 18 missions, numerous field offices, and over 3,600 members of staff, the OSCE is frequently present on the ground. The activity of the OSCE thus represents a contribution to transition processes that emphasizes detailed, concrete measures. The work of the OSCE is thus more detailed, more comprehensive and more concrete than any other international organization would probably be in a position to undertake. The OSCE's early-warning capability (which it perhaps fails to fully exploit at times) – with respect to regional conflict and crisis management – also benefits from this network, which provides the Organization and its mechanisms with faster and more flexible reactions than other organizations and – in contrast to the EU – can also involve the USA and Canada. All in all, these activities of the OSCE, which are hands-on, wide-ranging, and oriented towards

the implementation of a system of norms and values in the areas of security policy and human rights as a point of reference to which people can appeal, are irreplaceable and could not be performed by the EU, NATO, or any other international organization. The OSCE is unique in providing on-the-ground support and expertise in the countries where it is needed the most.

8. It would be dishonest to gloss over the fact that the OSCE's network and its work to support implementation of the Organization's *acquis* have come under fire, in other words, that just those qualities that I have named as the OSCE's comparative advantages may be seen by the group of states they affect as a *comparative disadvantage* – and are in fact seen in these terms by some of them. The accusation is of “interference in domestic affairs” – a recurring theme in Vienna. This complaint, however, ignores the fact that, by signing the Charter of Paris, the participating States laid the foundation for an area of equal rights and democracy, including a standardized interpretation of human rights, and that, since the adoption of the Moscow Document of 1991, *human dimension* matters – including the rule of law, human rights and the implementation of common values – are the immediate concern of all participating States and have been irrevocably declared as no longer exclusively domestic concerns. No participating State can call this into question. Taking note of these facts allows us to focus the debate on the essential point: It does not concern the interpretation, modification or possible dismantling of an *acquis*, but rather the matter of how we can effectively shape the implementation of the large body of commitments entered into by states within the OSCE framework in an environment, in which growing emphasis on national sovereignty may (or, in the eyes of some participating States, even should) lead to rejection of the *acquis*.

9. Precisely here, however, the OSCE can make a good case. The OSCE's efforts are, first and foremost, *inwardly directed*. The supposed “objects” of the Organization's conflict management activities are active and equal participants in the Organization's decision-making process. Therefore, with its 55 participating States, the OSCE will be particularly suited to playing its (politico-diplomatic) regulatory role and performing its advisory functions if it can play its *trump card of inclusiveness*. Of course, this argument carries particular weight for those states that are not also members of the EU, NATO or the Council of Europe and for whom the OSCE is thus the only European-transatlantic organization in which they can participate as equals. Those are also precisely the states to which the OSCE offers external support and advice in implementing the Organization's standards. Ideally, however, the principle of equal participation and inclusiveness ensures that no state sees itself as merely a passive recipient. As is well known, decisions of the Permanent Council require consensus, the achievement of which can of course be a laborious and difficult process and one, moreover, that often results in a compromise containing less of substance than individual parties would wish. Nevertheless, *decision making on the basis of consensus* is the best (though

no foolproof) guarantee of implementation. The truth is that the OSCE and its missions are only successful when the parties are willing to co-operate constructively and are able to avoid seeing the Organization's advice as an "outside intervention".

The OSCE can refer to its *acquis* of norms, commitments, and fundamental freedoms; it can remind participating States that the human dimension commitments they have entered into make certain matters the immediate and legitimate concern of all participating States, removing them from the sphere of exclusively domestic concerns; it can also remind states that every state is subject to measurement by these criteria. But this is merely a basis for formulating political demands. The various standards and commitments can only be put into practice by means of laborious fine-focused work and support based on *co-operation*. This *co-operative approach* is decisive both for the OSCE's capacity to act and for its opportunities to do so. It may appear to be a weakness, but it also makes certain things possible that would otherwise not be; it is important to develop this approach further; it is also important to orient the offering of the OSCE's field offices towards the demand and the interests of the host countries.

10. So far we have considered only part of the overall picture. If we were to leave it there it might appear that the OSCE is limited to acting in an ever-shrinking number of states in the west of the post-Soviet area, in the Balkans, in the Caucasus, and in Central Asia. There are several reasons why this is not the case:

- Firstly, the OSCE *acquis* applies throughout the *entire OSCE area*. The level of implementation may vary, as already mentioned, but this does not affect the fact that the standards are applicable to all. This can best be illustrated by reference to one function of the OSCE that we have so far omitted to mention: The *acquis* includes a number of agreements relating to arms control, including CFE, the Vienna Document, Open Skies, Dayton and the Document on Small Arms and Light Weapons (SALW). They underpin *disarmament, confidence building, and transparency in security matters*. The OSCE is the overarching institutional framework for this *acquis*. It goes without saying that we have a vital interest in its upkeep. Anyone who calls the value and relevance of the OSCE into question also needs to be able to answer the question of the consequences this would have for the legitimacy of this security function.
- Second, as already stated, the risk environment has changed, bringing with it new pressure on the OSCE to adapt. The Organization has been forced to focus more on the OSCE area as a whole, as many of these risks *cannot be clearly ascribed to a particular region* but are relevant *throughout the OSCE area*. Racism, anti-Semitism, trafficking in human beings, and terrorism are not separate, localizable phenomena. It

may be pertinent to ask whether the OSCE is especially well-suited to tackle these issues. Perhaps not in the first instance: Individual states, other international organizations, and instruments other than the OSCE may have a greater role to play. Nevertheless, there are niches where the OSCE can play its role – and we should not underestimate their importance. Take the fight against *terrorism*, for example: The OSCE tackles the underlying causes when it contributes to establishing the rule of law, good governance, and effective civil society. It can also act to encourage compliance with voluntary commitments and standards that apply to the entire OSCE area – the Maastricht Ministerial Council Decisions on the OSCE Counter-Terrorism Network, on travel document security, and on the OSCE Document on Stockpiles of Conventional Ammunition are examples. Moreover, the OSCE can create political awareness of the need to act and can help to disseminate standards and best practices throughout the entire OSCE area. This will be a key focus of the work of the newly established OSCE Special Representative on Combating *Trafficking in Human Beings*. One need only bear in mind the large number of OSCE countries that are either destination or transit countries for human trafficking and to recall that many of them see human trafficking as a matter of illegal immigration or prostitution rather than in its true light: as modern slavery and a grievous abuse of human rights. The Berlin Conference on *Anti-Semitism*, the Paris Conference on *Internet Hate Crime*, and the Brussels Conference on *Tolerance and the Fight against Racism, Xenophobia and Discrimination* likewise aim at an OSCE-wide, politically binding rejection of these phenomena and voluntary commitments on the part of participating States to take action to oppose them. Additionally – although this only applies to part of the OSCE area – the OSCE can, through its field missions, make a concrete contribution to fighting the new risks that threaten the OSCE as a whole at the level of fine-detail, namely through its police-related activities, contribution to border management, and support for the fight against trafficking in drugs, weapons, and human beings.

- Third, it has for a long time no longer been possible to clearly keep apart the OSCE's "*dimensions*". The Organization's classical approach saw the task of maintaining peace and security in terms of respect for human rights and fundamental freedoms, economic and environmental co-operation, and civil and military security. In recent years, the three sides of this approach have become closely intertwined. Thus, the campaign against small arms has a political and an economic dimension; and establishing police forces that respect human rights and the principle of proportionality of means concerns the political and human dimensions in equal measure. That is why the argument that there is a lack of balance between the dimensions misses the point ("balancing the three baskets"). A balance of the kind that was striven for by the old

CSCE is no longer feasible, as the interdependence of the OSCE's overall approach makes it impossible to distinguish cleanly between the dimensions. Whoever talks of "balance" is likely to be using this argument to aim at "resizing" the role of human-rights standards and commitments. But any such move would impact the OSCE as a whole, challenging the very reason for its existence. The human dimension was the driving force for the transformation of the CSCE into the OSCE in the early 1990s. That is why the human dimension now infuses the Organization's entire repertoire of norms, rules, procedures, and institutions.

11. These days, the OSCE States are all tied to each other by a substantial and growing body of agreements, commitments and resolutions that affect virtually every area of the political, economic, and human dimensions. The interdependence of the commitments entered into by OSCE States is as great as the interdependencies between the OSCE and the EU, NATO, and the Council of Europe. In other words: There is no class of OSCE commitments that can be subject to qualification, downplayed or declared invalid – *the OSCE acquis is indivisible*. Of course, it is possible for participating States to refuse to implement the *acquis* and to reject co-operation with the OSCE, yet the degree of interdependence between the OSCE and other international organizations means that behaviour of this kind would have repercussions beyond the Organization. A characteristic example was the reaction of 14 European countries to the closure of the OSCE Advisory and Monitoring Group in Belarus. Their message in that instance was clear: The standards and commitments within the OSCE framework are commitments shared by all EU states, which makes them genuine concerns of the EU. The Union will thus observe closely how its partners deal with commitments that both it and they share. For the EU, such matters are inevitably more than isolated instances; they are not "other people's business". It is for this reason that the OSCE represents an important "channel of communication" to the EU for participating States that are not EU members.

## Improve What You Can – Ignore What You Can't: Reform and the Prospects of the OSCE

Half a decade ago, only a few analysts, scholars and academics were interested in addressing the adaptation of the OSCE to the changing needs of European security. I feel fortunate to have been among them.<sup>1</sup> Although the OSCE received considerably less attention in the late 1990s than at the start of that decade, it remained an important channel for multilateral diplomacy and operational activities in the Euro-Atlantic area. The situation has since changed. Not only because there are increasing doubts about the role and prospects of the OSCE, but also because, unlike in the 1990s, decision-makers, political figures, and the broad group of people involved in OSCE activities are now actively debating the adaptation and/or reform of the Organization. It is the purpose of these efforts to improve the contribution of the OSCE to Euro-Atlantic security, make it more effective and eventually less expensive.<sup>2</sup>

This paper aims to contribute to the ongoing debate. The topic has been documented extensively in recent years, including in the various volumes of the OSCE Yearbook. Hence, it is not necessary to recapitulate the history of adaptation from scratch. Instead, this paper concentrates upon points of contention and disagreements in the debate.

### *Is the OSCE in Trouble?*

The CSCE/OSCE has been an extremely successful institution. It made an important contribution to the management of the Cold War in Europe. Later it succeeded in adapting to the post-Cold War environment. As a result, the values enshrined partly in the Helsinki Final Act and partly in the Charter of Paris for a New Europe have become generally acceptable, at least on the declaratory level, to each participating State. The OSCE has also provided a framework for interaction among the 55 participating States. Finally, by deploying field missions and establishing mechanisms to observe the fulfilment of its commitments, it has, since the early 1990s, taken on a major implementation role.

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1 See, for example, Pál Dunay, *Be Realistic: The OSCE Will Keep Confronting New Problems*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1998*, Baden-Baden 1999, pp. 119-128.

2 Although the OSCE has regularly been praised for its low cost, this does not mean that no potential remains for redundancies to be eliminated, its activities better focused, and thus its contribution to European security made even more cost effective.

1. One *differentia specifica* of the OSCE has always been the fact that its membership extends to every country in the Euro-Atlantic area. The inclusive character of membership was a major advantage in debating European security when there was no similar framework available. In the 1990s, however, it was also a disadvantage, as other Western institutions gained legitimacy by setting criteria for membership, thus fostering the transition process in Central and Eastern Europe. The OSCE was not in a position to motivate states by granting or denying membership. The one option that may seem to have existed – the expulsion of a member as a sanction and a means of encouraging compliance with certain requirements as a precondition for readmission – is too rarely used in international organizations to function as a motivating force.<sup>3</sup> Inclusive membership is regularly identified as the most obvious difference between the OSCE and other organizations active in the Euro-Atlantic region.

2. It is probably more important for the historical development of the CSCE that, by declaring respect for human rights to be one of its principles – as codified in the decalogue of the Helsinki Final Act – it has from its inception presented an opportunity for dismantling the absoluteness of state sovereignty. As a result, the OSCE has been in a position to intervene in the domestic affairs of its participating States despite their resistance, which is based on the principle of non-interference. This was extremely important during the decade and a half that passed between the signing of the Helsinki Final Act and the end of the Cold War. It has retained its importance since then *vis-à-vis* those countries that have been unable either to enshrine some of the basic requirements of democracy in their domestic laws or to faithfully implement them.

3. A feature that has characterized the CSCE/OSCE more recently (in the post-Cold War period) is its concentration on the prevention and management of crises and on post-conflict rehabilitation. Considering the resources the OSCE has at its disposal, one can conclude that it is most likely to be effective in the first and third conflict phases (conflict prevention and post-conflict settlement) and would be less relevant during “hot” phases of actual conflict. This view has been reinforced by events such as the instrumentalization of the OSCE’s Kosovo Verification Mission (KVM). Conflict prevention and crisis management frequently require a field presence, and precisely that is another of the OSCE’s key institutional features: its presence in the – potential and current – hotspots of the Euro-Atlantic area.

4. The OSCE has contributed to eliminating the feeling of isolation experienced by those countries that are not integrated in the old institutions of Western Europe. For these countries, the Organization has become an essential channel of communication and a means of ensuring that their interests are represented. They value being included in a co-operative framework.

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3 The CSCE came close to this when it suspended the participation of Yugoslavia in 1992 and did not let Belgrade return to the OSCE for nearly a decade.



5. When the CSCE started down the road of institutionalization that was eventually to lead to the transformation of the Conference into an Organization the greatest concern of the participating States was that it would become a bloated bureaucracy. They prevented this by limiting the number of persons employed by the institutions and by introducing the principle of seconding staff from the participating States. The OSCE is still concerned to avoid bureaucratization despite the significant increase in staff numbers and the gradual multiplication of OSCE institutions in recent years. The participating States wanted an instrument that was really theirs. They wished to avoid the danger of the bureaucracy shaping or significantly influencing the political agenda of the Organization. One consequence of this is that the annually rotating Chairman-in-Office has overall political responsibility, while the Secretary General is merely the Organization's chief administrative officer.

OSCE experts recognize some of these problems while tending to attribute little or no importance to others. Some are frequently overemphasized, while biases mean the existence of others is not even recognized. If the analysis does not start out from a thorough investigation of the underlying changes that have resulted in the marginalization of the OSCE, the conclusion that the OSCE should be adapted in its entirety to the constantly changing environment would be impossible.

On point 1: Observers regularly cite inclusive membership as the main advantage of the OSCE, and it is certainly an advantage to have every state present when the parties debate issues of European security. Inclusiveness has a shortcoming, however. It entails that one major means of influence is not applicable: An inclusive organization cannot set conditions of membership for states that express an interest in joining it. If we accept that NATO and the EU were particularly influential over the last fifteen years or so in their immediate neighbourhoods because they were able to offer the prospect of membership in return for adherence to their rules, we must consider why this cannot become the OSCE's most important means of influence. The answer is clear: The OSCE is deprived of this means precisely because of its inclusive membership. If member countries (participating States) voluntarily follow the Organization's rules, the absence of coercive measures poses no problem.<sup>4</sup> If the structure is inclusive (and decisions are based on consensus), there is no coercion inside the Organization. If a country is unwilling to fulfil the obligations associated with membership, it remains to be seen whether alternative means exist and whether they are effective. It is extremely important to distinguish between the reluctance of a state to carry out its commitments and its inability to do so. Whereas the former may require coercion, the latter calls for support and assistance. It may also serve the interests of participating States for them to disguise their unwillingness to carry out a com-

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4 Bearing in mind the advantages associated with membership of both the EU and NATO; I think there are adequate grounds for regarding the denial of membership as a case of effective, indirectly coercive means.

mitment as a matter of inability.<sup>5</sup> A further problem is presented by the existence of borderline cases where it is hard to distinguish between “unwillingness” and “inability” to implement commitments. Inclusive membership is thus a mixed blessing.

Those organizations whose non-inclusive membership reflected the Cold War division of Europe have enlarged during the last decade and a half. The Council of Europe expanded from 24 to 44 members, NATO from 16 to 26, and the EU from twelve to 25. This is mentioned by every author who has discussed the changed environment in which the OSCE now has to operate. Formal membership matters, of course. It may be even more important, however, that, ever since the early 1990s, NATO, and in a different way the EU (and the WEU) have been anxious to avoid generating the appearance of exclusivity. The North Atlantic Cooperation Council (NACC), later the Euro-Atlantic Partnership Council (EAPC), and the Partnership for Peace (PfP) in the case of NATO, political dialogue in the case of the EU, and the associate-member/associate-partner status in the case of the WEU have all served this purpose. Countries that were interested in becoming members or establishing relationships with the Western institutions short of membership could benefit from a “grey-zone” status. Inclusiveness, interpreted broadly, has thus also become a characteristic feature of other European institutions. Moreover, many European countries have shared the ideals and attitudes of Western democracies and have followed them whether or not they belonged to the same organizations. Thus, and without belittling the change that has occurred as a result of the major enlargements of NATO and the EU, the following conclusion can be drawn: The recent enlargements have changed the OSCE’s environment quantitatively rather than qualitatively. The existence of a large group of like-minded countries oriented towards the integrated West had changed the environment long before the actual enlargement of the core Western institutions. Hence it would be misleading to overemphasize the formal change that has come about through the accession of Central and Eastern European countries.

On point 2. An important differentiating feature of the CSCE/OSCE was the fact that it did not have to respect the boundaries of domestic jurisdiction. Nonetheless, the issue of legitimate interference in the domestic affairs of the participating States was highly contentious. The so-called Socialist countries consistently objected to involvement in domestic affairs on the basis of human rights violations up to the late 1980s. The recognition in the Paris Charter of multi-party democracy as a key shared value of the CSCE participating States, and the meltdown of regimes in Central and Eastern

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5 The case of Belarus is interesting in this respect. Although Belarus is reluctant to fulfil some of its most basic commitments, there are also situations where it rightly claims it is unable to carry out its obligations. Belarus’ request for assistance in carrying out its reductions of conventional weapons under the CFE Treaty in the mid-1990s and its more recent request for help in destroying man-portable air-defence systems (MANPADS) are cases in point.

Europe that preceded it, brought an end to this. If human rights are universal values shared by all OSCE participating States and recognized by all as a matter of international concern, they must *a fortiori* be recognized by sub-groups of participating States. The end of the division of Europe also meant that they could be raised by organizations other than the OSCE where these were expanding into the part of Europe where concerns existed with regard to respect for human rights. Although recent military interventions undertaken by a number of OSCE participating States under the leadership of one in particular have led to a revival of demands that interference in domestic affairs be rejected, this has by no means undermined the legitimacy of interference on humanitarian grounds or in the interest of promoting democracy in the OSCE area. The change came about as a result of the shift in attitudes on the part of other institutions, primarily the EU and the Council of Europe. Whereas up to the end of the Cold War these institutions did not trespass on the territory of “the other Europe”, “interference” on a variety of grounds has since become the rule rather than the exception in their activities. It suffices to consider the Copenhagen Criteria of 1993, which outlined the conditions for EU accession, and the way they have been put into practice. The EU also regularly “interferes” in the internal affairs of other states, including many OSCE participating States, by means of its Common Foreign and Security Policy (CFSP).

The terrorist attacks of 11 September 2001 and their aftermath have also changed the global agenda in the arena of international security, and thus also the security agenda of the OSCE area. It has become indispensable that security issues conventionally considered as domestic matters be addressed by foreign states and international organizations. Whether individual states choose to launch a “war on terror” or to address terrorism as a security matter of another kind, the nature of the threat is such that they are compelled to pay attention to each other’s domestic security situations and to co-operate. If the prime security concern of most OSCE participating States is a transnational threat, and if it can be influenced by tightening internal security structures in one or more states, then the reaction, in accordance with the interest of the affected states in their own defence and their own survival, is going to be transnational as well. This will inevitably result in the further erosion of the dividing line between “domestic” and “international” concerns – a tendency that has been present for a long while and which received a further boost as a result of September 11.<sup>6</sup> Reacting effectively to the prevailing threat to European security requires co-operation between the various national security services.

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6 It is sufficient to mention some of the EU instruments that gained momentum after September 11, including Eurojust, the European arrest warrant, and the only half successful intensification of co-operation between intelligence services (“half successful” because not entirely successful at the level of political declarations, although quite successful as far as the daily co-operation of the services themselves is concerned).

Alongside the specific changes affecting the global and European security environments, recent years have also seen a growing tendency for states to address and attempt to influence each other's domestic affairs in their foreign policies. The line between "domestic" and "international" is thus becoming blurred. This general tendency has gradually eroded the OSCE's special character, and this change has more serious consequences for the Organization than the increasing inclusiveness of the EU and NATO. The uniqueness of the OSCE's involvement in the internal affairs of its participating States no longer holds.

On point 3. Since the early 1990s, the OSCE has gradually become field-mission heavy. At the same time, however, its presence in potential or former conflict zones has also been its main strength. The 18 missions provide valuable information on the conflict zones within the OSCE area.<sup>7</sup> Missions also play a role in local policy making. They have significant power to influence developments in the areas in which they operate. However, there are a number of reasons why the picture is not all positive. Specifically, there are certain problems with the appointment of heads of missions and the definition of their tasks. It seems there is no strong institutional control over them. They owe some loyalty to the Chairman-in-Office who nominates them but they operate with significant autonomy vis-à-vis subsequent Chairpersons. It is somewhat doubtful whether it is possible to speak about a single OSCE policy. Some missions are extremely large, and there are some doubts about their efficiency. There are no controls over the rationality of their activities in this respect (and in several others). However, besides providing information to the participating States and carrying out a range of other tasks, the decisive function of the missions is to be integral elements of the OSCE as an institution of co-operative security. Their primary task is to provide support and facilitate the fulfilment of OSCE commitments, not to confront regimes that fail to live up to them. If missions pursue a course of confrontation towards the government of the host country, as some have done in the past, they are operating outside the proper bounds of a co-operative security structure and will be unable to contribute to the OSCE's goals in the long run. Missions are there to support the host state so that it can develop its capacity to fulfil its commitments. Providing such support may entail the exertion of gentle pressure, but it cannot lead to systematic confrontation. Smaller, task-oriented and more accountable missions may thus be more capable of contributing to the basic functions of the OSCE. However, this requires both political and institutional adaptation.

On point 4. Integration has been the dominant process in Europe since the end of the Cold War. It has found expression in the enlargement of formerly Western institutions and in the redefinition of relations between these institutions and states that have been either unwilling or unable to join them.

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<sup>7</sup> This information is particularly valuable to those countries that do not have embassies in the countries in question and whose ability to gather information is hence more limited.

It was clearly the intention of the Western institutions to avoid creating sharp dividing lines between prospective members and non-members. This has led to a situation where it has become exceptional for a state not to be linked in some way to institutions whose membership is non-inclusive. This represents the erosion of yet another distinguishing feature of the OSCE. The difference between membership and various modes of co-operation that fall short of membership is undeniable. Nonetheless, it is a fact that practically every country in the Euro-Atlantic area has some relationship with the old institutions of Western Europe. For some countries, this means having a privileged channel of communication. Examples include the NATO-Russia Council, the similar body established by the NATO-Ukraine Charter, and the regular EU-Russia summits. This has two consequences for these countries – as can be observed particularly clearly in the case of Russia: 1. The importance of institutions with inclusive membership has declined. 2. The importance of non-privileged channels in relation with “Western” institutions has also declined for those non-integrated countries that have established such privileged relationships. The first point also applies to the other non-integrated countries – those that are linked to NATO by partnerships such as the Partnership for Peace (PfP) or to the EU via the various networks it has established. They feel more integrated as a result of their relations with Brussels-based organizations than through membership of the OSCE. Consequently, from this angle, too, the OSCE has been a relative loser in the European integration process. This does not mean that the OSCE has become redundant. But it does demonstrate that long-term structural factors have contributed to its relative decline.

On point 5. Institutional structures usually reflect the will of the actors that have established them. However, the interests that existed when the structures were established may change. Consequently, there may well be outworn structures that need adapting to new conditions. It is in the nature of such structural changes that they usually follow the reshaping of political relations with a certain time lag. In the evolution of the CSCE/OSCE during the last decade and a half, this fact has been reflected by the creation of new organs together with the retention of certain fundamentals dating from the early days of the OSCE’s institutionalization. This combination of steadfastness and change has resulted in a number of inconsistencies. Before it embarks on a course of adaptation, however, the OSCE would benefit from reconsidering its institutional structure and decision-making processes. Considering these questions in an appropriate framework would allow it to better see the possibilities that exist for change.

The proliferation of OSCE institutions was unavoidable in light of the changing European security agenda. It is clear, however, that the bodies and institutions established in the early days of institutionalization made and still make more difference in the life of the OSCE than some of the “latecomers”. The High Commissioner on National Minorities (HCNM) and the Office of

Democratic Institutions and Human Rights (ODIHR) have been more important than, for instance, the Representative on Freedom of the Media (FOM). It would be premature to draw any conclusions on the effectiveness of the Special Representative on Combating Trafficking in Human Beings, which was only established at the Maastricht Ministerial Council in December 2003. While the institutions address matters in terms of functional areas, the missions do so according to geographic criteria. This results in a certain overlap.

Problems also arise out of the OSCE's institutional weakness, which is a result of its long tradition of resistance to establishing a strong institutional structure with a relatively autonomous bureaucracy – and one with a low staff turnover rate. The Chairman-in-Office (CiO) is the highest political officer of the OSCE. As the CiO rotates annually, there may not be sufficient continuity at the top of the Organization. Furthermore, the CiO is the foreign minister of the country holding the Chairmanship, which complicates matters, as the functions are sometimes difficult to separate. The Secretary General, who represents continuity, is the Organization's chief administrative officer. This structure presents two problems: 1. A lack of continuity and 2. Poor visibility.<sup>8</sup> Each CiO puts forward a different agenda. For the new CiO to give priority to some of the same matters as the previous Chairmanship is rather the exception. For example, the Bulgarian Chairmanship of 2004 declared that education was to be “one of the priorities” of its year in charge.<sup>9</sup> However, education has always played a contributing role in every OSCE activity. Ironically, one could say that education was an excellent choice for two reasons: Changing human attitudes by means of education is a long-term task, while the Chairmanship has a limited term of one year. Furthermore, it is extremely difficult to measure the contribution of education to changing patterns and attitudes.<sup>10</sup>

The network of OSCE institutions face several problems that should be reconsidered by the participating States. Institutional solutions can be found for institutional problems. It must be taken into account, however, that the complexity of the problems means that a full-fledged reform of the OSCE cannot be confined to a few institutional measures. Institutional reform should be part of a thorough review of the Organization.

In the previous part of this article, an attempt was made to give an overview of the severe problems the OSCE has been facing recently. While they

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8 A similar argument is made by Adam Daniel Rotfeld, *Does the OSCE Have a Future?* in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 31-42.

9 Opening Address to the OSCE Permanent Council by the Chairman-in-Office, the Minister for Foreign Affairs of Republic of Bulgaria, H.E. Dr. Solomon Passy, Vienna, 15 January 2004, p. 3.

10 The Bulgarian Chairmanship might have benefited from the experience of its predecessor, the Netherlands, which put one concrete, measurable matter on its agenda, namely, the resolution of the Transnistria conflict. In the end, however, circumstances beyond their control meant the Dutch were unable to deliver on their hopes.

comprise a broad variety of elements, the most important fact to note may be that the international environment has changed more rapidly than the OSCE could adapt. The OSCE has apparently become a sleepy organization – one that did not react to various changes that have taken place in the European security environment. A gap has thus opened up between the development of international relations in Europe and that of the OSCE.

The OSCE addresses both longstanding and emerging security issues. When these gain a high enough profile, other institutions and major powers also place them on their agendas. As priority is usually given to institutions other than the OSCE to tackle them, the latter loses out. Consequently, the OSCE is losing some of its important “niches”. So, while the OSCE may identify new security problems, as soon as they become important enough, it loses them again. In a certain sense, the OSCE can nonetheless be seen as performing an important role warning of the existence and gradual emergence of security problems in Europe at an early stage, but it is also a daunting one. If this analysis is correct, the OSCE is doomed to remain of limited importance: For issues whose significance is recognized will soon be taken out of the Organization’s hands, while those whose importance is underestimated will remain with the OSCE and yet will still have no impact on its significance. The complexity of the problems involved indicates that there will be no easy way to find a lasting solution to the OSCE’s problems.

### *Is There a Way Out?*

This article has attempted to demonstrate that the overwhelming bulk of the OSCE’s problems are both objective in character and highly complex. Subjective errors might have aggravated the situation, but it would be unfounded to conclude that the problems as a whole are largely subjective and could be solved rapidly by a few better decisions or quick institutional fixes. Under the current conditions, it is unrealistic to wish to turn the OSCE into an international institution of prime importance. Nor is it necessary. It should, however, regain some of its *differentia specifica*, which it has lost due to the evolution of its environment. The few experts that have been dealing with OSCE matters systematically for a long time, as well as many who have worked for the Organization, are well aware of most of the steps that should be taken.

There are three aspects to the OSCE’s problems: 1. Key fundamental issues of European security and their interrelationship. One could call this the problem of European security architecture. 2. The internal development of the OSCE with an emphasis on institutional matters. 3. The subjective factor, including the perceptions and will of the participating States. The three are closely interrelated, but it would be wrong to derive one from the other.

To start by considering the current evolution of the European security architecture, it is clear that those institutions have gained influence which:

1. Best attracted the attention of the most powerful states in the Euro-Atlantic area. Preferences for using one institution or another within Europe's security architecture have shifted in line with the interest of these states. Rather than addressing the matter of which institution was most suitable to carry out a certain function, it has shifted according to somewhat arbitrary decisions.
2. Gained additional legitimacy through the willingness of countries in the region to join them. This was clearly true in the case of the EU and NATO. It is not entirely clear whether this process has been exhausted by the two institutions' recent major enlargements or will continue in the future.
3. Have clearly defined functions. There is a difference between a defence community (such as NATO) and a community of integration (such as the EU). "The direction of history and the nature of current security threats suggested that the two would need increasingly to overlap. Those in a defence community should integrate more deeply while those in a community of integration should join the community of defence."<sup>11</sup> This has further enhanced the status of NATO and the EU. The EU has gradually identified itself as both a community of integration and a community of defence. NATO has clearly had greater problems re-creating itself as an institution with competence in both areas. But the most severe problem has been faced by those institutions that are neither a community of integration nor one of defence. This certainly includes the OSCE, which may face an identity problem as a result.

It can thus be concluded that the recent evolution of the European security architecture has not been supportive of the OSCE in regaining the role it once had in European security. Even though it is unlikely that the EU and NATO will continue to benefit from the additional legitimacy of new members, the two other points mentioned above will certainly continue to retain their relevance. This may lead the OSCE to suffer an identity crisis and a lack of orientation. What the OSCE needs, therefore, is a more sharply defined identity. It is unlikely that it could benefit from further adaptation of Europe's institutional structure.

Adaptation of the OSCE's own institutions should be based on a thoroughgoing review. This is already being undertaken in a number of different forums. In the summer of 2004, the Chairman-in-Office also promised "to try and push through various reforms".<sup>12</sup> His plan carries the danger, however, of intending to satisfy each and every participating State. This is understandable from the point of view of the Chairman-in-Office. It means, however, that the

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11 Ambassador Alyson J.K. Bailes at the SIPRI conference "Turkey and ESDP" held on 22 September 2004 in Stockholm. For a report on the seminar see [www.sipri.org/contents/director/TURKEYESDPSUMMARY.html](http://www.sipri.org/contents/director/TURKEYESDPSUMMARY.html)

12 OSCE Chairman believes time ripe for transforming Organisation to meet changed political realities; see [http://www.osce.org/news/show\\_news.php?id=4277](http://www.osce.org/news/show_news.php?id=4277), 9 August 2004.



reforms need to attempt to satisfy both those countries that are in favour of the status quo and those that, due to their gross dissatisfaction with the current functioning of the Organization, would love to embark upon radical reform.

There are institutions that are indispensable for the functioning of the OSCE; there are others that may require adaptation (there are, for example, many proposals on how to provide for more permanence in the activity of the Chairman-in-Office, such as by establishing the position of Permanent Deputy to the Chairman-in-Office, or by extending the CiO's term for a period longer than one year). Last of all, there are elements that should be eliminated without any hesitation (perhaps the only example is the OSCE Court of Conciliation and Arbitration).

Existing European structures are dominated by the major powers of the Euro-Atlantic area. Most of them are fully integrated in structures other than the OSCE. For them, the OSCE is just one of the "playing fields" of international politics, and by no means the most important. There is only one great power in Europe that is not formally integrated: the Russian Federation. Its "informal integration", however, means that even it no longer needs to rely on the OSCE. There is an additional element that makes the position of Russia unique among the major powers of the Euro-Atlantic area. It is the only major power upon whose territory it is possible to conceive OSCE activity, including field missions, taking place. In addition, Russia is increasingly central to the processes in the area of the former Soviet Union – in some cases positively, in others as the main "negative determinant" in the international relations of some Newly Independent States (NIS). Many of these states are in a similar situation to Russia, which means that the OSCE closely monitors developments in them, including elections, and maintains missions on their territory. Clearly, it is this similarity that makes the formation of a coalition around OSCE policy within the NIS possible. Russia is also interested in finding areas where consensus can be built among NIS countries.

It is for the above reasons that Russia and several other NIS countries have become the most stubborn critiques of the structures and functioning of the OSCE. In some cases they have put forward recommendations that aim at improving the OSCE's contribution to European security, in others they have merely voiced their reservations. This has been a constant feature of Russian foreign policy since Vladimir Putin came to power. It was expressed as early as the Vienna OSCE Ministerial Council of November 2000, where then Foreign Minister Igor Ivanov emphasized his disagreement with the OSCE's exclusive focus East of Vienna: in the Balkans and in the NIS. It is not clear whether Russia genuinely has a problem with the geographical focus or if it is their intrusiveness and the OSCE's modus operandi that present a problem. I assume that if the activities were conducted in accordance with the spirit of an organization of co-operative security, less resistance would be noticeable. It is also possible, however that the reservations on the part of Russia and a

number of other countries have become more frequent and resolute as these countries have decided they do not want to be exposed as much to the attention of the OSCE as they were in the past.

In September 2003 Russia and a few other NIS countries (Belarus, Kazakhstan, and Kyrgyzstan) voiced three concerns in relation specifically to the OSCE's field missions. They concerned: 1. The geographical asymmetry of such missions, all of which are concentrated in the Balkans and the former Soviet Union. 2. The excessive concentration on the human dimension of the OSCE (asymmetry in terms of issues). 3. The intrusiveness of the missions, i.e. the accusation that they intrude on the internal affairs of participating States.<sup>13</sup> Although these allegations have a lot to do with the current stalemate in the OSCE's institutional development, it is also important to note with regard to the question of geographical asymmetry that there is simply no need for OSCE missions in many countries. In other cases, the need may be perceived, but the establishment of a mission may not be deemed appropriate. The claims that the missions over-emphasize the human dimension, and the allegation that the OSCE has become a human rights watchdog have no basis in fact. The development of projects in areas such as water management, police training, or cross-border co-operation can by no means be considered to come exclusively within the scope of the human dimension. And, last but not least, there is the need to find a delicate balance between ensuring the effectiveness of missions and avoiding counterproductive over-intrusiveness. Remedies for these problems can only be provided on a case-by-case basis. It has to be recognized, however, that OSCE missions have in some cases exceeded their mandates by concentrating on observing and interfering with the internal political situation of the host country. Even though the resulting reports have become valuable sources of information, such actions have met with the dissatisfaction of the authorities.

The four above-named countries have put forward a number of concrete proposals that aim to compensate for the asymmetries. Their focus demonstrated their intention to use the consensus rule to introduce a degree of control over the missions. Three measures would enable this: 1. Limiting the duration of mission mandates. 2. Revising the process of nomination and appointment of the heads of missions. 3. Revising the financing of projects carried out in the participating States.

All missions should have a standard duration of no longer than one year, to be extendable by a decision of the Permanent Council. This means that, lacking consensus, the mission could not continue beyond the first year, and, consequently, that the mission would need to avoid any discord with the host state to ensure it is prolonged. This would entail a kind of "UNization" of OSCE missions. A further proposal is that it be made a requirement to obtain

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13 Cf. Wolfgang Zellner, *Asymmetric Security in Europe and the Tasks of the OSCE*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 61-73, here: pp. 69-70.

the agreement of the host country on the nomination of the head of mission. This could be seen as amounting to a host-state veto on the nomination. Because the Permanent Council decides by consensus, the appointment would in fact not only be subject to the will of every participating State but would also face additional scrutiny by the host country. Finally, subjecting the extra-budgetary contributions of donor states to “review” by the governmental bodies of the host country would mean that only projects actively supported – or at least tolerated – by the host could be carried out. It is understandable that those countries in the east of the OSCE area where most missions are located and which are not particularly well-endowed financially would like to review the allocation of resources that do not form part of the regular budget. The OSCE would thus be less able to contribute to projects that are not supported by host countries. It is questionable whether a compromise can be reached between the host state and the donor countries. Whereas the former would not accept projects that do not fit with its political agenda, the latter would not finance projects that do not serve a political purpose they can support.

If the proposals of the four NIS countries were accepted, it would change the role of OSCE missions fundamentally. That does not mean that some of the tacit complaints integral to the proposal should not be considered. It is clearly the case that an inclusive security structure should also consider the interests of those countries that do not live up to every OSCE commitment. It should also be taken into account that some OSCE missions, particularly the larger ones, have gained significant autonomy. It is necessary to find ways to integrate missions better by means of a more co-ordinated policy that is also of lasting relevance. Institutional adaptation, including adaptation of the OSCE missions, is necessary, even if it does not precisely take the form put forward above.

In 2004, Russia and several other NIS states (to be precise, an unexpectedly large number), rather than putting forward progressive proposals to adapt the OSCE’s organizational structure, took a position with regard to the Organization that was severely critical.<sup>14</sup> The group consisting of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine, and Uzbekistan<sup>15</sup> started out from the imbalance between the three security dimensions and concluded that priorities have shifted in favour of the human dimension with an emphasis on monitoring the human rights situation and the building of democratic institutions in the Commonwealth of Independent States and the former Yugoslavia. It challenged the recent emphasis of the Organization in three respects: first, the bias towards one – the human – dimension of security at the expense of others; second, the intensive focus on

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14 Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, Statement by CIS Member Countries on the State of Affairs in the OSCE, Moscow, 3 July 2004, at: [http://www.in.mid.ru/brp\\_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument](http://www.in.mid.ru/brp_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument).

15 Azerbaijan, Georgia, and Turkmenistan did not sign the document.

some countries, while ignoring the problems in others; and third, the frequent failure to observe certain fundamental principles of the Helsinki Final Act, notably non-interference in internal affairs and respect for the sovereignty of states.

Here it is sufficient to comment upon the last of these three issues: the Helsinki Decalogue. It is clear that the OSCE used to maintain a balance between the different principles. Nonetheless, it has to be noted that since the end of the Cold War only sparse references have been made to the principle of non-intervention. It was generally recognized that in carrying out its activities, the OSCE could very well trespass onto the territory of domestic jurisdiction. A return to regularly referring to the respect for state sovereignty would eliminate just this comparative advantage of the OSCE in the arena of international politics.

In September 2004, in what has become known as the Astana Appeal, eight NIS countries continued down the critical path taken earlier. This document reflects a more active stance and contains concrete demands for the reform of the OSCE's agenda. It calls for greater attention to be paid to the politico-military aspects of security, and for the emphasis of the human dimension to shift to "ensuring the freedom of movement and people-to-people contacts, improving the conditions for tourism, expanding ties in the area of education and science and exchanging and disseminating cultural values between all the participating States".<sup>16</sup> It also proposes that the role of field activities be modified by moving away from "the monitoring of the political situation," to emphasize "specific project activities".

What could be the purpose of initiating such a major rearrangement of the OSCE agenda? Basically, the aim is to de-emphasize the human dimension and the NIS countries. It is understandable that NIS countries, many of which have doubtful democratic credentials, would like to see less attention paid to certain of their activities, their human rights records, and their elections. Indeed, the proposals have been made at a time when many NIS countries are due to hold elections.

Within the human dimension, the document aims to modify the agenda so that it will focus more on the detrimental consequences of EU enlargement for the Union's "new neighbours". One issue in particular needs to be addressed here, namely that an enlarging EU with its current visa policy certainly limits the free movement of persons. This is certainly a question that the OSCE, as a pan-European institution, should address. However, this should not be done instead of addressing other human-dimension matters, but in addition.

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16 Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, Appeal of the CIS Member States to the OSCE Partners, Astana, 15 September 2004 (unofficial translation from the Russian), at: [http://www.in.mid.ru/brp\\_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument](http://www.in.mid.ru/brp_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument). Azerbaijan, Georgia, Moldova, and Turkmenistan did not sign the document.

It seems that several NIS countries have embarked upon a course that aims to reduce transparency in their political affairs. Russia, a country whose weight as a major independent player in European politics makes it less reliant on the OSCE, is leading the charge. Russia's aim is partly out of self-interest and partly in order to create consensus among the NIS states on the issue of OSCE reform. The aim of this group of participating States is to cover up a highly regrettable set back in their pursuit of transformation and democratization. Russia is playing a calculated diplomatic game in the OSCE (and also in the Council of Europe). It pretends to go along with the Western agenda and, in return, expects the West largely to stay "off its patch" as far as internal politics and regional development are concerned. If the West is ready to play along, it may well be to the advantage of the current regimes in the NIS. Unfortunately, it would be to the long-term detriment of the people in these countries. Returning to the principles of co-operative security should not mean turning a blind eye to the curtailment of democracy and the suspension of transformation processes in various NIS countries.

Integral to the political demands of the eight NIS states are a number of institutional proposals that aim to increase the role of consensus in decision-making, including decisions on OSCE missions. This would certainly reduce the OSCE's intervention into the internal affairs of NIS countries as well as making it necessary to gain the approval of the host state for most mission activities. If such a process gains momentum, it could only lead to a further weakening of the OSCE.

At the December Ministerial Council in Sofia, Russia referred to the Moscow and Astana proposals put forward by some NIS countries as if they were already part of the OSCE *acquis*.<sup>17</sup> Russia insisted on a comprehensive reform of OSCE structures that would focus on "specialized institutions, field activities and [a] system of financing".<sup>18</sup> To guard against being swamped by the majority in the OSCE still opposed to its ideas, it reiterated that "Russia regards consensus as the underlying principle of OSCE activities and a mechanism without alternative for decision making in the Organization".<sup>19</sup> Applying OSCE-style consensus to an issue effectively gives any unwilling participating State a power of veto.

Russia picked on the institution most closely identified with activities that are unpopular with many NIS countries – ODIHR – whose responsibilities include election monitoring, and which remains one of the few OSCE instruments able to operate outside Russian control. The NIS countries also argued that decisions related to OSCE field missions – from appointing heads

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17 Cf. Statement by the Delegation of the Russian Federation, Organization for Security and Co-operation in Europe, Twelfth Meeting of the Ministerial Council, Sofia, 6 and 7 December 2004, MC.DOC/1/04, 7 December 2004, pp. 75-76, at: [http://www.osce.org/documents/mcs/2005/02/4324\\_en.pdf](http://www.osce.org/documents/mcs/2005/02/4324_en.pdf).

18 Ibid., p. 75.

19 Zayavlenie delegatsii Rossii na zasedanii Postoyannovo soveta OBSE po voprosu o konsensuse, 15 March 2004, p. 1, at: [http://www.ln.mid.ru/brp\\_4.nsf](http://www.ln.mid.ru/brp_4.nsf) (author's translation).

of mission to extending their duration or remit – should be based on the consensus rule, which could only weaken the room for manoeuvre the OSCE currently enjoys.

Russia put forward two further ideas for discussion by OSCE participating States: a) a “high-level seminar on military doctrines and defence policy in the OSCE area”, especially in the context of NATO enlargement, and b) a conference to “discuss problems such as the development of international co-operation in the energy sector, the strengthening of overall security in relation to energy supplies and deliveries, and the promotion of efficient energy-saving measures”.<sup>20</sup> The former proposal makes sense to the extent that the military doctrines and strategies of the participating States have changed significantly since the last such seminar was held – notably in response to the new emphasis on terrorism. Energy security is also an area where Russia can demonstrate its important contribution. Russia has expressed its disappointment that its proposals have not been approved because of what it describes as “artificial linkages and misguided political bargaining”.<sup>21</sup>

A heated exchange of views took place between Russia and a number of participating States at the Ministerial Council. Russia reiterated its position concerning “imbalances and double standards” that were eroding the comparative advantages of the OSCE, and criticized the OSCE’s election-related activities in particular.<sup>22</sup> Russia, particularly in light of the developments in Ukraine that were occurring at the same time as the Council Meeting, was clearly keen to avoid cases in which monitors’ reports affected the perceived legitimacy of elections and the control of the authorities who held them. Russia and its partners called for the OSCE’s electoral work to concentrate on broad normative issues rather than concrete cases.<sup>23</sup>

The West was united in responding that the aim of achieving a better balance between the three dimensions “can only mean that more effort should be put into each of them”.<sup>24</sup> US Secretary of State Colin Powell expressed the view that the USA is “open to increasing the OSCE’s activities to promote security and economic development, but not at the expense of the OSCE’s core democracy and human rights work”.<sup>25</sup> The OSCE’s prime focus on the humanitarian dimension notwithstanding, the facts do not support the view that the Organization has neglected the other two dimensions – as witnessed

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20 Ibid., pp. 1 and 3 (author’s translation).

21 Statement by the Delegation of the Russian Federation, cited above (Note 17), p. 75.

22 Cf. Ministry of Foreign Affairs of the Russian Federation, Statement by Russian Minister of Foreign Affairs Sergei Lavrov at the 12th Meeting of the OSCE Ministerial Council, Sofia, 7 December 2004, at: [http://www.in.mid.ru/brp\\_4.nsf](http://www.in.mid.ru/brp_4.nsf) (author’s translation).

23 Cf. Statement by the Delegation of the Russian Federation, cited above (Note 17), p. 75.

24 European Union, Statement by Minister Bot at the OSCE Ministerial Council, at: <http://www.europa-web.de/europa/03euinf/10counc/oscebot.htm>.

25 OSCE and US Department of State, Remarks by Secretary of State Colin L. Powell to the Ministerial Meeting of the Organization for Security and Cooperation in Europe, Office of the Spokesman, OSCE Document MC.DEL/52/04, 7 December 2004.

by its continuing efforts to resolve “frozen” conflicts such as those in Georgia and Moldova, and between Armenia and Azerbaijan, and its initiatives on anti-terrorism and counter-proliferation. The OSCE’s police reform and training programme in Kyrgyzstan, alongside parallel EU efforts, represent another initiative in the field of politico-military security. In any case, the OSCE, with its comprehensive concept of security and limited resources, must at any given time look for the most pressing European security problems. When human rights and the effectiveness of joint efforts to combat crime, terrorism, smuggling, and corruption are suffering in some states and regions from shortcomings related to a democratic deficit, the OSCE can hardly overlook this: OSCE participating States have consistently subscribed to increasing democracy since the adoption of the Charter of Paris.

Institutional aspects are only part of the problem, however. It is at least as important to note that the participating States have divergent perceptions of the current situation and the OSCE’s prospects. There is no need to go into too much detail here. It is enough to emphasize that a wide range of views exists, ranging from the utterly dissatisfied group of NIS countries to those in favour of the status quo, including the United States. The country holding the Chairmanship has little room to manoeuvre in such a situation. This is particularly true when its reform plans indicate that it desires to satisfy all parties: those participating States that favour reforms and those that do not; those countries that aspire to hold the Chairmanship and those that are interested in improving the efficiency of OSCE administration by increasing the role of the Secretariat and adapting the function of the Secretary General.<sup>26</sup> Unless the perception of the OSCE changes, it is destined to remain a niche organization. The views of those who advocate selective engagement were echoed in the words of a US diplomat:

We must recognize that the OSCE cannot solve every problem, nor should it try. There are certain things this organization does well, such as early warning and conflict prevention, the strengthening of democracy and the rule of law, and promotion of human rights and fundamental freedoms. The OSCE must continue to make this work its first priority.<sup>27</sup>

Given the different perceptions of the OSCE’s role, it would be extremely difficult to achieve more than streamlining the Organization’s current activities.

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26 A decision to that effect was adopted at the Sofia Ministerial Council. Cf. Decision No. 15/04, Role of the OSCE Secretary General, MC.DEC/15/04, of 7 December 2004, in: Organization for Security and Co-operation in Europe, Twelfth Meeting of the Ministerial Council, Sofia, 6 and 7 December 2004, cited above (Note 17), pp. 54-55.

27 United States Mission to the OSCE, Statement to ASRC Session 4: The Way Forward, as delivered by Deputy Representative Douglas Davidson to the Annual Security Review Conference, Vienna, 24 June 2004, p. 2.

As demonstrated above, the prospects of OSCE reform are limited by the underlying disagreement of the parties involved. The few concrete actions that are available could however be supplemented by a reconsideration of the Organization's spirit. It was conceived as an organization of co-operative security. The most important aspect of this is to provide countries that do not have the capacity to carry out the tasks of a properly functioning democratic state with the support they need. This may entail a variety of activities, including fostering certain processes as well as gentle pressure when necessary. It is important, however, that the OSCE does not become another institution where a small number of *demandeurs* set the agenda for the rest, who are then held to be responsible if the formers' demands are not fulfilled. There should be no finger-pointing, which can only alienate countries in need of support during their transition. The OSCE ought not to copy certain other organizations in this respect. If it does not return to its co-operative spirit, the OSCE has no chance of finding more acceptance among its participating States.

There is one respect in which many participating States and the OSCE institutions and administration could easily agree on the need to expand OSCE activities. This is the classic escape route of every regional organization whose prospects for the future, extrapolating on the basis of its current functions, appear uncertain: Broaden the scope of the Organization's activities by taking on tasks that do not contradict the basic interests of any entity that participates in decision making.<sup>28</sup> As Europe has a unique web of institutions that have changed the way countries on the continent conduct their affairs and since it has accumulated significant experience in the area of political interaction, it would be quite logical to spread this knowledge outside the OSCE area and make it available to countries that have not benefited from similar experience. It is a logical continuation, particularly if OSCE participating States are convinced of the indivisibility of security. At the same time, it requires wisdom to decide which are the situations in which the OSCE could contribute effectively and where the necessary tasks would be found too demanding.<sup>29</sup>

### *Conclusion*

Since the mid-1990s, when the illusion that the OSCE could assume the central role in the structure of European institutions became insupportable, the OSCE has been struggling to find its role. It has, in effect, accepted that its role will be to fill niches in European security. Its current position is a result

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28 It happened in 1993 when Richard Lugar, member of the US Senate, raised the same point in connection with NATO: Either it goes out of area or out of business.

29 It should suffice to mention the consideration given to the possibility of monitoring the elections of October 2004 in Afghanistan, an OSCE partner country. It is possible that such an activity would be beyond the means of the Organization.



of the ongoing rearrangement of European security and the loss of illusions associated with certain features of the OSCE. There is little awareness that some of the OSCE's perceived strengths may also be considered disadvantages. Although institutional adaptation may help revitalize the Organization, the complexity of the underlying reasons behind its loss of importance make it more important that it returns to its original spirit. This could most readily be achieved by reconsidering the role of co-operative security that has recently appeared to partially fall off the radar.

The fact that the OSCE and its participating States have started to think about reforming the Organization may have two outcomes. It may result in a situation where the OSCE becomes a more meaningful organization and regains some of its lost importance. It may also come to pass, however, that the identification of the severe problems it has been facing lately and the inability to revitalize the Organization results in a further loss of interest. The result of attempts to reform may make the OSCE's crisis-like situation more pronounced and more visible, thus speeding up its decline. If that were to happen, the OSCE could be stripped of content and left with nothing more than the noble principles and commitments it was based upon. It is precisely the principles, the comprehensive concept of security, and the set of commitments adopted by the participating States that represent the OSCE's unique "value added". And yet it is hard to say how the Organization could respond if its implementation mechanisms were confronted with the hesitation or even the outright reluctance of a large part of its participating States. One way or another, the current reconsideration of the OSCE's role will certainly bring us closer to a final outcome.



**The OSCE States: Their Interests  
and Commitment**



## Latvia and the OSCE<sup>1</sup>

### *General Overview*

Latvia joined the OSCE (then still the CSCE) in 1992, after the 1991 crisis between the pro-democratic and pro-Soviet forces that preceded Latvia's independence had been resolved and before the wider international community had become fully aware of and concerned with the ethnic tensions related to Latvia's post-independence citizenship and language policies. It would probably be fair to say that the OSCE as an organization has been both loved and hated in the country. In the early stages of the OSCE's involvement in Latvia, the Organization was viewed as a friendly partner thanks to its involvement in the withdrawal of Russian troops from Latvian territory and the dismantling of the Skrunda radar station – the last operating Russian military object in Latvia. At that point, the OSCE was able to mediate successfully, as its involvement was readily accepted and even solicited by both Latvia and Russia. For Latvia, membership of the OSCE formed part of the country's policy of returning to the international community after the Soviet period, which featured an attitude of extreme openness towards international organizations in general. However, other OSCE activities that concerned Latvia's internal affairs rather than its external policies were met with less enthusiasm. For instance, the presence of the OSCE Mission and the involvement of the High Commissioner on National Minorities have generally been viewed as damaging to Latvia's international image.

On the whole, the OSCE has been seen in Latvia as a soft-security organization that is unable to provide any real security guarantees for the country. That being the case, membership of the OSCE was never perceived in Latvia as an alternative to NATO membership. Nonetheless, it is undeniable that the OSCE has played a significant role in furthering Latvia's more long-term security goals of joining NATO and the EU. It is also undeniable that Latvia's participation in the OSCE is inevitably linked to Latvian-Russian interstate relations. Every aspect of the OSCE's involvement in Latvia has aimed directly or indirectly at these relations – something the Latvian authorities were aware of at times, but which was far from evident to them on other occasions, with the result that they did not always value it.

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<sup>1</sup> The opinions expressed in this article are those of the author. The article covers the period up to October 2004.

Immediately following Latvia's declaration of independence, the OSCE acted as an impartial international observer of Russia's withdrawal of the troops that remained on Latvian territory. This was not an easy task given the new Latvian elite's pursuit of a policy of excluding the Russian-speaking minority from Latvia's citizenry and Russia's indignant reaction to that policy, which culminated in careless public statements linking troop withdrawal to the safeguarding of the rights of the Russian-speaking minority. At that stage, the OSCE attempted to ensure that, on the one hand, the troops were withdrawn in an orderly and timely manner and, on the other hand, that Latvia's exclusionary policies were subjected to close international scrutiny.

The question of troop withdrawal and other issues relating to the former Soviet army, such as the situation of military pensioners, were among the most delicate areas of Latvian-Russian relations. Emotions ran high and agreements were difficult to reach and implement. To oversee the agreement on the status of military pensioners, the OSCE appointed its Representative to the Latvian-Russian Joint Commission on Military Pensioners, thus providing impartial international supervision. The OSCE also appointed its Representative to the Joint Committee on the Skrunda Radar Station, whose activities were aimed at facilitating the implementation of the agreement on the legal status of the Skrunda Radar Station during its temporary operation and dismantling. The radar station was shut down in August 1998 and successfully dismantled in October 1999. Although its continued operation was often presented in Latvia as a symbol of ongoing occupation following the withdrawal of Russian troops, the fact that the agreement was reached with Russia in 1994 on its eventual dismantling points to the will of both parties to handle the issue in a disciplined manner. The OSCE's supervision did not cause tension or lead to negative perceptions of the Organization as a whole on either side. International law was observed and any potential conflict situations were avoided.<sup>2</sup>

Thus, in matters that concern the army, the OSCE's role is generally viewed positively in Latvia. Russia was perceived as an external threat to Latvian security, and the OSCE was understood to have assisted in removing that major threat. Perceptions changed, however, when the OSCE became closely involved in monitoring Latvia's internal policies towards its Russian-speaking minority and insisting that Latvia comply with international standards in the field of human rights. Although the Latvian government did not object to the establishment of the OSCE Mission, it grew increasingly intolerant of its presence over the years. The Mission was engaged in such activi-

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2 Cf. Jürgen Hübschen, *The Skrunda Agreement and the OSCE's Involvement – An Example of Conflict Prevention and Confidence-Building*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1999*, Baden-Baden 2000, pp. 179-184.

ties as collecting information on human-rights violations by the Latvian Citizenship and Immigration Department, assisting the High Commissioner on National Minorities in preparing and carrying out his visits to Latvia and in furthering the implementation of his recommendations, holding seminars related to minority rights in Latvia's cities and towns, helping local NGOs, and more.<sup>3</sup> The reaction of the Latvian government to these activities was generally the opposite of its reaction to the OSCE's involvement in army-related matters: The OSCE was now often accused of interfering in Latvia's internal affairs, taking Russia's side, and pushing Latvia towards adopting legislation and policies which were not in Latvia's interest.

It is fairly evident that the OSCE's interest in shaping Latvian policies towards its Russian speakers was not based solely on a concern for minority rights as such. Russia had signalled its strong dissatisfaction with the line being taken by the Latvian government, and Latvia's citizenship and language policies had led to a serious deterioration in Latvian-Russian relations. The OSCE thus viewed the situation as potentially explosive and capable of triggering an international conflict. Had Russia not been Latvia's neighbour, it is not obvious that so much international attention would have been paid to the country's internal affairs. As long as Latvian citizenship and language legislation did not comply with the norms established by international law, Russia would always voice dissatisfaction and draw international attention to the position of the Russophone minority in Latvia. But it is also evident that certain political forces in Russia used the situation to pursue their own interests or to project what they saw as Russia's wider geopolitical goals. Conscious of the close interconnectedness of internal and external factors in Latvian security, the international community, and the OSCE in particular, was primarily concerned with the consequences Latvia's policies towards its minority Russophones could have on international security.

#### *The OSCE High Commissioner on National Minorities*

In this regard, the role of the OSCE High Commissioner on National Minorities (HCNM) appears fundamental. The first High Commissioner, the former Dutch Foreign Minister Max van der Stoep, directed his attention to the situation in Latvia immediately after the establishment of his office in December 1992. The Latvian citizenship policy that aimed at disenfranchising those who settled in the country during the Soviet period, mostly Russophones, was

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3 For accounts on the Mission's activities, see: Undine Bollow, The OSCE Missions to Estonia and Latvia, in: *ibid.*, pp. 169-178; Falk Lange, The OSCE Missions to the Baltic States, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 115-121; Sabine Machl, The OSCE Missions to the Baltic States, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 209-218.

a preoccupation given its implications for ensuring the smooth transition to democracy and the overall stability in the country. Within the OSCE's comprehensive concept of security, the situation was classified as falling under the High Commissioner's mandate, according to which the HCNM is

an instrument of conflict prevention at the earliest possible stage [... and] will provide 'early warning' and, as appropriate, 'early action' at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States [...]<sup>4</sup>

The frequency and intensity of the High Commissioner's involvement in Latvia speak for themselves: During his time in office, van der Stoep paid 18 visits to the country, directed at least 20 letters to at least seven Latvian officials, and issued seven public statements on Latvia. No other international actor has been involved in Latvia to such an extent. Evidence suggests that the High Commissioner played an important part in bringing about the decisions of the two post-independence Latvian presidents, Guntis Ulmanis and Vaira Vīķe-Freiberga, to veto problematic legislation on three occasions (the Citizenship Law in 1994, the amendments to the Labour Code in 1998, and the Law on the State Language in 1999). These facts alone are not yet sufficient to declare the HCNM's involvement a success. However, taken together with the media coverage of his actions and the reactions of those involved, they provide evidence of the HCNM's capacity to exercise significant influence upon the discourse and behaviour of the key Latvian political actors, and on the inter-ethnic atmosphere in general, thus testifying to his operational effectiveness.

The High Commissioner could not prevent the disenfranchisement of the majority of the Russian-speakers in Latvia, as the decision upon this issue had already been taken and the arguments of the Latvian side internationally accepted before his first intervention in 1993. While automatic recognition of the citizenship of all legal residents of Latvia at the time of independence was the solution that Russia preferred and even demanded, Western actors were careful to differentiate their approach from Russia's in spite of the fact that most of the affected non-citizens in Latvia also favoured the Russian position. The HCNM was compelled to accept the idea of a gradual naturalization of those not granted citizenship, and attempted to accelerate this process by advocating fast-track naturalization and the simplification of requirements in

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4 The mandate is included in the CSCE Helsinki Document 1992: The Challenges of Change, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 721-777, here: pp. 715-721 (paras 2 and 3).



his initial recommendations. Although the Latvian *Saeima* (parliament) rejected his 1993-1994 recommendations and adopted a Citizenship Law that minimized the opportunities for the Russian-speaking non-citizens to naturalize, the HCNM followed up on the issue and was one of the principal causal factors behind the change of the Citizenship Law in 1998 that opened the access to naturalization to the majority of non-citizens, regardless of their age or place of birth. The High Commissioner was also very closely involved in the process of bringing the controversial Law on the State Language, adopted in late 1999, minimally in line with Latvia's obligations under international law, as well as in the drafting of the Language Regulations of the cabinet of ministers that were intended to guide implementation of the Law.<sup>5</sup>

Although the HCNM's recommendations were rarely implemented in their initial form, and the final result agreed upon by the Latvian decision-makers usually represented complex compromises resulting from a long process of negotiations over a specific issue, the overall involvement of the HCNM in Latvia can be regarded as positive thanks, for example, to the extensive international publicity it has given to the minority issues in Latvia. Attempts to tighten the policy towards the Russian-speakers have been kept at least partially in check thanks to the High Commissioner's efforts to ensure that the new legislation remained in accordance with international law.

### *The HCNM and International Norms*

The HCNM often invoked international human rights norms as arguments for accepting his recommendations. However, the answer to the question of whether Latvia has or has not complied with the norms he invoked is not a straightforward one. It appears that the High Commissioner managed to be "normatively effective" in Latvia in the sense of arriving at what may be termed "normative compromises" with the Latvian authorities through an exchange of concessions during the negotiation process. It also appears that it was the legal precision of international norms (or rather their imprecision) that determined the extent to which those norms could be negotiated and, in the end, made a subject of compromise. As one of the HCNM's strategies was the "translation of norms"<sup>6</sup> to local circumstances, it is difficult to evaluate the HCNM's activity in terms of the compliance or non-compliance of

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5 For a detailed account of the implementation of the HCNM's recommendations to Latvia, see: Jekaterina Dorodnova, *Challenging Ethnic Democracy. Implementation of Recommendations of the OSCE High Commissioner on National Minorities to Latvia, 1993-2001*, CORE Working Paper No. 10, Hamburg 2003, available at: [http://www.core-hamburg.de/documents/CORE\\_Working\\_Paper\\_10.pdf](http://www.core-hamburg.de/documents/CORE_Working_Paper_10.pdf).

6 Steven Ratner, Does International Law Matter in Preventing Ethnic Conflict?, in: *Journal of International Law and Politics* 3/2000, pp. 591-698, here: pp. 623-625.

Latvian legislation with international instruments.<sup>7</sup> In general terms, however, the HCNM succeeded on several occasions in bringing the normative behaviour of the Latvian side closer to ensuring compliance than would have been the case without his involvement.<sup>8</sup>

His references to international norms had a political dimension, as they provided the necessary justification for his involvement in the first place and helped him to avoid being perceived as a representative of minority interests. By referring to certain norms and standards, the HCNM provided a framework for the debates on minority issues, where the norms served to balance the extreme positions. Although minority actors would also often invoke the same international human rights instruments, their opinion was usually disregarded. When referred to by the HCNM (whose opinion was usually backed by the EU), however, the norms acquired political weight and had to be addressed by the Latvian side one way or another.

On the whole, the HCNM has been willing to accept the compromise if this in his view reduced the likelihood of conflict escalation. In this way, he has contributed to moving the conflict to the normative level. Lately, relations between the minority and the state in Latvia have increasingly become defined in legal terms, particularly with the increasing number of cases brought by minority representatives before national and international courts. The HCNM has thus contributed to the gradual transformation of the majority-minority conflict in Latvia from a purely political conflict to a legal one. It is to be noted, however, that the decade following independence saw the gradual but steady restriction of the rights that Russian speakers had once enjoyed. Whether justified by international norms or not, the taking away of rights they had previously enjoyed has been a painful experience for the affected minority.

#### *The HCNM and Political Conditionality*

While appealing to international norms was important, the key arguments for convincing the Latvian government to accept the HCNM's recommendations were political. By mobilizing the support of influential international actors (the Council of Europe, the EU, individual Western governments, and later also NATO), the HCNM linked his recommendations to Latvia's foreign-policy priorities. This strategy proved remarkably effective in winning the government's co-operation. The HCNM had an astonishing ability to ensure

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7 The difficulty in determining the degree of compliance is implied, for instance, by the HCNM's statement on the Law on the State Language and the Language Regulations, where he speaks of the provisions being "essentially in conformity" with Latvia's international obligations. Statements of the High Commissioner on National Minorities from 9 December 1999 and 31 August 2000.

8 On this point, see: Saadia Touval, Does the High Commissioner Mediate?, in: *Journal of International Law and Politics* 3/2000, p. 712.

that the recommendations were supported and regularly referred to by the international actors with the greatest political weight. The close co-ordination of the positions and activities of international actors on the crucial issues also played an important role. Throughout his years of activity in Latvia, the High Commissioner succeeded in making his recommendations the standard to which virtually all other representatives of international organizations subscribed. The EU, for example, on several occasions “fully subscribed” and “fully supported” the HCNM’s recommendations, as did the Commissioner of the Council of the Baltic Sea States (CBSS), individual governments (in particular those of the Scandinavian countries and the USA), and even NATO on some occasions. This international unanimity appears to be the one factor that has contributed the most to the successful outcomes of the HCNM’s involvement.

While recognizing that the EU would probably not have been able to become involved in the situation in Latvia as effectively as the HCNM did, it is also true that the High Commissioner would not have achieved the results he did without the political backing of the EU. The activities of the EU and the HCNM complemented each other, with the EU relying on the HCNM’s expertise and experience and the HCNM receiving the open political support of the EU for his recommendations.

However, in spite of both the normative and the political incentives, in most cases the Latvian side recognized neither the domestic importance of following the HCNM’s recommendations nor the importance of their implementation for its bilateral relations with Russia. Whenever concessions were made, this always simply aimed at increasing Latvia’s chances of gaining EU membership rapidly. Thus, liberalization of minority policy in one area was usually neutralized or compensated for by its tightening in another field. Furthermore, negotiations over minority issues were held almost exclusively with the HCNM and other international representatives. Identical suggestions made by domestic pro-minority leaders were rejected on most occasions, which raises concerns as to the existence of a fruitful dialogue in Latvia between the minority and the state.

#### *The Closure of the OSCE Mission*

The international community was nonetheless willing to trust in the political commitment of the Latvian government to prioritize issues related to the consolidation of society. The OSCE Mission to Latvia that had been established in 1993 and had proved so indispensable in supporting the work of the HCNM was closed at the end of 2001, as the OSCE participating States considered its mandate to have been fulfilled. This was a major symbolic decision taken prior to Latvia’s joining NATO and the EU. Russia strongly ob-

jected to the closure of the Mission,<sup>9</sup> but its position was regarded as a predictable and habitual action. Max van de Stoel's term of office also came to an end in 2001, and, with his departure, the continual active involvement of the HCNM, his frequent visits to the country, and the practice of issuing recommendations to the government also largely stopped.

It is, however, not evident that the decision not to extend the Mission's mandate beyond 2001 was indeed a timely one. From 1993, the Mission was both a partner to the government, providing support and advice, and a careful monitor of the country's democratic commitments. The variety of activities it carried out under its mandate, which were directed at fostering the establishing of a participatory multi-ethnic democracy in Latvia, cannot be underestimated. In addition, the Mission worked hand in hand with the HCNM, supplying him with information and performing background work such as analysing and translating draft legislation and attending the meetings of the parliamentary committees responsible for drafting minority-related laws. The mere existence of the Mission, regardless of the final effects of its activities, provided the minority with a sense that a third party was present and capable, despite the artificially tilted power balance in favour of the majority, of ensuring that decisions affecting the minority were not entirely disadvantageous. When the Mission closed, this ceased to be the case.

As might have been expected, some of the most controversial issues in which the OSCE Mission and the HCNM are no longer involved have proven to heighten tensions in Latvian society. The reform of education that came into force on 1 September 2004 has triggered major protests by the Russophones, who feel harassed by what they see as the undue imposition of largely Latvian instruction in Russian-language schools. The events of the last two years have shown that the question of language in education is sensitive enough to polarize political views and to further ethnicize Latvian politics. The radicalization of political opinions was reflected by the enormous support for right-wing parties in the June 2004 elections to the European Parliament, in which Latvian citizens participated for the first time. Nor is Russia's reaction to Latvia's education policy exactly conducive of harmony in relations between the states. Furthermore, following the withdrawal of the OSCE Mission, the cessation of the HCNM's activity in Latvia, and the reality of rather limited EU involvement, the formation of negative attitudes towards the EU has been observed among Latvia's Russophones – an alarming sign that has overshadowed Latvia's long-awaited accession to the EU. The fact that Latvia's almost 500,000 non-citizens are not allowed to participate in the local elections and the question of their legal status within the EU remain among the most sensitive issues on the political agenda.

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<sup>9</sup> See, for example, Organization for Security and Co-operation in Europe. Permanent Council. 374th Plenary Meeting. Statement by the Delegation of the Russian Federation, 18 December 2001, PC. JOUR/374.

It would probably not be an understatement to say that the OSCE has played a major role in assisting the Latvian government throughout the transition to democracy. No other international organization has been as deeply involved in the most delicate issues Latvia has faced throughout the years following the re-establishment of independence. The OSCE assisted during the process of Russian troop withdrawal, monitored the implementation of politically sensitive agreements between Latvia and Russia, and made available conflict prevention mechanisms to secure long-term stability in the country. The OSCE's involvement with the citizenship question and other matters related to the position of the Russian-speaking minority has helped to turn the conflict between the minority and the state into one of compliance with norms, thereby reducing the possibility of escalation. At the same time, however, progress depended very much upon the incentives that were offered in the form of membership of important international organizations: initially the Council of Europe, and later the EU and NATO.

In 2002, Nils Muižnieks, Minister for Special Assignments for Society Integration Affairs, argued that "the ability of the OSCE to invoke the EU and NATO was a unique historical window that is now closing as NATO and EU accession approaches".<sup>10</sup> Indeed, the momentum of pre-accession helped the HCNM in particular to succeed, but a number of unresolved problems continue to sour inter-ethnic relations in Latvia. In this situation, the question of the future role of the OSCE acquires greater topicality. It seems at times that the OSCE's involvement exhausted itself with EU accession. Considering the current situation, however, it appears that the OSCE's expertise in the field of minority rights could be of major significance in the future.

Today, however, things are fundamentally different from the period up until the end of 2001. We can no longer take for granted that the OSCE's preventive diplomacy will be taken into account as it used to be. Latvia is now a full member of the EU and NATO, and the carrot of membership in these organizations can no longer be used in attempting to convince the government to accept the recommendations of third parties. The OSCE Mission is no longer present in the country, and the HCNM's involvement is limited. On the positive side, most of Latvia's Russian speakers are no longer in a situation of extreme uncertainty as to their future, which used to be the case in the early-to-mid 1990s, due to the adoption and later revision of naturalization rules.

As things stand, a general problem that is likely to continue to exist in the future is the discrepancy between the political leverage and the minority-related expertise of the key international actors. The Council of Europe and

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10 Nils Muižnieks, *The OSCE and Latvia: Arm Twisting, Hand Holding or Partnership?*, presentation at the conference "OSCE and Latvia: Past, Present and Future" organized by the Latvian Centre for Human Rights and Ethnic Studies, Riga, 20 March 2002.

the OSCE currently have very little effective political power in spite of their expertise in the field of minority rights. On the other hand, the actors with more political authority, the EU and NATO, have not yet developed powerful legal tools or substantial expertise in the area of minority rights. The EU's first steps in this direction have been taken in the field of anti-discrimination. The Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC now both form part of the *Acquis Communautaire* and contain fairly strong legal provisions. It is to be hoped that the binding non-discrimination and minority-rights tools of the EU, as well as its monitoring activities, will continue to multiply. This, however, promises to be a lengthy process.

Latvia's current domestic political situation suggests that tensions that have remained in society require international attention. In this respect, the resumption of the HCNM's work in Latvia and the co-operation of the Office of the HCNM with the EU are essential for ensuring long-term harmony. The OSCE Office for Democratic Institutions and Human Rights could acquire a major role in forging such co-operation.

At the end of 2001, in return for the closure of the OSCE Mission, the Latvian government took a number of steps to formally fulfil the guidelines developed under the Austrian Chairmanship of the OSCE. However, the political will to transform those steps into a sustainable process is needed on the part of both the Latvian government and the international actors. The advice Max van der Stoep gave prior to EU enlargement still applies to Latvia even though it is now a full member of the EU:

Sometimes I have the impression that minority-related policies are followed grudgingly as if one were going down a checklist of points that have to be ticked off in order for a State to acquire a certain respectability. True, respect for minority rights is an important barometer of a State's compliance with international standards and this can facilitate closer integration, for example, EU accession. But it should not be seen as a "one time" initiative to appease the international community. Rather, it should be regarded as a process to foster long-term inter-ethnic stability. This is in the best interest of the State concerned.<sup>11</sup>

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11 OSCE HCNM, *Nationhood and Statehood: Reconciling Ethnicity and Citizenship in an Interdependent World*, address by Max van der Stoep to the Raoul Wallenberg Seminar on Human Rights, Budapest, 7 May 2001, at: [http://www.osce.org/documents/hcnm/2001/05/479\\_en.pdf](http://www.osce.org/documents/hcnm/2001/05/479_en.pdf).

## Trafficking in Human Beings: Perspectives on US Policy and the OSCE Context

The United States has played a leading role in the worldwide fight against trafficking, highlighting the magnitude of the problem and the need for concerted policy action. US initiatives are rooted in Congressional legislation and related domestic and international efforts. At the same time, the US has played an important part in international negotiations in the United Nations, and particularly in the OSCE – which has adopted the most comprehensive plan of action to combat trafficking of any international organization.<sup>1</sup> In these multilateral arenas, the US has focused part of its efforts on helping to bridge competing interpretations of anti-trafficking commitments, which have often pitted abolitionists – who seek to outlaw prostitution and link to it trafficking – against those who advocate sex workers' rights. The US has also engaged in its own efforts to monitor trafficking around the globe, while providing targeted funding to countries with particularly severe trafficking problems.

US activism on anti-trafficking emerges from the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), which Congress re-authorized and further developed in 2003. This legislation calls for annual reports on trafficking in countries around the world based on monitoring and a three-tier classification system, and the threat of sanctions against countries falling in the lowest tier. New Jersey Republican Congressman Christopher Smith, chief sponsor of this legislation, has also served as the Chairman of the US Helsinki Commission – a primary vehicle through which many US concerns on trafficking in persons have been introduced into the OSCE context. Indeed, in recognition of his considerable leadership against human trafficking, the OSCE's Parliamentary Assembly President Bruce George appointed Chairman Smith as his Special Representative on Human Trafficking Issues in 2004. Smith is charged with serving as the Assembly's point person for gathering information on trafficking in humans in the OSCE region, as well as promoting dialogue among participating States, and advising the Assembly on new policy initiatives to combat trafficking.<sup>2</sup>

Human trafficking, and the criminal networks that support it, present policy makers with many dilemmas. In this chapter we will touch on some

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1 OSCE, Permanent Council, Decision No. 557 on the OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557, 24 July 2003, Annex: OSCE Action Plan to Combat Trafficking in Human Beings (hereafter: OSCE Action Plan; most of the OSCE Documents are available at: <http://www.osce.org>).

2 Cf., Commission on Security and Cooperation in Europe/United States Helsinki Commission, Chairman Smith Appointed as OSCE PA Special Representative on Human Trafficking, press release, 2 March 2004.

key aspects of them. The first concerns the role of the state and the international community in a social sphere that has traditionally been considered private, and beyond the reach of the state.<sup>3</sup> However, the issue of violence against women in general, and trafficking in particular, calls for co-ordination of *both* domestic and transnational policies.<sup>4</sup> A second dilemma concerns differing state approaches to the legality or criminality of prostitution and whether and how it fuels trafficking. Despite considerable evidence of the linkage, key international instruments against trafficking, including the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (adopted by the General Assembly in 2000 under the Convention on Transnational Crime), the OSCE's Action Plan 2003,<sup>5</sup> and the US VTVPA use ambiguous language to paper over differences between the position of abolitionists and that of advocates of sex workers' rights.<sup>6</sup> But this ambiguity gives rise to competing perspectives on the linkage between trafficking and prostitution. This division in the campaign against trafficking can undermine domestic and transnational efforts to prevent trafficking. Cultural assumptions and traditions that create permissive conditions for violence against women have also to be addressed.

Finally, there is the question of focus: Should efforts be directed at rescuing victims, or ensuring that consumers of the sex trade/trafficking industry cannot act with impunity, along with the traffickers? In addition, as the anti-trafficking campaign has become more multifaceted in its approach, there is mounting pressure to ensure that no country or citizens of a country will be beyond scrutiny and prosecution – whether they are engaging in sex tourism (especially with minors) or serving on international peacekeeping or policing missions.<sup>7</sup> Thus, the question of immunity is also on the table.

We will examine these dilemmas below first by considering the competing definitions and policy frameworks used to address the trafficking problem. Second, we will look at how the United States frames its approach to the problem. As we shall see, the US emphasizes a “victim-centred” approach,

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3 Cf. Commission on Security and Cooperation in Europe/United States Helsinki Commission, Helsinki Commission Releases U.S. Statement on Equality of Opportunity for Women and Men at OSCE Human Dimension Implementation Meeting, press release, 20 September 2001.

4 Indeed, the OSCE Action Plan, under the section on “Prevention of Trafficking in Human Beings”, calls for a number of measures at the national level and in both countries of origin and destination to eliminate discrimination against women, and encourage “gender sensitization and education on equal and respectful relationships between the sexes, thus preventing violence against women”, OSCE Action Plan, cited above (Note 1), p. 10.

5 The OSCE Action Plan 2003 incorporates the UN Protocol's definition of trafficking; cf. *ibid.*, pp. 1-2.

6 Cf. Barbara Sullivan, *Trafficking in Women: Feminism and New International Law*, in: *International Feminist Journal of Politics* 1/2003, pp. 67-91.

7 Cf. Martina Vandenburg, *Testimony on Trafficking of Women and Girls to Bosnia and Herzegovina for Forced Prostitution*. Testimony of Martina E. Vandenberg, J.D., Europe Researcher, Women's Rights Division, Human Rights Watch, House Committee on International Relations, Subcommittee on International Operations and Human Rights, 24 April 2002.



but also places the campaign against trafficking in a framework of moral and religious beliefs, as well as transnational threats to security. Third, we will examine US anti-trafficking legislation, giving particular attention to the State Department's annual reports on trafficking, and criticisms of its methodology and assumptions. In the final section, we turn to US funding of anti-trafficking programmes in the OSCE context. As we shall see, most US efforts are aimed at strengthening law enforcement and supporting victim assistance. There are some programmes that address root causes of trafficking through media awareness campaigns, for example, or economic aid to women in at-risk regions. The latter remain the exception, however, rather than the rule.

### *Dilemmas of Defining Trafficking and Framing Policy Responses*

Human trafficking is a multifaceted and multilevel phenomenon. It is often linked to such factors as domestic violence, abuse of women, and other human rights violations; transitional economies and the feminization of poverty; the feminization of migration; the unequal effects of globalization; the emergence of new security threats in the context of transnational organized crime; and the plethora of challenges arising from post-conflict situations.<sup>8</sup> Trafficking involves not only "push factors" from the states that are the origins of human trafficking, but also "pull factors" from the destination countries. We can even speak of the political economy of sex trafficking encompassing not only origin and destination but also transit countries.<sup>9</sup> Taking account of these structural conditions of human trafficking requires thoroughgoing, wide-ranging, and concerted policy efforts, which OSCE officials have advocated with strong support from the United States, along with the leadership of the OSCE under the recent Romanian and Dutch chairmanships.<sup>10</sup>

Because of this complexity, the trafficking issue lends itself to a number of different definitions of the "problem" and a variety of policy responses.

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8 Cf. Nicole Lindstrom, Regional Sex Trafficking in the Balkans: Transnational Networks in an Enlarged Europe, in: *Problems of Post-Communism* 4/2004, pp. 45-52; Nicole Lindstrom, *Regional Sex Trafficking Networks and International Intervention in the Balkans*, paper prepared for the 45th Annual International Studies Association Convention, Montreal, Canada, 17-20 March 2004; Daan Everts, Human Trafficking: The Ruthless Trade in Human Misery, in: *Brown Journal of World Affairs* 1/2003, pp. 149-158.

9 Cf. Donna Hughes/Tatyana A. Denisova, The Transnational Political Criminal Nexus of Trafficking in Women from Ukraine, in: *Trends in Organized Crime* 3-4/2001, available at: <http://www.uri.edu/artsci/wms/hughes>; Leyla Gülçür/Pinar Ilkcaracan, The "Natasha" Experience: Migrant Sex Workers From the Former Soviet Union and Eastern Europe in Turkey, in: *Women Studies International Forum* 4/2002, pp. 411-421.

10 Cf. Everts, cited above (Note 8); see also: United States, Congress, Commission on Security and Cooperation in Europe, *The Dutch Leadership of the OSCE*. Hearing before the Commission on Security and Cooperation in Europe, One Hundred Eighth Congress, First Session, 3 September 2003, Washington 2003; United States, Congress, Commission on Security and Cooperation in Europe, *Romania's Chairmanship of the OSCE*. Hearing before the Commission on Security and Cooperation in Europe, One Hundred Seventh Congress, First Session, 31 October 2001, Washington 2001.

These range from areas such as migration, law enforcement, and human rights to the deeper, structural dimensions. The human-rights-based approach to trafficking calls for renewed international attention to the way states respond to violence against women.<sup>11</sup> However, deeply rooted cultural assumptions and practices regarding violence against women place impediments not only on effective intervention on matters of domestic violence, but also shape or limit the responsiveness of state and international authorities to trafficking.<sup>12</sup> Trafficking, as the campaign led by women at the 1993 World Conference on Human Rights in Vienna stressed, challenges “the traditional framing of human rights protection as the responsibility of state parties in *only the public sphere*, because violations of women’s rights are often perpetuated by *private actors in the home*”.<sup>13</sup> The recent trend of sex traffickers eluding officials by moving their operations from bars and clubs into private premises underscores the importance of stepping outside these traditional mindsets that limit state intervention.<sup>14</sup>

The origins of anti-trafficking legislation in the US Congress are found in House and Senate resolutions passed in 1998 that called on the Justice Department to prepare a report on trafficking to the US. At that time the Clinton administration pursued a course, with support in the Senate from the liberal Democrat Paul Wellstone and Democrat Louis Slaughter, that aimed at ensuring the protection of victims while also addressing the concerns of sex workers and sex worker advocacy groups, including the International Human Rights Law Group (IHLRG). However, this approach provoked opposition from the radical feminist lobby, including 13 NGOs such as the radical feminist Coalition Against Traffic in Women (CATW), Equality Now, Feminist Majority, the Protection Project, and the National Organization of Women. In an unusual move in the American political context, this coalition turned to the conservative side of Congress to form an alliance with the Moral Majority and others, such as the Family Research Council, the Religious Action Center of Reformed Judaism, and the National Association of Evangelicals.<sup>15</sup>

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11 Cf. Commission on Security and Cooperation in Europe/United States Helsinki Commission, cited above (Note 3).

12 Cf. OSCE, Supplementary Human Dimension Meeting: Prevention and Combating Violence against Women, Vienna, 18-19 March 2002, Final Report, Vienna 2002, p. 3.

13 Elisabeth Jay Friedman, Gendering the Agenda: The Impact of the Transitional Women’s Rights Movement at the U.N. Conferences of the 1990s, in: *Women Studies International Forum* 4/2003, pp. 313-331, p. 12 (emphasis added).

14 Cf. UNDP (ed.), UNICEF, UNOHCHR, OSCE/ODIHR, *Trafficking in Human Beings in South Eastern Europe*, s.l. 2003, at: <http://www.unhchr.ch/women/trafficking.pdf>; Human Rights Watch, *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*, s.l. 2002, at: [http://www.hrw.org/reports/2002/bosnia/#P121\\_3636](http://www.hrw.org/reports/2002/bosnia/#P121_3636); Stability Pact for South Eastern Europe (Task Force on Trafficking in Human Beings), *First Annual Report on Victims of Trafficking in South Eastern Europe*, Regional Clearing Point Report, s.l. 2003, at: <http://www.iom.int/iomwebsite/Publication/ServletSearchPublication?event=detail&id=2831>.

15 Cf. Leslie Ann Jeffrey, *U.S. Anti-Trafficking Policy and Neo-Imperial Masculinity: The Right Man for the Job*, paper prepared for the 45th Annual International Studies Association Convention, Montreal, Canada, 17-20 March 2004, pp. 8-9; see also Conference Re-

This novel coalition found a ready advocate in Congress in Republican Representative Christopher Smith, Chairman of the Helsinki Commission and a key figure in the OSCE Parliamentary Assembly. Smith, for example, played a leading role in the drafting of the comprehensive declaration on trafficking adopted at the OSCE Parliamentary Assembly in St. Petersburg, Russia, in July 1999, which laid the groundwork for the anti-trafficking initiatives of the Charter for European Security adopted by the OSCE Summit in Istanbul, Turkey, in November 1999.<sup>16</sup>

Thus, parallel to his OSCE role, Smith became the key sponsor of the Victims of Trafficking and Violence Protection Act of 2000 in the US Congress. This legislation defines “severe forms of trafficking in persons” as follows: “(A) sex trafficking in which a commercial act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”<sup>17</sup> This definition is not as explicit about the element of exploitation as the language in the UN Protocol on trafficking.

Abolitionists who argue sex trafficking and prostitution are *inherently linked*, tend to see the US approach (as well as the UN Protocol) as consistent with their position.<sup>18</sup> Thus, the CATW claims that “the wording of the Protocol means that the ideals of the 1949 Trafficking Convention have been upheld, that ‘the exploitation of prostitution and trafficking cannot be separated’ and that consent to trafficking or the ‘sexual exploitation’ of prostitution is impossible”.<sup>19</sup> In contrast, Global Alliance Against Trafficking in Women (GAATW) maintains that the “Trafficking Protocol represents a clear departure from the approach to trafficking adopted in the 1949 Convention because it ‘expressly permits states to focus only on forced prostitution and [...] does not require governments to treat all adult participation in prostitution as trafficking’”.<sup>20</sup> GAATW also frames the problem of trafficking in the larger context of economic issues and works to legalize sex work to provide workers

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port on H.R. 3244, Victims of Trafficking and Violence Protection Act of 2000, Hon. Christopher H. Smith of New Jersey, Congressional Record No. 123, Washington, D.C., 5 October 2000.

16 Cf. Commission on Security and Cooperation in Europe/United States Helsinki Commission, Helsinki Commission Efforts Reflected in Istanbul Charter, press release, 19 November 1999.

17 Department of State, Victims of Trafficking and Violence Protection Act 2000: Trafficking in Persons Report 2002, Washington, D.C., June 2002, p. 3.

18 Cf. Jeffrey, cited above (Note 15), citing Melissa Ditmore; cf. also Donna Hughes, *The 2002 Trafficking in Persons Report: Lost Opportunity for Progress*, Testimony on “Foreign Government Complicity in Human Trafficking: A Review of the State Department’s 2002 Trafficking in Persons Report”, US House Committee on International Relations, Washington, D.C., 19 June 2002, at: <http://www.uri.edu/artsci/wms/hughes/pubtrftalks.htm>.

19 Sullivan, cited above (Note 6), p. 82.

20 Ibid.

rights for the women involved. As Lindstrom notes, in the Balkans, for example, these divisions play themselves out at the grassroots level: “Some local NGOs, such as the network of La Strada chapters, work more closely with IOM [International Organization for Migration] to assist and repatriate victims of trafficking to their countries of origin. Other local NGOs, such as the Belgrade-based ASTRA, fall closer to GAATW’s approach to trafficking.”<sup>21</sup> ASTRA, which stands for Anti Sex Trafficking Action, seeks to decriminalize prostitution and provide services to women to assimilate them into the legitimate local economy as an alternative to the repatriation model favoured by the IOM.<sup>22</sup>

### *Forging a Normative Consensus on Anti-trafficking*

Normative change in international relations is a slow process, but it can also gain momentum when a sufficient number of countries get behind a norm and propel it to the tipping point of widespread acceptance.<sup>23</sup> Central to the process is intellectual leadership. This requires knowledge, expertise, time, and commitment from states and NGOs in the international community to raise awareness, educate, promote new policy initiatives, and demonstrate through their own efforts that change is possible.

George W. Bush’s administration has made combating trafficking a key dimension of US foreign policy in bilateral relations with other countries, as well as in regional organizations and at the UN.<sup>24</sup> In his 2003 address to the UN General Assembly, one of the principle elements of the President’s agenda was the campaign against trafficking in persons. Bush argued, “There’s a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of sex trade see little of life before they see the very worst of life – an underground of brutality and lonely fear.” At a recent conference on trafficking, Bush again stated that “human life is the gift of our Creator – and it should never be for sale. It takes a special kind of depravity

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21 Lindstrom, *Regional Sex Trafficking in the Balkans*, cited above (Note 8), p. 49.

22 Cf. *ibid.*

23 Cf. Martha Finnemore/Kathryn Sikkink, *International Norm Dynamics and Political Change*, in: *International Organization* 4/1998, p. 887-917.

24 The Bush administration’s emphasis on fighting violence against women may seem surprising, given the great attention it has placed on the war on terrorism. However, the two campaigns are, in fact, linked. The strategic use of human rights and women’s rights (or women’s “issues” as has become more typical of the Bush rhetoric) is really part of the administration’s attempt to find justification for the war on terrorism, and military interventions in Afghanistan and Iraq. See Krista Hunt, who treats this as “strategic co-optation”, and also Julie Mertus, who criticizes the Bush emphasis on human rights as a “bait and switch” tactic; Krista Hunt, *The Strategic Co-optation of Women’s Rights: Discourse in the “War on Terrorism”*, in: *International Feminist Journal of Politics* 1/2002, pp. 116-121; Julie A. Mertus, *Bait and Switch? Human Rights and U.S. Foreign Policy*, *FPIF Policy Report 2004*, at: [http://www.fpif.org/papers/2004rights\\_body.html](http://www.fpif.org/papers/2004rights_body.html).

to exploit and hurt the most vulnerable members of society.”<sup>25</sup> Thus, the Bush administration’s approach to anti-trafficking initiatives falls clearly within what some critics call a “victim’s frame”,<sup>26</sup> although the administration has moved increasingly to view trafficking also within the context of organized crime and grave security threats such as drug and weapons trafficking.<sup>27</sup>

The State Department’s annual Trafficking in Persons Report (TIP Report) is the key mechanism the United States uses to leverage normative and policy change on trafficking in the OSCE context and worldwide.<sup>28</sup> The Office to Monitor and Combat Trafficking in Persons – set up by the State Department in 2001 to lead the development and implementation of US anti-trafficking initiatives – employs a three-tier classification system in evaluating government measures to eradicate trafficking. Information is culled from US embassies, as well as in consultation with host governments, local non-governmental organizations, officials, police, journalists, and victims, and from NGO reports. Information is also drawn from other sources such as UNICEF, the UNHCR, the IOM, Human Rights Watch, Amnesty International, the Protection Project, media reports, and information and assistance received from other US governmental agencies, including the State Department’s Bureau of Democracy, Human Rights and Labor, and the Bureau of Population, Refugees and Migration.<sup>29</sup>

The methodology of the TIP Report as first carried out in 2001 called for the identification, wherever information was sufficient and reliable, of those countries with a significant number of trafficking victims. In practice, this meant in the hundreds or higher. Those countries in compliance with the minimum standards set out by the Act were placed in Tier 1. Those in Tier 2 did not meet the minimum standards, but were judged to be making significant efforts to bring themselves into compliance. Those in Tier 3 failed to take significant efforts.<sup>30</sup> The third category included nine OSCE countries in

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25 George W. Bush, President Announces Initiatives to Combat Human Trafficking, Tampa Marriott Waterside Hotel, Tampa, Florida, White House, press release, 16 July 2004, p. 2, at: <http://www.whitehouse.gov/news/releases/2004/07/print/20040716-11.html>.

26 Sullivan, cited above (Note 6), p. 73. Indeed, this framing is readily apparent in the title of the Victims of Trafficking and Violence Protection Act 2000. Critics of the “victim frame” argue that this radical feminist approach is racist and neo-colonialist, and depicts third world women as ignorant, helpless, naïve, victimized, and bound by tradition. On the other hand, the victim frame presents the West as competent and suitable rescuers; cf. Jeffrey, cited above (Note 15), p. 3.

27 Cf. Department of State, *Trafficking in Persons Report. Released by the Office to Monitor and Combat Trafficking in Persons*, Washington, D.C., 14 June 2004, p. 2.

28 Cf. Department of Justice, *Assessment of U.S. Activities to Combat Trafficking in Persons*, Washington, D.C., 2003, p. 19, at: [http://www.usdoj.gov/crt/crim/wetf/us\\_assessment.pdf](http://www.usdoj.gov/crt/crim/wetf/us_assessment.pdf).

29 Cf. Department of State, *Victims of Trafficking and Violence Protection Act 2000: Trafficking in Persons Report 2002*, Washington, D.C., 2002, p. 7.

30 As the 2001 report explains, the Act calls on the State Department to use several criteria to determine whether a country is making significant efforts. These include considering “1) the extent of trafficking in the country; 2) the extent of governmental noncompliance with the minimum standards, particularly the extent to which government officials have been complicit in trafficking; and 3) what measures are reasonable to bring the govern-

2001. As Helsinki Commissioner Christopher Smith explained, these countries, like other OSCE participating States, had committed themselves “to punish those who traffic in human beings and to better protect their victims”. In his view, the TIP Report served as a reminder that “the United States expects the OSCE countries to fulfil their commitments”.<sup>31</sup>

While special consideration may be given to countries facing particularly difficult situations, such as internal conflict or instability, the VTPA nonetheless calls for sanctions to be imposed – starting with the 2003 report – on those countries failing to make significant efforts. These sanctions are designed not to apply to humanitarian aid and trade-related assistance, but may entail US opposition to assistance in such international financial institutions as the International Monetary Fund and multilateral development banks, including the World Bank.<sup>32</sup>

The 2001 TIP Report covered 89 countries, 18 in Tier 1, 52 countries in Tier 2, and 19 in Tier 3. These included nine OSCE States in Tier 1, ten in Tier 2 and seven in Tier 3. By a year later, a number of those states in the second and third Tiers had made significant improvements. For example, Romania, as well as Albania, Kazakhstan, and Yugoslavia all moved from Tier 3 to Tier 2. And the Czech Republic, France, Lithuania, Macedonia, and Poland all made a number of improvements that moved them from Tier 2 to Tier 1. Among the OSCE countries, this left just Armenia, Bosnia and Herzegovina, Greece, the Kyrgyz Republic, Russia, Turkey, and Tajikistan in Tier 3. The State Department increased the scope of its monitoring from 89 countries in the first TIP Report in 2001 to 140 countries in the latest TIP Report in 2004.

#### *Reactions to and Criticisms of US Advocacy*

The State Department has hosted many meetings to seek the input of NGOs in the preparation of the annual TIP reports, and in the development of programmes to combat trafficking and enhance NGO co-operation.<sup>33</sup> However, Human Rights Watch and other NGOs, such as the International Justice Mission, World Vision, The Salvation Army, and the Southern Baptist Ethics and Religious Liberty Commission, have often raised a number of concerns with respect to the methodology of the annual TIP reports. Critics contend that the 2002 report, for example, failed to use rigorous standards to evaluate coun-

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ment into compliance with the minimum standards in light of the government’s resources and capabilities”, Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report (2001)*, Washington, D.C., 2001, pp. 5-6.

31 Commission on Security and Cooperation in Europe/United States Helsinki Commission, Helsinki Commissions Praise First Annual Report on Trafficking in Persons, press release, 13 July 2001.

32 Cf. Department of State 2001, cited above (Note 30), p. 6.

33 Cf. Department of State, *Victims of Trafficking and Violence Protection Act 2000: Trafficking in Persons Report*, Washington, D.C., 11 June 2003, p. 5-6.

tries, and thus whitewashed the real record of abuse. In testimony before the House Committee on International Relations, Donna H. Hughes, an international expert on trafficking, argued that the report set the bar “pathetically low” for countries efforts to combat trafficking. Even though prosecutions of traffickers was the most heavily weighted factor in ranking, Hughes found that “there are countries in Tier 2 and even Tier 1, that have imprisoned few, if any, traffickers”.<sup>34</sup>

Hughes also criticized the TIP Report 2002 for failing to identify the demand factors that create the need for trafficking to supply the sex trade, and, in particular, for not addressing the link between legal prostitution and the demand for sex-trade workers. She notes that “Ambassador Ely-Raphel [Senior Advisor to Secretary of State Colin Powell, Office to Monitor and Combat Trafficking in Persons] has told audiences at briefings that the evaluation team did not consider prostitution or the demand for trafficking victims in their evaluation of countries’ efforts to prevent and combat trafficking,”<sup>35</sup> and that the “connection between legalized prostitution in countries like the Netherlands, Germany, and Australia and the trafficking of women and children for the sex trade is only ‘anecdotal’”.<sup>36</sup> But in her testimony, Hughes presents compelling evidence that the legalization of prostitution in the Netherlands in 2000, and the relaxation of pimping laws and the legalization of brothel keeping in 2001 in Germany (where prostitution was already legal), led to significant increases in the numbers of foreign women working in the sex trade in those countries, as well as other Western European destination countries.<sup>37</sup> Furthermore, countries that tolerate and legalize sex industries see an increase in child prostitution. In these respects, she considered the TIP Report 2002 a “lost opportunity”.<sup>38</sup>

The State Department has sought to address some of these criticisms in subsequent reports, in part by making changes to the report’s methodology.<sup>39</sup> These efforts have won some recognition. For example, Human Rights Watch noted that the country narratives were improved in the 2003 report, which also included information on trafficking of persons for exploitation in various forms of forced labour – both domestic and international. However, Human Rights Watch still found many shortcomings with the methodology of the TIP Report of 2003. For example, it found that

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34 Hughes, cited above (Note 18), p. 2.

35 Ibid.

36 Ibid.

37 Cf. *ibid.*, pp. 3-4. Hughes criticizes the TIP Report 2002 especially for placing countries like the Netherlands and Germany in the Tier 1 category. She reports that the Dutch sex trade industry pulls in about one billion US dollars annually – that is, five per cent of the Dutch economy, and that this represents a 25 per cent increase during the last decade. The income generated by the industry in Germany is estimated to run as high as 4.5 billion US dollars a year.

38 Ibid., p. 5.

39 Cf. Department of State 2002, cited above (Note 29), p. 5.

the State Department consistently credits countries for their efforts to combat trafficking even when they have not passed legislation specifically criminalizing all forms of forced labor as trafficking, or when they have failed to sign or ratify the Protocol to Prevent, Suppress, and Punish Trafficking supplementing the U.N. Convention Against Transnational Organized Crime, the single most authoritative international human rights instrument on trafficking. Another consistent shortcoming is that Tier 2, where seventy-five countries fall, remains a catch-all category. Tier 2 comprises countries of varied trafficking records. The report also fails adequately to explain its concrete minimum standards for countries to move up tiers.<sup>40</sup>

Human Rights Watch enumerated some specific recommendations for future reports, such as the inclusion of “reliable data on the number of trafficking victims in each country, disaggregated by age, sex, nationality, and the nature of their forced labor”; categorizing as Tier 3 any country that “summarily deports or incarcerates trafficking victims”; and barring any country from Tier 1 that “fails to enact specific legislation criminalizing trafficking”. It also called for adding the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol to the list of Relevant International Conventions that the report appends. Finally, Human Rights Watch wanted the State Department to ensure that future reports “adequately weigh efforts toward eliminating and punishing corruption in assessing a country’s record on combating trafficking”.<sup>41</sup>

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA) has led to some new monitoring requirements, thus addressing some of the criticisms previously raised of the TIP reports. For example, starting in 2003, the assessment in the country narratives is broken down into the categories of prosecution, protection of victims, and preventive efforts. In addition, the 2004 report lists the Convention on the Elimination of All Forms of Discrimination Against Women in its matrix of relevant international conventions, and it also introduces a “Special Watch List”. This includes countries that moved from Tier 3 to Tier 2, or from Tier 2 to Tier 1, as well as countries in Tier 2 where the number of victims of severe forms of trafficking is very significant, or increasing significantly, where there is “failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year”, or where “the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year”.<sup>42</sup>

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40 Human Rights Watch, US State Department Trafficking Report Undercut by Lack of Analysis, press release, 11 June 2003, p. 1, at: <http://www.hrw.org/press/2003/06/traffickingreport.htm>.

41 On the recommendations, see *ibid.*

42 Department of State 2004, cited above (Note 27), p. 14.



The 2004 TIP Report also begins to address the forced labour aspect of human trafficking – a second dimension of the original 2000 VTVPA. In addition, it identifies the linkage between trafficking and prostitution. The TIP Report 2004 notes that

considerable academic, NGO and scientific research confirms a direct link between prostitution and trafficking. In fact, prostitution and its related activities, including pimping, pandering, and patronizing or maintaining brothels, contributes to trafficking in persons by serving as a front behind which traffickers for sexual exploitation operate. A Swedish government study revealed that much of the vast profits generated by the global prostitution industry go directly into the pockets of human traffickers. The International Organization of Migration estimates that each year 500,000 women are sold (trafficked) to local prostitution markets in Europe.<sup>43</sup>

Indeed, the TIP Report notes further that “there is no evidence that legalization [of prostitution] in any country has reduced the number of trafficking victims, and NGOs working in this field note that the number of trafficking victims often increases. In short, where prostitution is legalized, a ‘black market’ in trafficking emerges, as exploiters seek to maximize profit by avoiding the scrutiny and regulatory costs of the legal prostitution market.”<sup>44</sup> The 2004 Report calls for a concerted strategy to target all aspects of the trade – supply, demand, and traffickers.<sup>45</sup> A further important new feature of the 2003 and 2004 reports is the information culled from around the world on best practices.

Another criticism which should be raised regarding the Congressional mandate for annual monitoring and reporting is that it focuses on problems other countries have in combating trafficking, but leaves the United States – the source of these judgments – free from the same scrutiny. This void has been filled to some extent by the mandate of the TVPRA of 2003, which requires the Attorney General of the United States to provide a report to the Congress every year starting on 1 May 2004. Critics point out that in the first year of this reporting, the United States has significantly lowered the estimated number of people trafficked in the United States annually from the previous estimate of 50,000 to 14,500-17,500.<sup>46</sup> The justification for this rather lower estimate is a new methodology for assessing trafficked persons in the United States.<sup>47</sup> Despite the increasing number of both prosecutions

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43 Ibid., p. 7.

44 Ibid., p. 12.

45 Cf. *ibid.*, p. 11.

46 Cf. Jeffrey, cited above (Note 15), p. 2.

47 Cf. Department of State 2004, cited above (Note 27), p. 12.

and victims assisted over the last few years, both the Ashcroft Report<sup>48</sup> and another report issued by the Department of Justice in 2003 recognize that the number of cases of sex and labour trafficking prosecuted remains low in relation to the estimated magnitude of the problem.<sup>49</sup>

The United States has also come under criticism for the conduct of its own nationals in international peacekeeping and policing operations. Human Rights Watch issued a scathing report entitled “Hopes Betrayed”<sup>50</sup> that brings to light trafficking abuses by US personnel among other nationals involved in the Stabilization Force in Bosnia and Herzegovina (SFOR). The report notes that SFOR civilian contractors from the security company DynCorp employed on US military bases in Bosnia and Herzegovina “engaged in the purchase of women and girls. Although these U.S. employees enjoyed only ‘functional’ immunity (immunity only for acts related to their official duties), as of October 2002 not one had faced prosecution in Bosnia and Herzegovina for criminal activities relating to trafficking.”<sup>51</sup> Instead they were quickly repatriated to the United States, thus thwarting the criminal investigation in Bosnia. Although a law passed in 2000 gives the US government jurisdiction over these types of cases, no action was taken. In October 2002, US personnel involved in the United Nations International Police Task Force (IPTF) in Bosnia who also committed trafficking abuses enjoyed protection under then applicable US law from prosecution for criminal offences while part of a UN mission. Human Rights Watch noted that “therefore, even after they returned to the United States, U.S. courts had no jurisdiction over IPTF monitors who engaged in the purchasing of women or girls abroad.”<sup>52</sup>

The Helsinki Commission has also expressed concern about such conduct and immunity. In a letter of inquiry to Deputy Secretary of State Richard L. Armitage dated 2 May 2003, the Commissioners sought to ascertain “the Administration’s efforts to fight against the emergence of prostitution and human trafficking industries in post-conflict Iraq spurred by an influx of international personnel from the United States and other countries”. They pointed to the need for such a strategy, including with respect to US contractors, given that prostitution and human trafficking were allowed “to thrive” in post-conflict Bosnia and Kosovo. More specifically, the Commissioners noted with concern that the State Department had awarded DynCorp International a contract of up to 1,000 civilian advisors to aid the Iraqi government organize civilian law enforcement, judicial and correctional agencies. They also undertook to remind Secretary Armitage that

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48 Department of Justice, *Report to Congress from Attorney General John Ashcroft on U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2003*, Washington, D.C., 2004.

49 Cf. Department of Justice, cited above (Note 28), pp. 11-12; see also Bush, cited above (Note 25), p. 2.

50 Human Rights Watch, *Hopes Betrayed*, cited above (Note 14).

51 *Ibid.*, p. 2.

52 *Ibid.*

we are familiar with DynCorp's role in recruiting and training American police officers to serve on the International Police Task Force (IPTF) in Bosnia-Herzegovina. We are also aware of the documented involvement by some DynCorp employees or agents in prostitution, human trafficking, and sexual misconduct and of DynCorp's retaliation against those who endeavored to bring such misconduct to light.<sup>53</sup>

Also among the structural causes on the demand side of trafficking, Western countries must consider the role of their own citizens in sex tourism and the linkages between this industry and trafficking. Through the PROTECT Act of 2003, the United States introduced a law that permits US prosecutors to go after American paedophiles who prey on children around the globe for commercial sex. They are no longer beyond the reach of US justice.<sup>54</sup> Bush signed the PROTECT Act in 2003, thus enabling "U.S. law enforcement to prosecute Americans who travel abroad and engage in sex with minors without having to prove prior intent. The PROTECT Act expands the statute of limitations to life of the victim for crimes involving the abduction and physical or sexual abuse of children in virtually all cases."<sup>55</sup> In addition, the PROTECT Act provides strict new penalties and doubles the maximum sentence for US citizens who travel to foreign countries to sexually abuse children. The United States has launched campaigns in foreign countries to inform American travellers of legal action that they will face back home for sexually exploiting children abroad.<sup>56</sup>

#### *United States Support to OSCE Countries to Combat Trafficking*

In addition to producing the annual TIP reports, the US government has carried out a number of other initiatives to fight trafficking. For example, the ODIHR's Human Dimension Implementation Meetings have provided an opportunity for the United States to wield political leverage and remind OSCE countries listed on the TIP reports in Tier 2 and 3 to fulfil their OSCE commitments on combating trafficking. For example, in September 2002, US Ambassador Nancy Ely-Raphel noted that the June 2002 TIP Report listed "twenty OSCE participating States that are not yet meeting minimum standards in combating trafficking". To help remedy the lack of compliance, she called for ODIHR to be used as a repository for documents, models, and ideas.<sup>57</sup> The United States has contributed to this effort by making available a

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53 For the full text of the letter, see, Helsinki Commission, Full Text of Commission Letter to Deputy Secretary Armitage, press release, 13 May 2003.

54 Cf. Colin Powell, Letter from Secretary Colin L. Powell, in: Department of State 2004, cited above (Note 27).

55 Bush, cited above (Note 25), pp. 3f.

56 Ibid., p. 4.

57 For the full text of Ambassador Ely-Raphel's statement, see: Commission on Security and Cooperation in Europe/United States Helsinki Commission, Helsinki Commission Re-

guidebook for NGOs to develop anti-trafficking programmes, supporting other NGO empowerment initiatives, and introducing a Model Law for enforcing anti-trafficking efforts.<sup>58</sup> In addition to its engagement in the work of ODIHR, and Helsinki Commission Chairman Christopher Smith's efforts at the OSCE Parliamentary Assembly, the United States has also provided assistance to anti-trafficking measures in various regional contexts of the OSCE area, including the Southeast European Co-operative Initiative (SECI), which promotes interstate efforts among law enforcement agencies to combat trafficking in human beings and the Task Force on Trafficking in Human Beings of the Stability Pact for South Eastern Europe.

In support of these commitments, in fiscal year 2002 and 2003, the US Government assisted some 200 anti-trafficking programmes. In 2002 this totalled more than 55.8 million US dollars, with funds supporting over 75 countries. According to the 2002 TIP Report and a 2003 Department of Justice report, this assistance included the following types of measures:<sup>59</sup>

- economic alternative programmes for vulnerable groups;
- education programmes, training for government officials and medical personnel;
- development or improvement of anti-trafficking laws;
- provision of equipment for law enforcement;
- establishment or renovation of shelters, crisis centres, or safehouses for victims;
- support for voluntary and humane return and reintegration assistance for victims;
- support for psychological, legal, medical, and counselling services for victims provided by NGOs, international organizations, and governments;
- anti-corruption measures.

US funding to combat trafficking is partly geared towards global efforts. For example, under its global programme, the Department of State has provided funding to aid the IOM's development of a Counter-Trafficking Module Database. However, the State Department prioritizes assistance to countries in Tiers 2 and 3. In the European and Eurasian context of the OSCE, the United States has launched numerous programmes through bilateral assistance and regional initiatives focused on prevention, prosecution, and protection of victims, with funding going to support programmes developed by governmental agencies as well as non-governmental organizations (local and

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leases US Statement on Trafficking in Human Beings at OSCE Human Dimension Implementation Meeting, press release, 20 September 2002.

58 The Model Law can be found at the Department of Justice website at: [http://www.usdoj.gov/crt/crim/model\\_state\\_law.pdf](http://www.usdoj.gov/crt/crim/model_state_law.pdf).

59 Cf. Department of State 2003, cited above (Note 33), p. 5, and Department of Justice, *Report to Congress*, cited above (Note 48), p. 19.

international) fighting trafficking. Regional initiatives variously focus on the Caucasus and Central Asia, Eastern and South-eastern Europe, as well as Kazakhstan, Tajikistan, Armenia, Azerbaijan, and Georgia.

OSCE countries that have received US funding to combat trafficking in fiscal year 2003 included Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Latvia, Lithuania, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Macedonia, Moldova, Romania, Russia, Serbia and Montenegro (including Kosovo), Slovakia, Tajikistan, Turkey, Ukraine, and Uzbekistan.<sup>60</sup> Many of these programmes involve support for police training, prosecution, and border controls. In the Balkans, “the State Department is also supporting research into the role of international peacekeeping operations in the trafficking of women and girls. In Yugoslavia, a USAID project supports research into why Roma women and children are trafficked.”<sup>61</sup>

Some US-funded programmes target the supply side of the trafficking issue, including root causes, by working on raising awareness among high school children through the use of theatre and plays; training journalists; creating media awareness programmes on trafficking; and also reaching teachers and educators. However, there are only a few US-funded programmes that address such root causes of trafficking as violence against women, domestic violence, women’s economic empowerment, and the need for support for women at risk in rural areas. Important examples of these kinds of programmes can be found in USAID assistance to the Ukraine, Belarus, and Bulgaria.<sup>62</sup>

### *Conclusions*

The complexity of combating trafficking in human beings has brought together many NGOs, local and international, as well as government officials and international organizations. This multilayered co-operation is essential for dealing with a problem that has transnational dimensions. The concerted efforts of experts and officials from many facets of society are also needed to ensure comprehensive responses, and, in particular, to provide immediate shelter, security, and assistance to victims, and opportunities to prosecute the traffickers.

By starting out with a “victim frame” the United States’ early efforts against trafficking were geared towards rescuing the innocent – but all too often the victims were returned home to be re trafficked, or were found by subsequent raids to be working again in the same locales. While many of the

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60 Cf. Department of State, *The U.S. Government’s International Anti-Trafficking Programs*. Released by the Office to Monitor And Combat Trafficking in Persons. Fiscal Year 2003, Washington, D.C., 7 July 2004.

61 Department of Justice, cited above (Note 28), p.20.

62 Cf. Department of State, cited above (Note 60).

efforts that the United States has helped to fund focus the anti-trafficking strategy on the side of law enforcement and victim assistance, these initiatives do not get at the root of the problem. In fact, many reports cited in this chapter point to substantial barriers to prosecuting traffickers and doing so in numbers that will diminish the incentives driving the cross-border sex trade. Thus, it has become increasingly apparent that anti-trafficking campaigns need to address the root causes within the origin countries as well as the demand side of the picture in the destination states. To date, this is the exception rather than the rule among US-funded programmes. However, providing economic empowerment to women in at-risk regions of the OSCE participating States would help to thwart trafficking at the source. And lifting the immunity of personnel in international operations under the United Nations or regional organizations from prosecution on trafficking charges would also help to transform the post-conflict dynamics in states whose citizens have already experienced great trauma. The comprehensive efforts of the OSCE under its Action Plan 2003 and the United States' increase in funding programmes addressing root causes may begin to make a difference in otherwise very difficult terrain.

II.  
Responsibilities, Instruments, Mechanisms,  
and Procedures





## Conflict Prevention and Dispute Settlement



## The OSCE Mission to Croatia – Springboard to Europe<sup>1</sup>

### *Goodbye OSCE?*

Croatia has arrived: It is a “functioning democracy, with stable institutions”, as the European Commission recently declared.<sup>2</sup> Surely it is high time that the OSCE Mission – that awkward, nagging presence – depart from the country. Is it time for the OSCE to say goodbye?

This argument has found support not only inside Croatia but also increasingly among certain OSCE participating States. However, it does not stand up to considered analysis of the Mission’s role in the country. Without a doubt, the Mission’s legitimacy is increasingly being called into question: Not only is the OSCE shifting its regional focus to the Caucasus and Central Asia, but, at the same time, the EU is increasing its influence through the Stabilization and Association process and the “European Partnership for Croatia”. Nevertheless, the prospect of EU membership has itself had a highly favourable effect on the OSCE’s work in Croatia; according to Head of Mission Peter Semneby, 2003 was the Mission’s busiest year. This contribution therefore considers the role of the OSCE Mission in Croatia’s European ambitions and asks where the OSCE’s international responsibilities will lie in the future. If the Mission to Croatia succeeds in establishing a solid set of competencies in this area, it will provide an example for the future development of the OSCE, in South-eastern Europe in particular, with regard to two questions:<sup>3</sup>

- What are the OSCE’s strengths in the region with regard to the process of convergence with the EU? What synergy effects can be developed (the concept of interlocking institutions)?
- In the long term, how can a mission prepare for its exit from the host country and the EU’s entry?

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1 This contribution reflects the personal opinions of the author. It deals with the period up to the end of August 2004.

2 Commission of the European Communities, *Communication from the Commission – Opinion on Croatia’s Application for Membership of the European Union*, COM(2004) 257 final, Brussels, 20 April 2004.

3 A view shared by Head of Mission Peter Semneby: “[...] the OSCE Mission will [...] contribute substantially to defining the relationship and synergies between the OSCE and the European Union in other countries involved in the Stabilization and Association Process.” Permanent Council, Presentation by Ambassador Peter Semneby, Head of the OSCE Mission to Croatia, to the OSCE Permanent Council, 18 December 2003.

War and the nationalistic mobilization of the population obstructed Croatia's transformation into a democracy and ensured that the political system displayed strongly authoritarian tendencies for a considerable time.<sup>4</sup> The centre-left coalition that came to power following the death of Franjo Tuđman led the country out of isolation but was unable to solve the problems that had been caused by the bloody conflict, including the return of refugees and the integration of the Serbian minority. Croatian society remained divided, and, in the run-up to the 2003 elections, international observers warned of another possible change of government following a resurgence of support for Tuđman's old party, the nationalist HDZ. Many feared the collapse of the fragile inter-ethnic construction and a setback in the process of converging with the European Union. Yet following the HDZ's decisive victory, Ivo Sanader, Tuđman's streetwise former foreign minister and the current party leader, surprised many by showing a willingness to undertake reforms and break taboos.<sup>5</sup> He remained true to the pro-European policy he had adopted during the campaign, asserted his support for minority rights, and was the first Croatian prime minister to make the traditional Serbian Christmas greeting at the Serbian Orthodox Christmas reception – a powerful symbolic gesture.

The HDZ's parliamentary majority is not only based on a formal coalition agreement with the Democratic Centre Party (DC) and the Social Liberal Party (HSL) but also on a co-operation agreement with the representatives of the Serbian minority in the Croatian parliament or *Sabor*. The parliamentary support of the Independent Democratic Serbian Party (SDSS) is linked to the achievement of significant progress in the issues of refugee return and minority rights – central aspects of the OSCE Mission's mandate. Because the agreement with the SDSS includes no details of how the rather general intentions are to be implemented, its relevance is primarily political: It has served to raise awareness of the issues, to demonstrate political will, and has allowed representatives of a minority to influence government policy for the first time.<sup>6</sup>

Under Ivica Račan's government, there was always a large gap between official rhetoric and political reality. Sanader will have to prove to the inter-

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4 Cf. Nenad Zakošek, Das politische System Kroatiens [Croatia's Political System], in: Wolfgang Ismayr (ed.), *Die politischen Systeme Osteuropas in Vergleich*, [The Political Systems of Eastern Europe in Comparison], 2nd, expanded and updated edition, Opladen 2004, pp. 677-726, here: p. 723.

5 "Reactions to Prime Minister Sanader's conciliatory tone, gestures and the cooperative mode vis-à-vis the ethnic minorities reflect that the HDZ leader has exceeded the expectations of many in this field." OSCE Mission to Croatia, *Background Report: The new HDZ-led Government pursuing a policy of ethnic reconciliation which will impact on the Mission's work*, Zagreb, 20 January 2004.

6 Cf. the interview with Head of Mission Peter Semneby in *Jutarnji List*, 24 April 2004, pp. 28-29. The English translation can be accessed at: [http://www.osce.org/documents/mc/2004/04/2776\\_eng.pdf](http://www.osce.org/documents/mc/2004/04/2776_eng.pdf).

national community that his bold policies amount to more than lip-service, instead signalling a real transformation of the HDZ. The new government is now also confronted with problems that have been festering for years,<sup>7</sup> many of which are also within the purview of the OSCE. In the area of refugee return,<sup>8</sup> there has still been no comprehensive legal solution found for the restitution of property to Croatian Serbs;<sup>9</sup> although a government humanitarian programme to assist those who had lost their occupancy rights<sup>10</sup> was adopted in 2003, its implementation was not expected to begin until September 2004. It will take at least until the summer of 2005 before all the houses of returning refugees that were destroyed are rebuilt. Local authorities, in particular, are responsible for continuing to obstruct the implementation of legal and administrative decisions, e.g. by not carrying out compulsory evictions as ordered. Other areas that require urgent attention include the judiciary, which suffers especially from a lack of highly trained staff<sup>11</sup> and a three-year backlog of cases, reform of Croatia's media law to eliminate political influence, and raising the numbers of minorities in the civil service and the judiciary in line with the Constitutional Law on National Minorities.

### *...and Is Taking Croatia into Europe*

Most of Croatia's efforts to gain membership of the European Union were undertaken by the government of Prime Minister Račan. Croatia ended its international isolation, concluded a Stabilization and Association Agreement (SAA) with the European Union on 29 October 2001, and applied for EU membership on 21 February, 2003.<sup>12</sup> Sanader's pro-European policies and a

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7 Cf. OSCE Mission to Croatia, Status Report No. 14, July 2004.

8 Eva-Katharina Zieschank provides a succinct insight into the complex issue of refugee return in: Minderheitenrückkehr in Kroatien: Serben bleiben Bürger zweiter Klasse [Refugee Return in Croatia: Serbs Remain Second-Class Citizens], in: Zentrum für europäische Integrationsforschung (ZEI), *SOE-Monitor* 2/2002, also available at: [http://www.zei.de/downloads/zei\\_SOE-Monitor6.pdf](http://www.zei.de/downloads/zei_SOE-Monitor6.pdf).

9 The law continues to favour the (*de facto* Croatian) temporary occupants over the (*de facto* Serbian) owners. The rulings on the restitution of property including real estate and on the payment of reparations to the owners do not comply with European human-rights standards.

10 In the former Yugoslavia, tenants in state-owned properties possessed occupancy rights. The tenancy rights of Serbians were annulled in more than 24,000 cases. Although at the end of July 2004 the European Court of Human Rights upheld some of the annulments, the international community, including the OSCE and the EU, nonetheless considers the insufficient provision of accommodation for the refugees in question to be a major obstacle to the returns process and insists upon the implementation of the government programme. Cf. OSCE Mission, Press Release, 30 July 2004, at: <http://www.osce.org/item/8476.html>.

11 Numerous supporters of the old regime continue to be employed in the judiciary and police. They obstruct aspects of modernization and ensure that nationalist forces retain a certain influence.

12 For a brief summary, see: OSCE Mission to Croatia, Background Report: EC recommends that the EU membership negotiations begin with Croatia, Zagreb, 27 April 2004, at: [http://www.osce.org/documents/mc/2004/04/2784\\_eng.pdf](http://www.osce.org/documents/mc/2004/04/2784_eng.pdf).

major and highly effective diplomatic offensive in the early months of his premiership were crucial in persuading the European Commission to recommend the start of accession negotiations<sup>13</sup> and led to the recognition of Croatia as a candidate country by the European Council in June 2004. In the decisive weeks leading up to the publication of the *avis*, he used his experience as a foreign minister to remove any remaining obstacles and to demonstrate his reformist credentials. European policy was thus the main focus of the first 100 days following the change of government. The main condition attached by the Commission to its positive recommendation was that Croatia comprehensively co-operate with the International Criminal Tribunal for the Former Yugoslavia (ICTY), in particular by handing over the fugitive general Ante Gotovina, whose whereabouts are unknown.<sup>14</sup> The prosecution of people indicted for war crimes is a critical domestic and foreign political test. For the international community, it will be the litmus test of the maturity of Croatia's democracy and the country's willingness to respect international humanitarian law. Croatia's population, however, saw it as an attack on their national identity and as threatening to undermine the legitimacy of 1995's struggle for independence.<sup>15</sup> The government felt itself held hostage by a single man,<sup>16</sup> while international observers have also criticized the reduction and simplification of Croatia's problems to a single person. While it is unclear how the Gotovina case will develop, Prime Minister Sanader demonstrated his willingness to co-operate in March 2004 by immediately extraditing the two recently indicted Croatian generals Mladen Markač and Ivan Čermak. This allowed Chief Prosecutor Carla del Ponte to give a positive report to the European Commission in April 2004.<sup>17</sup>

The European Commission's recommendation to the European Council on 20 April 2004 that Croatia's candidature be accepted and accession negotiations begin can be seen as a turning point. Above all, the decision rewards Croatia for its efforts towards European integration. The head of the Euro-

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13 The Commission's opinion, or *avis*, is a recommendation to the European Council on whether or not to begin accession negotiations. The Commission comprehensively examined the application to ascertain whether Croatia is capable of fulfilling the Copenhagen Criteria and the conditions given in the Stabilization and Association Agreement. Cf. Commission of the European Communities, cited above (Note 2); see also European Council Presidency Conclusions, Brussels, 17-18 July 2004, at: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/81035.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/81035.pdf).

14 Chief Prosecutor Carla del Ponte insisted for a long time that the general was hiding in Croatia and that he was receiving assistance in remaining hidden; the Croatian government, in contrast, noted that the former member of the Foreign Legion had taken out French citizenship and claimed that he was living abroad.

15 During the summer and autumn of 2003, a giant poster of General Gotovina with the inscription "A hero and not a criminal!" hung prominently on the walls of Zadar, the General's home town.

16 Cf. Permanent Council, Statement by the Permanent Representative of Croatia Vladimir Matek at the 488th Permanent Council in Response to HoM Croatia Amb. Peter Semneby, PC.DEL/1472/03, 18 December 2003.

17 This opinion opened the door for the ratification of the SAA by the UK and the Netherlands. Italy is the only country still to ratify the SAA, but is expected to do so shortly.

pean Commission's delegation in Zagreb, Jacques Wunenberger, stressed that Croatia had received an exceptionally positive *avis* and was a step closer to EU membership.<sup>18</sup> At the same time, the recommendation marks the starting point of the actual reform process. The Commission's proposed "European Partnership with Croatia"<sup>19</sup> insists that the Croatian government should make bundling its reform efforts and resources a priority. By lending Croatia democratic legitimacy, the positive *avis* and the subsequent recognition as a candidate country by the European Council provide Sanader's government with the backing it needs to carry out painful modernization and reforms. The popular premier<sup>20</sup> has opted for a pro-European solution to Croatia's problems. This involves, among other things, co-operation with the Serbian minority, something that could, under certain conditions, threaten the stability of his own government.

*Summary: Grab the Bull by the Horns!*

In this changing context – a new, reform-oriented government and the recognition of Croatia's candidacy by the European Council – the OSCE Mission needs to redefine itself and its role. The new situation provides an excellent opportunity for the Mission to fulfil its mandate: On the one hand, the HDZ-led coalition government needs to take account of the interests of minorities and to demonstrate that it has left its authoritarian past behind it. On the other, it does not need to prove its nationalistic credentials, and can thus have a tempering effect on hardliners within its own ranks.<sup>21</sup> The EU accession process sets definite goals for the government. The Mission needs to get used to the fact that, as the Commission stated, Croatia is now classified as a functioning democracy with stable institutions. How well is the Mission adapting to the consolidation of Croatia's democracy while continuing to help the country on the path towards Europe?

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18 Press conference in Zagreb on 21 April 2004, cf. *Jutarnji List*, 22 April 2004, p. 1.

19 The European Partnership is closely modelled on the former Accession Partnerships concluded with the EU's new member states. It establishes clear conditions to be met in the short term (within one to two years) and the medium term (three to four years). Cf. Commission of the European Communities, Council Decision on the principles, priorities and conditions contained in the European Partnership with Croatia (presented by the Commission), COM(2004) 275 final, Brussels, 20 April 2004.

20 He is the most popular politician in the country, even coming ahead of President Stepan Mesić in opinion polls. Following the election, his party, the HDZ, continues to enjoy a relatively secure 35 per cent share of voter support. Cf. *Jutarnji List*, 20 April 2004, p. 2.

21 Cf. Permanent Council, Presentation by Ambassador Peter Semneby, cited above (Note 3).

The OSCE Permanent Council adopted a decision to establish a long-term mission to Croatia on 18 April 1996, and the Mission's tasks were expanded and consolidated in 1997. The Mission's mandate, which strongly stresses the rule of law, aims at a lasting and structural transformation of the normative framework in the areas of human and minority rights, the return of refugees, and the building of democratic institutions.<sup>22</sup> Within this, the everyday work of the Mission focuses in the first instance on the Croatian legislative process and legal practice and less on the logistics of refugee return, which is primarily the task of the UNHCR. Locally, the Mission also supports projects to promote inter-ethnic co-existence. The Mission currently employs some 65 international staff (it has been as high as 250) and around 150 locals, distributed between the headquarters in Zagreb, three field centres in Sisak, Vukovar, and Knin, and seven further field offices.

The basic approaches of the EU and the OSCE differ considerably. While the OSCE is an inclusive organization and aims to use co-operation to change participating States, the EU pursues a policy of exclusivity and conditionality, which allows it to make use of a powerful "toolkit" of sanctions and rewards. In addition, the Croatian government and general public perceive the OSCE and the EU in completely different ways. The OSCE is seen as an uncomfortable, nagging presence that has so far only served to obstruct Croatia's European ambitions.<sup>23</sup> Only now, during the accession process, is this negative view slowly beginning to change, as the OSCE Mission is seen as a neutral partner. If the OSCE presence is evidence of the lack of democracy in Croatia, the EU is seen above all in terms of progress and Western affluence. The two organizations share the goal of aiding Croatia's transformation into a democratic and stable country and a fully integrated member of the Euro-Atlantic community. Perhaps it is precisely this fundamental difference and clear distinction between the two organizations that is the key to successful co-operation and the combination of their respective strengths, in which respect, Croatia sets an example for the whole region. A complex series of relationships has developed between the main players – government, OSCE, and EU – which will be considered in the following from the point of view of the OSCE Mission.

#### *Agenda Setting and Expertise: The Mission Calls the Shots*

In line with its mandate's focus on the rule of law, the Mission sets out to realize its goals at a very early stage in the legislative process. Where it is

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22 Cf. OSCE Permanent Council, Decision No. 176, PC.DEC/176, 26 June 1997.

23 Cf. e.g. the answer given by the Head of Mission in his interview with Jutarnji List, cited above (Note 6).



aware of regulatory deficits, it aims to influence the government's political and legal agenda. A key precondition for this is a large field presence. Mission members in the field can recognize structural problems at an early stage and inform Mission headquarters. The best recent example of this concerns the issue of looting: When Croats moved out of the houses of ethnic Serbs that they had been allowed to occupy temporarily, these properties were often left in a terrible state – severely damaged and looted. Neither the local authorities nor the police did anything to prevent this. The headquarters of the OSCE Mission was alerted to this widespread structural problem via reports from field offices and has, since then, unceasingly demanded that government officials find a legal solution. In 2001, these agenda-setting activities were institutionalized by the establishment of a joint Working Group on Legislation on the topic of refugee return (together with the EU, the UNHCR, the UN, and the USA). However, the activities of this group were suspended by the representatives of the international community in January 2003, owing to a lack of co-operation on the part of the Croatian government. New permanent contacts for comprehensive technical high-level dialogue are being established with the new government.

The Mission's agenda-setting activities target not only the Croatian government but also the European Commission, where the aim is to raise the profile of human and minority-rights issues within the EU, which tends to be dominated by economic matters. The Mission's regular reports play an especially important role in this, as I explain below. It can therefore be considered a success on the part of the Mission that its "concerns" are not only expressed in the EU's Stabilization and Association Agreement, but that political matters also dominated discussions in the run-up to the publication of the Commission's opinion. The Mission was closely involved in drafting the text of both the "European Partnership" and the *avis*.<sup>24</sup> In fact, the demands of the OSCE Mission and the European Commission are largely identical.<sup>25</sup> There are, however, differences in terms of the way issues are prioritized: While the EU consistently follows an "ICTY-first" strategy, the OSCE Mission pays most attention to refugee issues and legal matters.<sup>26</sup>

The Mission not only attempts to address ongoing problems but also prepares expert reports and recommendations on legislation. In spring 2004, for example, the Mission joined forces with the OSCE Representative on Freedom of the Media, the Council of Europe, and the European Commission

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24 Cf. *ibid.*, pp. 28-29.

25 Head of Mission Peter Semneby puts it as follows: "Most of the issues within the mandate of the OSCE Mission coincide with the political criteria for EU membership." Permanent Council, Presentation by Ambassador Peter Semneby, cited above (Note 3).

26 On this, for example, compare the speech from Javier Solana in the Croatian Parliament on 17 February 2004 (Javier Solana, European Union High Representative for the Common Foreign and Security Policy, Croatia and the European Perspective, Zagreb, 17 February 2004) with the speech by the OSCE Head of Mission in the Permanent Council on 18 December 2003 (Permanent Council, Presentation by Ambassador Peter Semneby, cited above [Note 3]).

to analyse Croatia's media law and to make recommendations on how it could be improved; it also drew up an expert report on the drafting of a new media law. The government has also taken advantage of the Mission's expertise in other areas, receiving recommendations on issues such as the restructuring of the interior ministry and the police. During the Croatian government's preparations for the European Commission's *avis*, demand for recommendations grew not only on the Croatian side, the European Commission also took advantage of the Mission's expertise, e.g. on questions of human rights. Furthermore, the agreement between Sanader's government and the SDSS has created further opportunities for the Mission to engage in agenda setting and to offer its expertise. This document not only acknowledges "old" problems as such, but also proposes solutions to open questions arising from the Joint Working Group on Legislation.

### *Sticks and Carrots: The EU Provides the Incentives*

The Mission's attempts at agenda setting have often been less than successful, owing to a lack of co-operation on the part of the Croatian government. With its rather weak mandate, ("monitoring", "reporting", "advising" and "providing assistance"), the Mission is relatively powerless in the face of this. By lobbying the European Union, the Mission aims to influence its agenda, but also to leverage the Union's repertoire of incentives and sanctions to encourage adherence to human and minority rights.

The two organizations have highly divergent approaches when it comes to the "enforcement" of European standards, an area in which the OSCE is clearly dependent on the EU. Conditionality – the EU's chief instrument – is based upon incentives – primarily membership – whose attainment is uncertain and the certainty of sanctions for non-compliance with conditions set down by the EU, such as the postponement of the start of accession negotiations as applied to Slovakia. By contrast, the OSCE can have recourse to neither incentives (Croatia is already a participating State) nor effective political nor economic sanctions. Up to 2002, the Mission was subject to the ever-changing willingness of the Croatian government to co-operate and felt that it was still being "under-utilized".<sup>27</sup> The Račan government often ignored the Mission's recommendations and introduced its own draft laws in parliament without first consulting the Mission (e.g. the draft law on compensation payments proposed in January 2003). Some local authorities, such as the regional offices for displaced persons and refugees, rejected the recommendations of OSCE field officers out of hand. Thus, the prospect of EU membership proved to provide the strongest incentive for conflict resolution and reforms in Croatia – without it, the entire range of available diplomatic and security-policy instruments would have remained ineffectual. In order to take

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27 Mission Fortnightly Report 15/2002, 26 April 2002.

advantage of the EU's carrot-and-stick approach, the OSCE needed to closely and continually co-ordinate its position and activities with the delegation of the European Commission and the UNHCR.

However, the prospect of EU membership is an abstract and long-term instrument, and conditionality can only function where membership hopes are *realistic*. In fact, since the establishment of its Mission, it has been the OSCE that has performed the "hard graft" of reminding the Croatian government on a daily basis just what the process of converging with the EU entails, what concrete standards must be implemented, and what it means to want to become part of "Europe". Awareness of the political obligations entailed by the process of converging with the EU has grown considerably only since the entry into power of the Račan government in 2000. The impact of the improved prospects of EU membership on the Mission's work was even more evident during 2003-04. In 2003, the government recognized the "usefulness" of the Mission for its own foreign-policy purposes – this was the first year since 2000 where there was no discussion over the extension of the mandate. Sanader's new government made clear signals to the Mission that it was interested in closer co-operation. Initial talks were held in January 2004, just a few days after Sanader assumed power, and numerous ministerial-level working meetings have been held since then. Nevertheless, ongoing problems and unco-operativeness are still evident in the constant, working-level wrangling over details and in those departments where there have been no changes of personnel. For example, despite demands for his removal from the SDSS, the senior government official who was in charge of refugee returns under Tuđman, Lovre Pejković, retains his position.

When it comes to implementing laws and other regulations on the ground, the Mission's field presence is essential. Mission members can intervene directly and can lodge protests with local authorities or inform them of infringements. Equally, the Mission promotes the democratic consolidation of Croatia from the bottom up by supporting a variety of civil-society projects. During 2003, the Mission invested 1.2 million euros in capacity building at NGOs, local governments, and the newly created local minority councils, and supported institution building by such means as financing field visits by the ombudsman and supporting the Constitutional Court. The fact that the OSCE has missions in every country in the Western Balkans also gives it a comparative advantage over the EU. To facilitate the return process – a task requiring action primarily at a regional level – the Missions to Croatia, Bosnia and Herzegovina, and Serbia and Montenegro established a Joint Action Plan in 2003.<sup>28</sup> This was the starting point for the "Road Map" created jointly by the OSCE, the EU, and the UNHCR, which outlined the path to completing the regional returns process for the governments of the region by provid-

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28 Cf. OSCE Missions to Bosnia and Herzegovina, Croatia and Serbia and Montenegro, Joint Action Plan for the Implementation of the "Framework for Enhanced Regional Cooperation on Return", Property and Acquired Rights Issues, Tirana, 14 May 2003.

ing clear guidelines and describing concrete steps to take. In addition, the Croatian Mission acts as the focal point for refugee questions within the scope of the Stability Pact.

### *Eyes and Ears: The Mission and Its Reporting System*

Although it is frequently seen as a by-product of its real work, the Mission's reporting system has developed into one of its key competencies and, alongside the provision of expertise, is one of its most important contributions within its complex of working relations with the EU. Of central importance in Croatia is the implementation of agreed measures, which still faces continual obstruction, especially at the local level. From the point of view of the international community, verification is essential to ensure that European standards are enforced. Reports are thus the means by which unsolved problems are put back on the agenda of the Croatian government.

The Mission is mandated to carry out monitoring and reporting, for which it relies on its extensive field presence and the experience it has gathered in Croatia since 1996. In neither of these respects is it matched by the EU.<sup>29</sup> In 1998, the then Head of Mission, Tim Guldemann, recognized that the Mission's weekly reports to Vienna were largely being ignored. His answer was to produce "progress reports" on Croatia's efforts to fulfil its international obligations. These were both made accessible to the general public and to were presented directly to the Permanent Council. In part, they responded indirectly to the latest international developments. The progress report from December 2003, for example, deliberately but indirectly dealt with the answers and statements of the Croatian government to the European Commission's questionnaire. The half-yearly reports also ultimately enhanced the OSCE's leverage by capturing the attention of the international community, and the EU in particular. In the best cases, the criticisms contained in the progress reports were taken up by the EU.<sup>30</sup> The specialized reports produced by several departments are also worthy of mention. These include the reports on property restitution produced jointly by the Mission and the UNHCR since 2002, and the nearly total coverage of the war-crime trials by members of the Mission's field offices. In this way, the Mission is constantly pointing out discrepancies between words and deeds in Croatia,

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29 The European Union Monitoring Mission never had the number of personnel that the OSCE Mission did and, since this year, is no longer present in Croatia.

30 Cf. e.g. the statement of the EU Commissioner for External Relations, Chris Patten: "The OSCE has also reported to us that more needs to be done to ensure that Serbian refugees currently living in Serbia Montenegro and Bosnia are able to return to their homes." The Rt. Hon Chris Patten, External Relations Commissioner, Commission's presentation of Croatia's Avis to the European Parliament, European Parliament Session, Strasbourg, 20 April 2004, SPEECH/04/185, at: <http://europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/04/185&format=HTML&aged=0&language=EN&guiLanguage=en>.

working as the “eyes and ears” of not just the international community but also the central government in Zagreb.

*Conclusion: The Mission Does the Groundwork, the EU Ensures Results*

Up to now, the OSCE has pursued a varied strategy on several levels. While it has constantly attempted to have its own goals and its own criticisms adopted by the European Union, it also offered the Croatian government assistance in solving these (European) problems, thereby giving the country a helping hand along the road to Europe. The OSCE’s core competencies in Croatia are therefore less focused on the actual implementation of specific norms and democratic standards than on the preparation of (*agenda setting* and *expertise*) and the follow-up to (*monitoring*) implementation. The European Union has particularly high regard for the OSCE Mission’s expertise and the superiority of its information. While the Mission did the groundwork – identifying, analysing, and proposing solutions to structural problems – it has taken the EU, with its concrete promise of membership in the short-term and the associated conditionalities, to obtain concrete results since 2000.

*Outlook: A “post-Avis” Strategy for the OSCE Mission*

As far as the future of the OSCE Mission to Croatia is concerned, the analysis so far paints a mixed picture, making it hard to do more than speculate at present. The willingness of the new Croatian government to undertake reforms makes a strong *prima facie* case for the continued presence of the OSCE. Now is precisely the time when the Organization’s goals can be accomplished and the remaining problems from the mandate solved. The government has (finally) realized that the conditions attached to EU membership correspond to the mantra-like criticisms of the OSCE and that the Mission can be considered a neutral partner and an advisor on the road to Europe.<sup>31</sup> The EU continues to stress the conditionality principle and is making both the commencement and the tempo of accession negotiations scheduled for 2005 dependent on Croatia’s performance.<sup>32</sup> The government must be continually reminded of its obligations and the compromises it has to make – a task that the OSCE has performed up to now. Mere assertions will not satisfy the European Commission, which will set out to determine the facts. Once caught in the “argumentative trap”, the Croatian government will not be able

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31 “[...] Croatia has entered a phase in which it has an excellent opportunity to resolve issues from the OSCE mandate [...]” OSCE Mission To Croatia, Press Release, Semneby: Croatia has an Opportunity to Resolve Issues from the OSCE Mandate, Zagreb, 19 December 2003, and the interview with Head of Mission Peter Semneby in Jutarnji List, cited above (Note 6).

32 Cf. European Council, Presidency Conclusions, cited above (Note 13).

to backslide on its commitments without losing legitimacy and credibility. On the contrary, it will require support to answer the complex questions of detail that will arise. For Croatia, the real work is yet to come. Other international conditions also favour the OSCE's continued presence. In 2004, the UNHCR made an almost complete withdrawal from Croatia, retaining just a single office in Zagreb. This makes the OSCE the only international organization with a field presence in the country. The ICTY plans to conclude its work in 2010 and to hand over the first cases to Croatian courts in 2005, which – according to the OSCE's most recent report on domestic war-crimes trials<sup>33</sup> – are not yet sufficiently prepared for such a task and suffer from widespread discrimination against the Serbian minority. Reforms will also be necessary for the government to achieve its goal of joining NATO.

However, there are also a number of factors that argue against the OSCE's continued presence in Croatia. Not only financial constraints and the declining political will of participating States to support the Mission, but also the shift in the OSCE's geographic focus to Central Asia and the Caucasus have led to debates in the Permanent Council on the future of the presence in Croatia. Following the EU's Thessaloniki summit, the recognition of Croatia as a candidate country, and the ratification of the Stabilization and Association Agreement, the EU's involvement in Croatia is growing – although it can hardly match the OSCE's capacities in the latter in terms of expertise, monitoring, and local presence. Since 2000, the Mission – whose presence is perceived in Croatia as a blemish – has faced pressure to justify its existence each time its mandate has come up for renewal. In December 2003, both the host country and the Chairman of the Permanent Council called for the mandate to be adjusted when it comes up for renewal in 2004.<sup>34</sup> If the Mission wants to avoid increasing the pressure on its legitimacy while preparing its case for the inevitable year-end debate, it needs to ask itself what issues require the presence of the OSCE in Croatia beyond 2004, and to restructure its work to focus on these issues.

One of the OSCE's key goals as a security organization is the prevention of conflicts. Consequently, it should focus above all on those areas that are relevant for regional and are directly related to the war or continue to be potential causes of conflict in Croatia. This encompasses the broad area of judicial reform, the return of refugees, and the integration of national minorities. Croatia's inefficient justice system suffers from a lack of quality personnel and a backlog of some 1.5 million cases. The Ministry of Justice

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33 Cf. OSCE Mission to Croatia, Supplementary Report: Domestic War Crime Proceedings in Croatia and Findings from Trial Monitoring, 22 June 2004, at: [http://www.osce.org/documents/mc/2004/06/3165\\_en.pdf](http://www.osce.org/documents/mc/2004/06/3165_en.pdf).

34 A typical example is the statement by the Croatian Ambassador in Vienna in December 2003: "Croatia believes that [...] the time has come that during the coming year the Organization needs to take stock of the Mission to Croatia and its evolution and adjustment in accordance with the situation on the ground and the progress achieved, in close cooperation with the host country." Permanent Council, Statement by the Permanent Representative of Croatia Vladimir Matek, cited above (Note 16).

agrees with the OSCE Mission on this point and has requested its support in carrying out reforms.<sup>35</sup> With the handover of ICTY cases to Croatian courts and the conflicts this is likely to create in Croatian society, the need for neutral international observers will increase rather than diminish. In the area of refugee return, the OSCE's expertise and observation capacities will also remain irreplaceable in the mid-term, as, despite high-sounding intentions, the Croatian government is less concerned with finding a speedy solution to this issue than in the case of judicial reform. Although Sanader has had some initial successes in restoring illegally occupied property,<sup>36</sup> the most recent report of the NGO Human Rights Watch, published in May 2004, was explicitly critical of the fact that, despite repeated promises, the new government had not yet taken any significant steps to facilitate the return of the Serbian refugees.<sup>37</sup> Based on the OSCE's experience, it is unlikely that it will prove possible to keep to the tight deadlines set down in the agreement with the SDSS. The humanitarian programme to provide accommodation to those who lost their occupancy rights has only just begun, and other issues remain unsolved, such as the recognition for pensions purposes of working years spent in Serb-controlled areas. Essential work is also needed to ensure that human rights are respected in full following the return of refugees.

In order to retain its core competencies and to ensure that the synergy effects with the EU continue, the OSCE must keep its network of field offices throughout Croatia. However, the need to carry out restructuring and to focus on key priorities – as already addressed by the Chairman of the Permanent Council<sup>38</sup> – will be accompanied by a further reduction in international staff and the replacement of some international employees by locals. The Mission will continue to support the reform of Croatia's media legislation and the police in 2004, but will certainly have to reduce the resources dedicated to these areas to focus on other priorities in the long term. The strengthening of civil society and the control mechanisms essential to democracy, such as the institution of the ombudsman and the constitutional court, will ensure that the actions of the Croatian government will be commented on by critical and independent observers even after the OSCE withdraws. As financial support in these areas largely comes from extra-budgetary contributions, fewer resources are likely to be available here, too.

It seems the Mission has seen which way the winds are blowing. In the address he gave to the Permanent Council in December 2003, Head of Mis-

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35 A programme for reforming the justice system was adopted in 2002, and an implementation plan in 2003. Actual implementation is, however, proving an especially challenging task.

36 Cf. OSCE Mission to Croatia, Background Report on the Return of Illegally Occupied Residential Properties, 30 July 2004, at: [http://www.osce.org/documents/mc/2004/07/3385\\_en.pdf](http://www.osce.org/documents/mc/2004/07/3385_en.pdf).

37 Cf. Human Rights Watch Briefing Paper, Croatia Returns Update, 13. May 2004, New York, at: <http://hrw.org/backgrounder/eca/croatia0504>.

38 Cf. Chairman of the Permanent Council, 488th meeting of the Permanent Council, Report by the Head of the OSCE Mission to Croatia, Speaking Points, 18 December 2003.

sion Peter Semneby underlined the necessity of revising and focusing the Mission's activities<sup>39</sup> and set out his goals for 2004. Semneby argued that the European Commission's *avis* will provide the Mission with the opportunity to overhaul its activities, to intensify its focus, and to set priorities for 2004 and 2005. In his view, after the initial phase of "problem diagnosis", which lasted from 1996 to 1999, and a second phase during which the Mission largely played the role of advisor to the government (from 2000 to 2003), a third phase in the Mission's history begun in 2004: Laws have been passed and government programmes initiated, but their implementation remains a critical matter. Consequently, Semneby stated, the Mission will alternate between a more active role in support of the government and specific monitoring activities on behalf of the EU. The Head of Mission already has experience in the closure of a mission from his time in Latvia: In December 2001, he recommended to the Permanent Council that the OSCE Mission's mandate in that country should be considered fulfilled. For this reason, many Croats saw his appointment as Head of Mission as a signal that the OSCE was getting ready to leave. But the OSCE remains in Croatia, and there are a considerable number of people arguing that now is precisely the time when the country needs to knuckle down to fulfil the EU's tough accession requirements. In developing and executing a post-*avis* strategy, the Head of Mission needs to demonstrate that he can prepare an effective and well-planned withdrawal of the Mission from Croatia. There can be no doubt that the Mission's co-operation with the EU has already set the standard for the whole of South-eastern Europe.

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39 "[...] focus on core issues where further external support is useful." Permanent Council, Presentation by Ambassador Peter Semneby, cited above (Note 3).



## The OSCE Mission in Macedonia 2002-2004: A Qualified Success<sup>1</sup>

The 2002 elections entailed a decisive change of direction for Macedonia. The victory of the Social Democratic Union of Macedonia (SDSM)<sup>2</sup> was predictable. If anything was surprising it was the scale of the victory.<sup>3</sup> However, the election was also contested by a new Albanian party, whose support was hard to estimate accurately in advance: the Democratic Union for Integration (DUI)<sup>4</sup>. The DUI was entirely lacking political experience, having only been formed in the spring. Nevertheless, the new party's success was not so very surprising given that it is the political wing of the former National Liberation Army (UCK/NLA<sup>5</sup>), which had instigated the conflict in 2001 above all in opposition to the established Albanian parties. The new party aimed to ensure that the promises made to the Albanians as a result of the conflict would be kept. This, paired with the frustration felt by the Albanian population at the corruption, nepotism, and petty politicking of the established parties, the DPA and the PDP<sup>6</sup>, whose leaders were even accused of having ties to organized crime, was decisive for the DUI's success.

The coalition negotiations between the SDSM and the DUI dragged on and on; this was the first public sign of the DUI's lack of experience. The party head and former leader of the UCK/NLA, Ali Ahmeti, whose parliamentary candidature was supported by most representatives of the international community (despite ethical misgivings in some cases), had announced prior to the negotiations which ministries were desired by the DUI. These included the Ministry of the Interior. It was no surprise that they were unsuccessful in realizing most of their hopes. After all, the larger partner in the coalition was the most politically experienced in the country. It also became

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1 The article covers the period up to August 2004.

2 Macedonian: Socijaldemokratski Sojuz na Makedonija.

3 Election results: the coalition "For Macedonia Together" (SDSM and partners): 41.62 per cent; the coalition of the VMRO-DPMNE and the Liberal Party: 25.06 per cent; DUI: 12.20 per cent; DPA: 5.36 per cent; PDP: 2.28 per cent; NDP: 2.22 per cent; Socialist Party of Macedonia: 2.18 per cent.

4 Macedonian: Demokratska Unija za Integracija, Albanian: Bashkimi Demokratik për Integrim.

5 Albanian: Ushtria Çlirimtare Kombëtare; the use of the same abbreviation (and logo) as the Kosovo Liberation Army (UCK/NLA) is no coincidence but a deliberate attempt to establish a connection.

6 Democratic Party of the Albanians (Macedonian: Demokratska Partija na Albancite, Albanian: Partia Demokratike Shqiptare) and the Party for Democratic Prosperity (Macedonian: Partija za Demokratski Prosperitet, Albanian: Partia e Prosperiteti Demokratike), the two "established" parties, which had been involved in shifting coalitions in the years following Macedonia's independence.

rapidly evident that the DUI lacked quality personnel in depth and would have trouble finding suitable candidates to fill the positions it was offered.

When a government finally was formed, it contained several surprises: For example, the Ministry for Local Self-Government, which is of central importance for the implementation of the Ohrid Agreement, was occupied by the SDSM. The DUI, it was revealed to general astonishment, had expressed no interest in the office.<sup>7</sup> The DUI received the ministries of Health, Transport, Justice, and Education, as well as the position of deputy prime minister, whose responsibilities include the Framework Agreement.

Throughout the process of forming a coalition government, the OSCE Mission remained remarkably passive. While the EU Special Representative and the US Embassy actively participated in and advised on the negotiations, the Mission restricted itself to observing events. In the early days of the new government, the Mission's contacts concentrated on the minister of the interior, Hari Kostov, and focused on ensuring the continuation of the ongoing police-support work. In general, the work of the Mission's police contingent was clearly prioritized, while it was the Mission's policy to refrain from participating in or influencing the political process.

#### *A New Government – Old Problems in New Guises*

The new government, upon which the praise of the international community was rather prematurely heaped, found itself faced with old problems in a new form: the Ohrid Framework Agreement.<sup>8</sup> The Framework Agreement came to be cited in support of every possible position: in favour of implementing reforms, postponing them, or interpreting them in idiosyncratic ways. The expression “*po ramkoven*”<sup>9</sup> started to be used like a swearword. A contributory factor is the traditional practice of replacing much of the civil service on the accession of a new government. In contrast to previous changes of government, this time the quota of Albanians was implemented more strictly. As ever here, party membership was more important than qualifications – a systemic feature of the Macedonian political system and by no means typical of the DUI alone. It is no surprise that this cynical approach soon led to frustration that transcended ethnic boundaries. What is surprising, however, is the

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7 In previous years, it had become an unwritten rule of Macedonian politics that this position would be offered to an Albanian as a gesture of goodwill.

8 The Framework Agreement signed in Ohrid on 13 August 2001 ended the armed conflict that had broken out in Macedonia in the spring of the same year. It was signed by the president, representatives of the (then) four leading political parties, and envoys of the EU and the USA, who acted as guarantors. Its implementation required a series of constitutional amendments and a considerable number of new laws. The deadline for implementation is the end of 2004.

9 The Macedonian translates roughly as “in compliance with the Framework Agreement”, used in a pejorative sense.

way the Agreement's guarantors, the EU and the USA in particular, encouraged this procedure behind the smokescreen of ethnic quotas.

Implementing the Framework Agreement was a matter of the highest priority for both the government and the parliament. Merely processing the large number of legislative amendments that needed to be made was too much for the less-than-efficient Macedonian institutions. The reforms required range from the introduction of new, optionally bilingual identity papers for minorities, via a general reform of the civil service and the judiciary and a comprehensive review of the armed forces, to the redefinition of territorial boundaries and the decentralization of the state. In a few intensive steps, which, despite inevitable delays, maintained a tempo that prioritized quantity over quality, more than 60 laws were amended or created from scratch (not to mention the vast number of implementing regulations and other stipulations). All this had to be tackled by a parliament 70 per cent of whose members were novices that had to be initiated into basic procedures.

The sheer shortage of time and a certain lack of ideas and co-ordination meant that Macedonia's greatest problem – the economic situation – was totally ignored. With the best will in the world, one cannot claim that the new government pursued a proactive economic policy in its first year. One year into the life of the government, the key departments of Economics, Finance, Justice, and Transport changed hands. However, rather than responding to the disastrous economic situation by replacing the incumbent party loyalists with experts, the coalition parties simply replaced one set of loyal party functionaries with another. As a result, the government could not discuss an expert report on the economic situation until the summer of 2004. The consequences have been deficits, falling production, high unemployment, and a lack of investment. A non-strike agreement with the largest trades unions' association that had been in place since the early days of Branko Crvenkovski's government did not last long, and protests at the terrible social conditions are the order of the day. According to recent statistics, one quarter of the Macedonian population live below the poverty line, while the unemployment rate is nearly 40 per cent.

As expected, the redistribution of property and control of the key sectors of the economy followed the established pattern: Enterprises that had come under the direct or indirect control of the former governing party, the VMRO-DPMNE<sup>10</sup>, in the previous four years (by whatever means, often not in line with the rule of law) were "reassigned". This was sometimes accomplished with the help of the workers or outsiders, who "spontaneously" occupied company premises and demanded that the management resign. The involvement of sections of the trade union movement completes the picture,

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10 Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity, Macedonian: Vnatsresna makedonska revolucionerna organizacija – Demokratska partija za makedonsko nacionalno edinstvo.

one that departs very little from the tired pattern of Macedonia's previous history.

Members of the former government were charged with numerous offences, which was (and continues to be) presented as part of the fight against corruption. To avoid accusations of bias, some of the most blatant attempts by the new government to furnish its members, their spouses, and family members with offices were also tackled, and a very few high-ranking officials were dismissed. However, that did not affect the fact that the majority of Macedonians believe their political parties are corrupt and that corruption continues to have a decisive effect on the business environment.<sup>11</sup>

Further criticism was voiced in August 2004 by the newly established State Commission on the Prevention of Corruption, which has complained that it does not have access to the majority of ministries (with the exception of the Ministry of the Interior) for its inquiries and other activities.<sup>12</sup>

The governing coalition itself was concerned with a completely different set of problems. It was not long before the differences between the ethnically Macedonian parties and the Albanian party in the coalition made their presence felt. On the one side were experienced and shrewd politicians, well versed in the ways of government and the parliament, on the other side was a collection of novices who still had to fuse together into a party and were having to learn to govern at the same time.

#### *DUI: Balancing Consolidation and Governing*

On entering government, the DUI was a none-too-closely knit association of three main interest groups, each of which had to cater for a portion of the party's electoral base.

These included, first of all, the faction known as the "diaspora group", consisting of Ahmeti's closest confidants, who were mostly long-term political *émigrés*, as was Ahmeti himself. This group demonstrated a tendency to isolate itself within the party – one factor being its members' far-left past – and often acted as an ideological elite. Within this group, decisions tended to be made on a person-to-person basis, and thus lacked transparency. Objections made by the party base were simply ignored and initially there was little control over the various local associations, each of which had its own power struggle. The group was dominated by people from the Kicevo region, the homeland of Ahmeti. Those who had contributed to the UCK's struggle from abroad received government positions. One such was Musa Xhaferi, who was made deputy prime minister, and Agron Buxhaku, the current Transport

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11 Cf. Transparency International Global Corruption Barometer 2003, at: [www.transparency.org/surveys/barometer/barometer2003.html](http://www.transparency.org/surveys/barometer/barometer2003.html).

12 Cf. press release from the National Commission for the Prevention of Corruption, 5 August 2004, reports in the media on 6 August 2004 (Dnevnik, Utrinski Vesnik, Vreme).

Minister. Others who had been actively involved in the conflict, including Ahmeti himself and his uncle and mentor Fazli Veliu, were happy to receive seats in parliament.

This group must be contrasted to the group known as the “politicians”. It consists of individuals who had belonged to Macedonia’s other Albanian parties before the DUI was founded or had played a role in society as independent intellectuals. They had some experience of the work of government and parliament and received several key positions as a result. The fact that they had not been involved in the conflict of 2001 meant they were accepted more readily by the Macedonian parties than those who had been high-ranking members of the UCK during the conflict. This group includes the Education Minister, Azis Pollozhani, and the Deputy Leader of the DUI, Teuta Arifi.

A third group, dubbed the “military wing”, consists of former military commanders of the UCK who later joined the DUI.<sup>13</sup> Their influence is based on the former regional brigades of the UCK, and their support is correspondingly strong in the villages and communities of the former conflict areas (although it tends to be largely restricted to these areas). This group was suspicious of the others, particularly at the start, and it remains the source of occasional internal opposition to Ahmeti’s policies. The party’s General Secretary, Gëzim Ostreni,<sup>14</sup> who enjoys considerable respect and has a strong personal profile, is this faction’s key representative in the party leadership.

Ahmeti is regularly attacked by influential warlords, who are particularly concerned to encourage him to keep the promises made in 2001. The party rank and file are above all unhappy because no jobs have been created, the standard of living in rural areas remains low, and only senior party officials benefiting from participation in government. The impression that an elite group has assembled around Ahmeti and has taken charge of the party is taking the shine off the myth of the rebel leader, who, furthermore, tends to make a weak impression at public appearances.

The appearance of several armed groups during 2003, some styling themselves members of the Albanian National Army (AKSh<sup>15</sup>), as well as a number of terrorist attacks, some involving loss of life,<sup>16</sup> underline the iden-

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13 A small number of former UCK commanders joined the DPA or the National Democratic Party (NDP), including Xhezair Shaqiri (Commander Hoxha), who is probably Ahmeti’s strongest rival.

14 Ostreni was an officer in the Yugoslav People’s Army and participated in the wars in Croatia and Bosnia as an officer in the Croatian army’s “Albanian Brigade”. He later played an important role in the Kosovar UCK/KLA and became Agim Ceku’s deputy and chief of staff of the Kosovo Protection Corps.

15 Albanian: *Armata Kombëtare Shqiptare*, a paramilitary underground organization that aims at the unification of all Albanian territory; it is the military arm of the Front for Albanian National Unity, Albanian: *Fronti për Bashkimi Kombëtar Shqiptar*. Several AKSh leaders were arrested in Albania and Germany in 2003.

16 On 27 December 2002, a bomb with a time fuse exploded in front of a high school in Kumanovo, killing one passer-by. By chance, the pupils were still in the school two minutes after the time when classes usually finish. If they had left as normal, there would have

tivity crisis the DUI faced in its early days. Who these groups were serving remains unclear to this day. What is certain, however, is that one of their goals was to undermine the DUI's claim to represent the interests of former UCK fighters. Another may have been to assert their right to certain areas of influence; in other words, to give a sign to the DUI leadership that there are some areas they cannot control. Significantly, the areas in question are not only centres of power of a number of warlords, but are also located on ancient smuggling routes, which are now no longer used "merely" for smuggling, but have become home to organized crime in its most modern form.<sup>17</sup> *Honi soit, qui mal y pense.*

After the extraordinary presidential election in spring 2004, the DUI started to appear more stable. This was reinforced by a change of mood among the population in the Albanian dominated communities, in which the Albanian language and culture are free to develop and largely free of state control.<sup>18</sup> Fears remain, however, that this cultural flowering is being achieved at the cost of the local Macedonian minority.<sup>19</sup>

The DUI leadership – and Ahmeti in particular – continues to appear isolated. The positive mood that currently prevails may be traced back to a desire to put on a display of unity as the world looks on during the upcoming local elections.

### *Change at the Top and Inner-Party Conflict*

On 26 February 2004, President Boris Trajkovski died when the plane carrying him crashed in Bosnia. He had six months of his presidency still to serve. This tragic accident was a shock not only for the Macedonian people, but above all for the political system. Many observers are sceptical as to whether

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been a bloodbath. On 5 March 2003, a mine exploded near the Serbian border, killing two Polish NATO soldiers and two of their local support staff. Not long afterwards, bombs were also detonated on the Belgrade-Skopje railway line; one group kidnapped two police officers, sparking a police operation involving all the international organizations based in the area. Finally, several mountain villages were declared "liberated" by a different group, which also elicited a response by the police.

- 17 During the 2001 conflict, at least one factory producing illegal drugs was destroyed in the village of Aracinovo near Skopje.
- 18 A clear indicator is the number of monuments that have recently been erected illegally to Albanian heroes. The most prominent example is probably the monument to Adem Jashari, the central hero and martyr of the Kosovar UCK, which has a prominent position in the mountains above Tetovo.
- 19 Recent years have seen a slow but steady stream of Macedonians emigrating from Tetovo in particular. The willingness of those who were driven out of the city as refugees during the conflict in 2001 to return also remains very low. Many still live in mass accommodation in the capital, Skopje. The mood is often determined by ill-advised symbolic acts. For instance, on the national holiday (August 2) in 2004, the Macedonian flag was not displayed in Tetovo. The impression of a city state within a state, where different rules apply, is hard to deny.

his successor, Branko Crvenkovski, is capable of fulfilling the role that Trajkovski filled so well of a national integrator possessing moral integrity.

Preparations for the presidential elections, which were planned for the autumn, had not yet properly begun and most candidates had not yet been chosen. Now it was necessary to act quickly. During this process, splits apparently emerged within the governing SDSM party, whose full implications will only become apparent in the coming months. One sign of this is the fact that Trifun Kostovski, a parliamentarian and successful businessman, who, although not affiliated to any party, was elected on the SDSM list, has come out in opposition to the SDSM leader Crvenovski, and is seeking to found a party of his own, at whose head he plans to stand for the office of mayor of Skopje. Until February 2004, he was being mooted as a possible presidential candidate of the government party.

The election<sup>20</sup> of Crvenkovski, the then prime minister and leader of the SDSM, as president in April 2004 meant that he had to give up both the positions. While the position of prime minister was filled by the Minister of the Interior, Hari Kostov (who succeeded in quickly forming a new government), the position of party leader remained vacant. The result of the referendum on decentralization, scheduled for 7 November, is bound to have an effect on the election of a new party leader, which insiders believe will be accomplished at a party conference before the end of the year. In the meantime, potential candidates will try to score political points – and where could they better do that than in the highly politicized decentralization debate?<sup>21</sup>

The VMRO-DPMNE opposition found it hard to cope with the loss of power at the end of 2002. Long-time party leader and former prime minister, Ljubco Georgievski, was replaced by Nikola Gruevski, who then wasted no time in trying to remove Georgievski loyalists from the centre of power. The subsequent internal conflict has escalated to the extent that the party now looks likely to split. In July 2004, close associates of Georgievski founded a new party, the VMRO-People's Party. The only goal of this faction, whose members are also members of the VMRO-DPMNE "parent party", is to bring down Gruevski and his group. There is considerable evidence that Georgievski enjoys significant support among the party rank and file and younger members, while Gruevski is favoured by the party leadership. If these factions should clash during the local elections, this is likely to benefit the

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20 The two rounds of voting, on 14 and 28 April 2004, were not without incident. A disputed ruling of the national election commission to accept no legal suits, as they would have not affected the final result, although technically correct, is seen by the opposition as proof of how the governing parties' power has made them arrogant, and is certainly a sign of political immaturity.

21 Strong criticism was also heard from the ranks of the SDSM itself with regard to the way compromise was reached in the decentralization debate, most recently from Tito Petkovski, who is almost certain to stand for the office of party leader. He is likely to be opposed by Finance Minister Nikola Popovski, Deputy Prime Minister Radmila Šekerinska, Foreign Minister Ilinka Mitreva, and, probably the candidate with the best chance of all, Defence Minister Vlado Buckovski.

SMDS, which is otherwise threatened with the loss of a not inconsiderable proportion of its supporters. The situation is made increasingly complicated by the fact that Dosta Dimovska, formerly Georgievski's closest associate and mentor, has also founded her own party, the Democratic-Republican Union of Macedonia.<sup>22</sup> This raises the number of VMRO-DPMNE splinter parties to five.

Although it was one of the losers in the last two elections, the only party displaying any kind of confidence is the Albanian DPA. In the last 18 months, the party's leader, Arbën Xhaferi, has repeatedly demanded a territorial solution to the ethnic question, thus falling back on the position that he had supported before his party joined the coalition government in 1998-2002. Nor has he held back in criticizing the implementation of the Ohrid Framework Agreement and the governing DUI party, which he accuses of failure. Although, for reasons that will be elucidated below, Macedonia's Albanian population can consider itself the winner in the decentralization debate, time will tell how much frustration has been generated with regard to the DUI's failure to keep its electoral promises. The DPA is gambling on this and expects to win in the forthcoming local elections.

#### *Focus of the OSCE Mission's Activities*

Since the OSCE Mission's work was defined in the Ohrid Framework Agreement, certain details of emphasis may have changed, but its main focus remains the same. The Mission's police contingent, the OSCE Police Development Unit (PDU), retains a very prominent position.

Following the completion of the process of restoring the police presence in the former conflict zones, the training of police officers returned to the top of the agenda. This includes the continuation of the training programme at the police academy in Skopje: a crash course to prepare new police officers for deployment in the former conflict areas, which is attended by recruits from ethnic minorities (mostly but not only Albanians) and a contingent of ethnic Macedonians. Another component comprises training and education measures designed to familiarize the Macedonian police with the concept of community-based policing.

In addition, regular discussions are held in the community by "citizen advisory groups", a concept that has been introduced as a confidence-building measure. These aim to encourage the involvement of the population in the work of the police, and in discussing issues such as amnesties for former fighters, freedom of movement, and key aspects of policework. This has proven particularly difficult and the cultural advisability of such initiatives remains questionable: In a largely traditional rural (i.e. patriarchal and hierarchical) environment, to organize discussion groups of this kind, in which

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22 Macedonian: Demokratsko Republikanska Unija na Makedonija.



citizens, local administrators, and the police sit down together to discuss priorities, is audacious to say the least. It would certainly be interesting to thoroughly examine the effectiveness of such sociological experiments. What is certain is the need to subject the police to some kind of democratization process and to achieve greater citizen participation. However, in a region whose citizens have undergone decades of communist pseudo-participation, and where the holding of meaningless meetings was an established ritual, a different approach is called for. Furthermore, the society is still so politicized that there is a danger of any such discussions being taken over by interest groups.

The OSCE is withdrawing from the process step by step, and the first of the citizen advisory groups passed into local control in the summer of 2004. Whether they represent a sustainable means of ensuring intercommunal communication, only time will tell.

In addition, the establishment on 15 December 2003 of “Proxima”, the EU police mission in Macedonia, raises the question of whether it is sensible to retain a police contingent within the OSCE Mission, or whether its existence merely adds to the confusion that reigns in Macedonia over the tasks and mandates of the various international organizations.

Several programmes have been introduced to support reforms in the areas of rule of law and justice. Among the various institutions supported by the OSCE – and not only in Macedonia – the office of the ombudsman plays a central role. The Framework Agreement calls for this institution to be strengthened, something that is only possible with additional help in the form of training programmes. The OSCE is involved in establishing six regional offices.

A further key focus of the Mission’s work is the modernization of the court system, which aims to create a more responsive and citizen-friendly judiciary by improving communication and transparency in the courts. The Mission’s activities here include monitoring trials, working to improve the provision of legal advice in remote areas, and supporting NGOs that are active in this area.

One topic that is of particular concern in Macedonia is efforts to combat trafficking in women. Macedonia is not only a transit country but also a market for forced prostitution. The embroilment of politics and the state apparatus with smuggling rings together with the general taboo on raising the topic of prostitution have, in the past, made it easier for this sector to become established. The Mission was already active in this area before the 2001 conflict, and this work can now be expanded, thanks, in particular, to the establishment by the government of a state commission. In Macedonia, as in other countries, the OSCE can make a contribution by providing training programmes for government employees and NGOs.

Two further key problems facing Macedonian politics and society were central to the OSCE’s work in recent years: the crisis in education and de-

centralization. The Mission has undertaken a variety of activities, with varying degrees of success. Nevertheless, here, too, there was no sustained political engagement.

### *The Crisis in Education*

The conflict in 2001 caused a dramatic decline in the state of Macedonia's education system, parts of which were already in a disastrous condition. Starting in the towns of Kumanovo and Tetovo, then later also in several rural areas, "mixed"<sup>23</sup> schools were broken up and one part – either the Macedonian or the Albanian – moved into a separate building. Both sides justified this with reference to security problems. The developments were triggered by physical assaults on teachers or pupils.

It has not yet been possible to reintegrate the schools. There are many reasons for this, only some of which are related to the education system. In practical terms, both sides could live with the separation, given that the "half" that is left behind has an entire school building to dispose of. In fact, however, the separation is an attempt to use the education system to divide the affected towns along ethnic lines. This tendency is being encouraged by extremist groups, who find parents and teachers easy to manipulate – especially by appealing to parents' concern for the safety of their children.

Neither the Ministry of Education nor other actors, including the OSCE Mission, have yet found an answer to this problem. Each time a solution appears to be a real possibility, new demands are raised. A further obstacle, which particularly applies to the region around Tetovo, is the identity of radical and criminal elements. Only a situation of extreme insecurity allows such people to be welcomed as saviours. Political rivalries are a third factor, and one that should not be underestimated. As long as this situation is maintained, the government and the parties that make up the coalition are constantly confronted with the evidence of their failure. This weakens them while strengthening local rebels. This applies to the SDMS and the DUI, to say nothing of the opposition parties. The real losers in this cynical game are the schoolchildren. Since 2001, teaching has been significantly affected by the exceptional circumstances, and there have been cuts in both the number of teaching hours and in the content of curricula. The decline in quality is already easy to observe. Children from these areas face long-term disadvantages.

There have so far been no serious attempts to ensure that Macedonian and Albanian children attend the same school classes. To stop the current trend from leading to complete segregation in education it will be necessary

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23 Macedonian schools are not truly mixed. Parallel Macedonian- and Albanian-language streams coexist in the same school building. Most schools apply a system of shifts, and pupils in the different streams only meet at shift changes.

to overcome ethnic divisions and to develop new models of schooling. This is a matter for the Education Ministry and the universities.

A further problem is the government's declaration of intention to establish a new Albanian-language state university in Tetovo in autumn 2004. What appears on the surface as a step in the right direction has hidden problems. For one, Tetovo is already home to the private South East European University (SEEU). This institution, which was founded in 2001 and to which the OSCE made a major contribution,<sup>24</sup> has proven itself a unique model of success in the region. It must be contrasted with the unofficial "Tetovo University" (TU), which is led in part by political firebrands and has become entangled with criminal structures<sup>25</sup> in Tetovo. The government has repeatedly asserted that the founding of the new institution does not amount to recognizing the "TU" by the back door. If Skopje implements its plans, however, Tetovo, a town with just under 100,000 inhabitants, would have three universities, which would be competing rather than co-operating. The available academic potential is simply not sufficient to provide quality Albanian-language teaching at three institutions – especially since some of the departments in the new university already exist within the SEEU. It would have been far more sensible for the state to show its interest in the multilingual SEEU by contributing to its funding or even by turning it into a state university. The current situation will only add to the confusion, leaving the education system a hostage to politics. The losers here are once again the young – in this case the ethnic Albanians. In combination with a system of grammar schools whose standards are, for a number of reasons, not very high, the state is only serving to increase the potential for conflict.

The Bulgarian OSCE Chairmanship has declared the problem of education to be the Mission's priority for 2004. In contrast to previous years, however, little has so far taken place to back up these words with deeds. This is one area where the OSCE could actively bring more political weight to bear rather than hoping for change to come from below and relying solely on the strategy of supporting grass-roots efforts. As vital as it is to develop civil society capacities in this area, there is currently an urgent need for rapid solutions.

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24 For more details of the SEEU, see: Max van der Stoep, The South East European University in Macedonia, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 181-185.

25 One of the most spectacular events of 2003 was the illegal occupation of a tobacco factory in Tetovo and its conversion into premises for "Tetovo University". The mastermind behind the operation, Izahir Samiu, is alleged to be behind most violent appropriations of commercial property in Tetovo. He has been released from prison on medical grounds.

The major topic of 2004 bar none is the last significant obstacle that stands in the way of implementing the Ohrid Framework Agreement: The reform of local self government. The first stage in this process will be to reduce the number of municipalities from the current 123 to 80 (as the draft law stipulates). In the second place, the new municipalities are to be given responsibility in areas including education and health. Third, secure means of financing these plans must be provided. And fourth – and most controversially – it will be necessary to decide whether the municipal boundaries should be drawn up along ethnic lines or according to objective criteria dictated by local circumstances. This process is being influenced behind the scenes by the Albanian desire for greater autonomy, on the one hand, and Macedonians' fear of federalization and the eventual break-up of the country, on the other.

The reform package comprises four major laws in particular, whose passing would be followed by the amendment or creation from scratch of a large number of additional laws and implementing regulations. The first law, concerning the competencies of the newly created municipalities, was passed in February 2004. After heated debate, the other three laws – the Law on Financing, the Law on the Redrawing of Municipal Boundaries, and the Law on the Capital City, Skopje – were passed in the summer by the government's majority.

In a classic failure of top-down government, the coalition partners negotiated for months over the question of territorial boundaries before announcing they had reached a compromise. The agreement was for two villages to be incorporated into Skopje, giving the capital an Albanian population of just over 20 per cent. According to the Framework Agreement, this would require Albanian to be declared the city's second official language. The compromise also proposed the creation of a new municipality with an Albanian majority in Struga, in the southwest of the country. Negotiations over the third object of Albanian demands, the municipality of Kicevo, were left for later. The discussions were accompanied by protests and, in July, the situation in Struga escalated when SDSM ministers were attacked in the local party office. A broad coalition was formed to oppose the reform proposals, with the lively participation of civil society organizations. In many Macedonian municipalities, referenda were held and showed a majority were against the plans. A petition collected enough signatures to force a nationwide referendum to be held on 7 November. Not only will opposition success in the referendum block the reforms, Prime Minister Kostov has announced that he will step down if he loses. Because of the referendum, local elections have been postponed until spring 2005. Yet there is also controversy surrounding this, as uncertainty remains as to which laws will apply to the elections.

Observing this debate, it is hard to avoid concluding that in some cases decisions are indeed made according to ethnic criteria in order to satisfy the

political appetites of the various communities. It has become apparent that failing to run an information campaign or to encourage inclusive public discussions on the reform plans helped in predictable ways to create and strengthen an opposition movement. The government has obviously not learned from earlier mistakes, e.g. in publicizing the Ohrid Framework Agreement.

In addition, a lack of co-ordination is also responsible for discrepancies in the reform plans. The Ministry for Local Self-Government – one of the smallest government departments – was left to perform this task by itself. Predictably it was incapable of co-ordinating the work of so many institutions and foreign experts in a way that would provide either those actively involved in Macedonian politics or the public as a whole with a clear picture of what the reforms were to entail.

The OSCE Mission, which had made decentralization a central theme long before the 2001 conflict, has organized pilot projects and discussions in attempts to highlight the extent of the reforms and to improve the understanding of the various decision makers involved. At the same time, it has tried to involve those who will be affected by the decisions more effectively in the process, e.g. by granting a greater role for local mayors in the reform discussions. The Mission has also held training programmes for local administrations, creating appropriate materials, and has established links to share ideas with other highly decentralized countries, such as Norway and Germany. The approach being followed stresses strengthening co-operation and communication within municipal administrations, but – and this is a novelty for Macedonia – it equally requires co-operation between local authorities as a precondition for successful local political practice. Even though many of these projects have been greeted enthusiastically, their success or failure depends in the last instance on the major political decisions that are made. This is another area where the OSCE should have been active at the highest political level, especially given the extraordinary passivity displayed during the debate and negotiations by other international organizations, such as the EU, which did little more than acknowledge their support for decentralization in the most vague terms.

### *Conclusion*

Considering how things stood in 2001 at the start of the process, Macedonia has made undeniable progress in implementing the Ohrid Framework Agreement. However, one of the Agreement's most important elements – one that is essential for the continued stability of the country – namely decentralization, is still very far from being completed, and its success is by no means assured.

As well as a deep economic crisis, there is also a crisis of confidence in the Macedonian political establishment. And this could be a cause of further unrest. The major parties are in turmoil and plagued by internal power struggles. As a consequence, it is hard to overestimate the potential for conflict in the upcoming local elections.

Macedonia's application to be accepted as a candidate for EU membership, which was made on 22 March is an important step, even if many critics see it as premature. The ongoing involvement of the EU can certainly be a stabilizing factor if it is guided by the insight that Macedonia is not capable of mastering alone the challenges it faces. If it is granted candidate status in 2005, it could be kept out of the impending debate on the status of Kosovo, with all the conflict potential this entails. This would also contribute to stabilization.

However, owing to the remarkably bad management of the decentralization debate, Macedonia is currently sliding into a political crisis that could be deeper than most representatives of the international community on the ground want to admit. In retrospect, their resolute public opposition to the referendum, based on the hypocritical argument that decentralization at this late stage would threaten to jeopardize the implementation of the Ohrid Framework Agreement and would cause problems for Macedonia's European integration, appears to have backfired by provoking a defiant reaction. The most recent surveys indicate that a majority is in favour of the referendum. Already, an armed Albanian group has appeared in a village near Skopje;<sup>26</sup> the government is wobbling; alternatives are few and far between. All the signs point to a crisis, and proposed solutions are conspicuous by their absence. The policies of the international community, which focus on stabilization, urgently need to be reoriented on crisis prevention – at least in the short term.

In the heated debate on decentralization, it would also be advisable not to give in to pressure from the DUI, but rather to put the two potentially explosive issues – namely the new flag and coat of arms and the law on official languages – on ice for a while.

As far as the role of the OSCE Mission is concerned, it should be noted that, in areas such as decentralization, judicial reform, and human rights, successes have been registered – and these over a significant period of time. With regard to these questions, the OSCE is valued for its expertise and is seen as an organization that is committed to the cause of the ordinary people. The Mission's Police Development Unit continues to tie up the largest number of personnel and the most resources. Consideration nevertheless needs to be made of whether the OSCE and the EU should work out a more rational division of labour in this area to avoid duplication.

It would also be desirable for the OSCE to become politically active once again, above all in areas where it has something to offer, i.e. the support

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26 Cf. *Vreme*, 29 October 2004, reported by the OSCE on the same day.

it can provide through institutions such as the High Commissioner on National Minorities and ODHIR.

The OSCE would also be advised to acknowledge failure in a number of undertakings. For example, the attempt to transform the state television company into a public service broadcaster not under direct government control was not only a costly affair, but must also be considered a failure. Little blame for this can be laid at the door of the OSCE Mission. The fault rather lay with the government and its unwillingness to relax its hold on this key instrument of power. There is little sense in continuing the current programmes. They may serve to provide technical training to staff, but they do not contribute to achieving the reform targets.

A final point concerns staff numbers. It is hard to see why the Mission's strength has remained at the same levels – some 140 international members and 250 local staff – since 2002. A reduction in numbers is required merely to maintain credibility. However, the view that this could be done by simply closing the field offices in Kumanovo and Tetovo should be strongly warned against. The difficulties associated with implementing the decentralization process that are expected for the end of 2004 not only justify a presence in the field – they make one appear indispensable. Sending suitably trained and experienced staff to the affected regions could only help matters.





## The OSCE Mission to Serbia and Montenegro

### *Challenges for the Rule of Law*

The assassination of Serbia's Prime Minister Zoran Djindjic in March 2003 epitomized the current difficulties hampering the democratic transition in Serbia. In March 2004, the country was once again shaken by the violence that erupted in Kosovo. Despite the restraint shown by the Serbian government, fighting spilled over into the cities of Belgrade, Nis and Novi Sad. Both events showed the fragility of regional stability and the need for the international community to intensify the fight against organized crime, support democratic reforms, and continue to engage in dialogue with all Serbia's communities.

These challenges were recognized by the OSCE's Dutch Chairmanship of 2003 and the Bulgarian Chairmanship of 2004, under which greater emphasis was placed on strengthening the institutions that deal with the fight against organized crime and corruption, securing borders, and combating terrorism.

Prior to Djindjic's murder, great progress had been achieved by the political leaders of Serbia and Montenegro in addressing an important political issue: the constitutional relationship between the two republics. On 4 February 2003, the Assembly of the Federal Republic of Yugoslavia (FRY) adopted the Constitutional Charter of the State Union of Serbia and Montenegro. This placed the relationship between the two constituent republics on a new political foundation. Subsequently the "OSCE Mission to the Federal Republic of Yugoslavia" was renamed the "OSCE Mission to Serbia and Montenegro" by the OSCE Permanent Council in Vienna.

In the past three years, the Mission has worked closely with the government providing advice and making suggestions on framing new legislation and building institutions. The Mission co-operates with the governments and institutions of both constituent republics. It focuses on the enhancement of existing institutions, the adoption of laws and procedures in line with international standards, and their implementation. Its activities also reach out to non-governmental organizations, civil society, local government, and young people. Since it was established, the Mission has endeavoured to provide assistance and expertise in accordance with its mandate and has succeeded in bringing together government representatives, NGOs, and other interested parties to discuss and agree on common projects and plans.

The Mission enhances the efforts of its various partners in the following areas: reform of the judiciary and police; training of public administrators at central and local levels; strengthening of the parliamentary dimension; sup-

port for the creation of a national ombudsman/peoples advocate institution; support for governmental programmes to combat discrimination against vulnerable groups, including national minorities; the fight against trafficking in human beings; media transparency and the transformation of the national radio and television stations; the establishment of an environment ministry and the drafting of environmental legislation; and assisting the State Union of Serbia and Montenegro in implementing its commitments relating to confidence- and security-building measures (CSBMs).

The Mission is also tasked, as are other missions in the region, with advising the OSCE Chairman-in-Office, the OSCE Secretary General, and the Permanent Council on the political situation and developments in Serbia and Montenegro, particularly to the extent that these relate to the stability of the country, electoral and election monitoring issues, and the overall implementation of the Mission's mandate.

### *General Overview*

The political establishment of Serbia and Montenegro was shaken by the assassination of Prime Minister Djindjic by unknown assailants as he was leaving his office in downtown Belgrade. A state of emergency was imposed immediately, which lasted for 42 days and led to hundreds of arrests. The Mission monitored the situation carefully and reminded the government of the need to respect basic human rights. Six men are currently on trial,<sup>1</sup> including former members of a special police unit.

Credit can be given to the OSCE and its partners for their actions during the past two difficult years. The assassination of the Serbian prime minister did not lead to the collapse of the democratic transition. The events in Kosovo did not result in a renewal of violence in southern Serbia, where the ethnic Albanian and Serbian communities have been able to continue to co-exist peacefully. Despite the change of government, reforms are being implemented and the work of the Mission continues.

Djindjic's murder came on top of the many problems that the country is already facing. These relate to both internal governance and the regional political context, comprising matters such as the economic situation; the maintenance of law and order, including the fight against organized crime and corruption; and the situation in southern Serbia and Kosovo

In Serbia itself, reform efforts were overshadowed by highly publicized corruption scandals and growing public opposition due to the decline in living standards.

Internal dissent within the coalition of the ruling democratic parties over policies and personalities eventually caused the government to collapse in late 2003, leading to new parliamentary elections in December of that year.

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<sup>1</sup> The article covers the period up to October 2004.

Public disaffection with the democratic parties was reflected in the results of the election, with the Serbian Radical Party gaining the most seats in parliament. The democratic parties received 65 per cent of the popular vote but remain deeply divided. Although a minority government under the leadership of Vojislav Kostunica was formed in February 2004, it has to rely on the tacit parliamentary support of the Socialist Party of Slobodan Milosevic. The democratic pro-European side received a boost when Democratic Party leader Boris Tadic beat his Radical Party challenger in the second round of the presidential elections on 27 June. However, the results of the local elections in September showed that nationalist anti-Europeans remain a powerful force on the Serbian political scene.

The developments in Kosovo also had an impact. The widespread violence in the province in March 2004 led to a hardening of positions in Serbian politics. There were several demonstrations that led to the burning of mosques in Belgrade and Nis by mobs of youths. The future status of Kosovo sporadically dominates political discussions among Serbian political parties, among whom there is widespread consensus that some kind of decentralization should be established in Kosovo. A plan to this effect has been adopted unanimously by both the Serbian and the State Union parliaments. Despite the difficult political environment, the new government is attempting to implement critical reforms at all levels, especially in the judiciary.

### *Rule of Law*

In the past two years, efforts have increased in the struggle against organized crime. Many of the reforms have also impacted on the issue of indicted war criminals and the fight against corruption.

The Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime created several institutions dedicated to the suppression of organized crime. These are a special prosecutor's office; a special law enforcement service, whose duties are to act upon requests of the special prosecutor's office; a special chamber of the District Court in Belgrade; and a special detention unit.

Thousands of persons suspected of being involved in organized crime were arrested, and a number of indictments brought by the special prosecutor following investigations. The first trials against participants in organized crime have commenced, including the trial of the alleged perpetrators of the assassination of Prime Minister Djindjic.

The Mission is taking the lead in co-ordinating a witness-protection programme, including the development of legislation and assistance in the implementation phase. This will make it more likely that high-quality first-hand evidence can be presented in important trials. The Mission closely monitors the trials and checks whether the judiciary complies with international standards.

An independent judiciary is a vital aspect of the ongoing reforms. The Serbian government has adopted a number of reforms to strengthen the High Judicial Council, which is responsible for the appointment of judges. A number of posts are due to be filled soon, which will be a first indication that direct political intervention can now be avoided.

In July 2003, the Serbian parliament adopted the Law on Organization and Jurisdiction of Government Authorities in Prosecuting Perpetrators of War Crimes, which established specialized judicial and police authorities for the prosecution of war crimes. The OSCE Mission established a team of international experts through the International Bar Association (IBA), who, together with representatives of the Council of Europe, provided substantive amendments to the initial draft presented by the Serbian Ministry of Justice. Most of the suggestions were inserted in the law as finally adopted. However, there is still a long way to go not only with regard to the creation of an effective witness protection programme, but also to strengthen the prosecutor's office so that trials meet international standards.

In general, co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) remains below expectations. The issue of surrendering several high-profile indictees remains extremely politically sensitive.

The continued existence of military courts in both Serbia and Montenegro, in violation of the State Union constitution, remains an obstacle to strengthening the rule of law.

On 21 May 2004, the Mission signed a memorandum of understanding with the Serbian Ministry of Justice, creating a framework for the further co-operation between the OSCE Mission and the ministry.

### *Legislative Reform*

The process of legislative reform has made a number of advances in the past three years but, here too, much remains to be done.

This is especially true regarding the adoption of new constitutions in line with the Framework Agreement for Serbia and Montenegro, brokered by the European Union and adopted by the two republics in February 2003. Serbia is now preparing a draft constitution, which it hopes to adopt by the end of 2004. Other areas in need of reforms are the Public Information Law and laws and regulations concerning the democratic control of the armed forces and the security sector. Both republics adopted new broadcasting laws, which have faced a number of procedural problems in the implementation phase. In Serbia especially this has held up the transformation of the state broadcaster into a self-sustaining public broadcaster. As mentioned above, the Mission acts in a supportive and advisory capacity in the creation and revision of legislation. This is made possible by the Mission's experts in fields ranging from judicial reform to media reform, who are in a position to provide information regarding best-practices within their given field. For example, during

the drafting of the Law on the Protection of Minorities, the Mission provided the ministry with advice on how the legislation could best be improved and on the various sensitive issues that should be taken into account. The result is an exceedingly comprehensive piece of legislation that conforms with the highest standards and will invariably contribute to both minority representation and stability within the country.

We believe the Mission's success, as seen in areas such as the adoption of better legislation, is founded upon two things: first, its possession of the necessary expertise and, second, its respect for the democratic mandate of the government and its ministers.

In the interest of protecting the rights of all citizens, the Mission assisted the governments of the two republics in drafting legislation to establish the office of the ombudsman. In Serbia, a law to this effect is currently being drafted. In both Vojvodina and Montenegro, appointments have been made and, with the help of the international community, the various offices have been provided with financial and technical resources. The ombudsman will be an additional instrument that will enable the citizens to hold their governments to account.

### *Policing*

Assistance in the creation of a modern and accountable police force is considered by the Mission to be one of the key elements of institutional reform. A representative and competent police force is vital for generating respect for government authority more generally.

The OSCE's Charter for European Security signed in Istanbul in November 1999 guarantees the participating States' support for the OSCE's role in civilian police activities. Furthermore, considering the diverse ethnic make-up of the region and the fact that remnants of prejudices with their origins in the actions of the previous regime may still exist, it is important that all sections of society feel represented and protected by the new democratic police forces. In this regard, the Mission, through its Law Enforcement Department, has created "priority areas" focused on the re-training of police with emphasis upon human rights, policing principles, and ethics. International experts have conducted training courses in the police academies of both republics, focusing much of their work on training police instructors in order to pass on best practices and the latest skills. In addition, internal oversight has been strengthened through training and technical assistance to the Inspector General's office in order to reduce the incidence of police abuse and corruption.

## *Southern Serbia*

The Mission is highly positive about the work undertaken in southern Serbia. Despite the assassination of the Serbian prime minister in Belgrade and the unrest in Kosovo, the situation in this region remained calm.

The Mission and its local partners became involved with this region immediately after the signing, on 21 May 2001, of the peace agreement brokered by Nebojsa Covic, the then deputy prime minister and head of the Serbian government's Co-ordination Body for Presevo, Bujanovac, and Medvedja. This brought an end to a spring of violence in this region. The Mission appointed a Southern Serbia Co-ordinator in order to further concentrate its activities.

The development of multi-ethnic police training is fundamental to maintaining security in southern Serbian society. The Mission is conducting a multi-ethnic police-training project, aimed specifically at southern Serbia. More than 600 police cadets have gone through the series of training courses, raising the number of police officers from minority groups.

Regarding the media situation in southern Serbia, the Mission has been conducting a series of training programmes for journalists from various media organizations aimed at improving their journalistic, technical, and managerial skills.

Greater focus is now being placed on economic development in the region in order to improve the socio-economic situation.

The Mission instigated a round table focusing on how to positively respond to the socio-economic challenges facing the region around the towns of Presevo, Bujanovac, and Medvedja. The event was co-organized by then Deputy Prime Minister Covic and opened by the Head of the OSCE Mission, Ambassador Maurizio Massari. Participants included municipal mayors and senior civil servants, and representatives of government ministries, international organizations, and the private sector.

Small-business development is a priority for the region, and the Mission works with key partners such as the national Agency for Small and Medium-Sized Enterprises Development and the International Labour Organization to ensure that access to business-development services is available to all communities of southern Serbia.

## *Montenegro*

The OSCE played a role in the Republic of Montenegro even before the formation of the OSCE Mission to the FRY; the OSCE presence in Montenegro had been established on an *ad hoc* basis with the opening of an ODIHR office in 1999. On 15 November 2001, the OSCE Permanent Council in Vienna decided that responsibility for the office in Podgorica was to be transferred from ODIHR to the OSCE Mission to the FRY, now the Mission to Serbia

and Montenegro. The Podgorica office has been in operation since 1 January 2002 as a part of the Mission, but is in direct daily contact with the Montenegrin authorities and can pursue initiatives tailor-made for that republic.

On 14 March 2002, an agreement regarding the future status of Serbia-Montenegro relations was finally brokered by the EU's High Representative for the Common Foreign and Security Policy (CFSP), Javier Solana, and signed by all the key political players. The two republics ratified the agreement in early 2003. The agreement gives both republics considerable autonomy, including economic autonomy. A number of areas, including foreign affairs and defence, remain common concerns and are to be the responsibility of the Ministerial Council of the State Union of Serbia and Montenegro.

Montenegro, like Serbia, is attempting to implement political and economic reforms under difficult circumstances. After more than 18 months, Montenegro, like Serbia, still has not adopted a new constitution as required by the Constitutional Charter. Political rivalries between the ruling party and the opposition led to a boycott of parliament by the opposition Socialist People's Party (SNP), which began in May 2003. The OSCE Mission has been actively engaged with all political parties, trying to facilitate a solution to the parliamentary impasse.

The political discourse continues to avoid the issue of Montenegro's future status. With the ratification of the Belgrade Agreement in February 2003 by the parliaments of both republics, Montenegro cannot stage a referendum on its independence before February 2006.

The OSCE holds a unique and constructive position regarding the question of Montenegro's status. The Mission endeavours to support the democratization process through the process of institution building. This was demonstrated by the personal commitment shown by the Head of Mission, who succeeded in persuading the Montenegrin opposition parties to return to parliament so that political debates would once more be held within political institutions.

On the whole, we believe that the Mission is having a stabilizing effect upon political developments in Serbia and Montenegro. Its efforts are based on the OSCE's functions in the areas of conflict prevention and preventive diplomacy. However, the role and activities of the Mission are also characterized by co-operation with the Serbian and Montenegrin authorities at all levels and the co-ordination of projects and initiatives with the governments.

#### *Special Activities of the Mission – The Departments*

In addition to the Mission's general political activities, its various departments are engaged in a number of projects in specific fields under its overall mandate. These activities are aimed at reforming and reinforcing democratic institutions in key sectors of political and public life in order to strengthen the

rule of law, promote the values of civil society and bring the country closer to European standards. At the same time, the activities and projects are designed and implemented in full co-operation with the relevant local authorities and NGOs, giving the Mission an integral role in the domestic reform process.

This approach has been exemplified in the activities of the *Law Enforcement Department*. Its major achievements, as mentioned earlier, have been the establishment of multi-ethnic police forces in the southern Serbian municipalities of Presevo, Medvedja, and Bujanovac and its commitment to supporting police reform in the country as a whole. The long-term strategy for police reform, as part of the goal of creating a democratic and accountable police service in Serbia and Montenegro, has been one of the Mission's core activities since December 2001, when the OSCE was named the co-ordinator of international support for this reform process. There are seven priority areas for Serbia and Montenegro: 1. Internal control, 2. The fight against organized crime, 3. Police training and development, 4. Community policing, 5. Security and socio-economic development in southern Serbia, 6. Training and support for border police, and 7. Modernizing forensics. The aim is to enhance the structural capacity and professional integrity of the police service, thus fostering sustainable reforms and bringing the police service up to international standards.

Similarly, the *Rule of Law/Human Rights Department* has been directly involved in promoting respect for the law in the State Union of Serbia and Montenegro and supporting respect for human rights and fundamental freedoms. This department has developed a programme for ongoing education and retraining of judges, prosecutors, and lawyers.

Such activities became even more important following the assassination of Serbian Prime Minister Djindjic, which focused the Mission's attention on the fight against organized crime. The government passed a Law on the Suppression of Organized Crime and added an entire chapter on the fight against organized crime to the criminal code. The Mission is now assisting in the development of legislation on witness protection and is supporting the prosecutor's office. Planning is co-ordinated with the Council of Europe and other international organizations as well as the US Department of Justice.

The department's anti-corruption activities have also become particularly relevant following the Serbian government's December 2001 decision to establish the Council on Anti-Corruption, which the Head of the Mission was asked to join. The OSCE is the only international organization represented on the Council. In working with the Council and other international organizations, the department continues to take the lead in pushing forward economic reforms in areas such as taxation, privatization, and anti-corruption.

In accordance with the recommendations of a round table on the establishment of an ombudsman institution in the State Union, the Mission, the Serbian government, and the Montenegrin government agreed upon a programme that provides for legislative support, practical expert advice from



existing institutions, study trips, and a public awareness campaign. The ombudsmen for Vojvodina and Montenegro have been appointed and the Mission has provided expertise and technical assistance so that they can take up their work.

A programme for penal reform has also started. Over 400 prison staff have received basic human rights training, focusing on their professional capabilities. A team of ten trainers have received “training for trainers” and are using their new skills in OSCE sponsored programmes. The Mission is also supporting the public debate on the Council of Europe’s review of the Law on the Execution of Criminal Sanctions for the Serbian Ministry of Justice.

The main focus of the *Democratization Department* is capacity building within state structures so as to create a foundation for a system of democratic government that is more responsive to its citizens and to civil society. Parliamentary reform is an important focus of the department’s activities. The department also has a number of key human rights functions, including the establishment of mechanisms to protect vulnerable groups such as minorities, refugees and internally displaced persons (IDPs), women, and the victims of trafficking in human beings.

In April 2004, the department co-organized the sixth round table under the auspices of the Stability Pact for South Eastern Europe’s Task Force on Trafficking in Human Beings. It produced a set of recommendations to specifically target the trafficking of children, which is an increasingly prominent aspect of organized crime in the region.

In the area of refugees, progress has been made through the adoption of “common principles” and a joint action plan co-ordinated between the three OSCE Missions to Croatia, Bosnia and Herzegovina, and Serbia and Montenegro. A regional legal assistance programme has been set up to resolve difficulties pertaining to property rights, statutory rights, and acquired rights. Through its membership of the IDP working group established by the UNHCR, the Mission is also advocating legislative reform that would incorporate UN principles into domestic laws and practices.

Various initiatives have also been launched by the Democratization Department aimed at furthering the role and status of women in politics and in the workplace and establishing national gender protection and promotion mechanisms. This has primarily been done within the context of the Gender Task Force Action Plan of the Stability Pact for South Eastern Europe, which is just one example of the co-operation between the Mission and the Stability Pact.

As recognized both domestically and by international observers, the role of the parliaments is one of the weaknesses of the State Union’s democracy. The Mission therefore attaches particular importance to its parliamentary support programme, which has helped strengthen the democratic functioning and institutional and human capacities of parliamentary institutions and political parties at State Union, republic, and provincial levels. Programme ac-

tivities include the provision of regulatory and training assistance to the offices of the parliamentary speakers, to members of parliament and parliamentary staff through seminars, networking with other parliamentary institutions, and various other *ad hoc* activities.

The media landscape in the State Union of Serbia and Montenegro is thriving, with hundreds of radio and TV stations and many thousands of printed titles. However, high levels of professionalism are not necessarily found throughout the vibrant media sector. Despite legislative changes, the state-owned radio and TV company, RTS, remains in the hands of the government. On the other hand, a number of independent private media outlets continue to provide critical and impartial information and promote freedom of expression. They have created an active and highly competent body of professional and democratically committed journalists. After the October 2000 changes, the main task of the reforms in the media sector has been to introduce “normality and international accepted standards” in the functioning of the media, while simultaneously preserving the achievements of independent journalism and introducing professionalism and impartiality in the public sector.

With these aims in mind, the Mission’s *Media Department* has been assisting relevant government authorities and journalists’ associations with legal advice on new broadcasting and public information legislation. The Mission supported the adoption of a new broadcasting law in both Serbia and Montenegro, which created independent regulatory agencies for broadcasting and telecommunications in order to ensure transparent and fair licensing procedures for private electronic media. Legal and technical support is also being provided in other areas, including the drafting of legislation relating to freedom of information, advertising standards, and a review of media-related provisions in the civil and penal codes. These reforms should eliminate anachronisms dating from the period of authoritarian government.

The new independent regulatory body in Serbia, the Broadcasting Council, has been handicapped since its inception by irregularities in the appointment of some of its members. This prevented further reforms at RTS and led to the suspension of assistance from the international community for the broadcaster’s transformation. The Media Department has actively engaged the new government in order to find a solution to the impasse affecting the proper functioning of the Broadcasting Council.

The new Broadcasting Law also provides for the complete transformation of local municipal broadcasting stations into private or community broadcasters. To enable these stations to implement the necessary changes, the department facilitates or directly contributes to training initiatives for media managers, editors, journalists, and technicians. These initiatives are also part of various development projects aimed at improving professional and ethical standards, as well as promoting co-operation and confidence between different ethnic communities, particularly in southern Serbia.

One of the unique characteristics of the Mission to Serbia and Montenegro is its mandate to perform work in the economic and environmental fields. One of the main achievements of the Mission's *Economy and Environment Department* has been assembling an international donor and advisory constituency to support the efforts of the Serbian authorities in drafting new environmental legislation in line with European and international standards. The institutions in this area, however, remain fragile. In order to address risks to economic and environmental security, the Mission not only targets local problems but also seeks to attract sources of outside support. The Aarhus Convention, which promotes extensive public participation in the decision-making process, full transparency, access to all relevant information for all concerned, as well as an unbiased information exchange, is particularly relevant here. A recent notable success is the signing of a memorandum of understanding with the city of Nis, which aims to promote the drafting of a new strategy for sustainable development of the region around Nis.

Finally, the Mission has been mandated with assisting and promoting implementation in the area of CSBMs, which is closely linked to defence and security matters. In particular, the Mission's efforts in this field are focused on implementation of two OSCE documents: the Code of Conduct on Politico-Military Aspects of Security and the OSCE Document on Small Arms and Light Weapons (SALW). The relevance of the Code of Conduct is closely linked to the issue of democratic control of armed forces, which has steadily gained in importance in the State Union. Recent events demonstrate a clear and urgent need to introduce the standards applicable in established democracies for the oversight of the military and security sectors. Efforts to improve and make active use of parliamentary oversight over the defence and security sector is, therefore, also an aspect of the Mission's work.

Stability and security in the State Union – and the region as whole – would benefit from stricter controls and the reduction of the number of surplus small arms and light weapons that were used in past conflicts and remain in possession of organized crime, criminal groups, and individuals. The Mission supported the early implementation of the OSCE Document on Small Arms and Light Weapons and was involved in a programme, funded via the Stability Pact, for the destruction of stockpiles of surplus small arms and light weapons by the Army of Serbia and Montenegro. Together with the United Nations Development Programme (UNDP) and the Stability Pact, the OSCE Mission assisted in setting up a Regional Clearinghouse for Small Arms and Light Weapons in Belgrade to co-ordinate the destruction of such weapons in the region.

The co-operative spirit of the Mission is also reflected in the common projects it pursues with other international organizations active in Serbia and Montenegro and the good working relationships it enjoys with them. In particular, regular contacts have been established with the Office of the Special Co-ordinator of the Stability Pact for South Eastern Europe. The Mission also

co-operates closely with the Council of Europe and its office in Belgrade through regular exchanges of relevant information, briefings, joint assessment visits, common projects, and participation in seminars and conferences.

In the performance of all the above-mentioned activities, particular importance is attached to encouraging a positive public perception of the Mission and its work, and extending its "outreach" to the population beyond the Belgrade city limits. This aspect of the Mission's work is concentrated in the *Spokesperson's Office*. Through regular personal contact with representatives of the press and the electronic media, an effective network has been established. There has been a high level of media coverage of the Mission's activities, which has generally been favourable. The Mission's involvement in multi-ethnic policing in southern Serbia has been particularly well covered. The outreach programme that was launched in July 2003 has promoted the view that the OSCE Mission to Serbia and Montenegro works closely with the Serbian public and actively seeks the involvement of the population in its activities. The Head of Mission and several senior mission members travel regularly to cities and towns throughout Serbia and Montenegro to meet local officials, NGOs, and students to promote the OSCE mandate and gather information on issues affecting local communities. Under the auspices of the outreach programme, the Mission also encouraged local communities in their efforts to promote tolerance and democracy by creating the "Most Tolerant City" award. This has met with great interest throughout the country, and the 2003 prize was awarded to the town of Kikinda in the Vojvodina region. To date, more than 15 towns and cities have been visited since the launch of the outreach programme in the summer of 2003.

As can be seen from this summary presentation, the Mission's activities in Serbia and Montenegro are fairly diverse and wide-ranging, but their main goal remains the consolidation of democracy in the State Union and its stabilization and accelerated integration into European structures. As such, the role of the Mission is fully compatible with the efforts of the reform-oriented political forces in the country, both at the governmental and NGO levels, as well as with the activities of other international organizations active in Serbia and Montenegro.

Despite setbacks during the past three years, the Mission continues to work with its local and international partners to promote democracy building. The best way to vindicate the role of the Mission and the vision of the democratic forces is via the further consolidation of the democratic credentials of the State Union of Serbia and Montenegro. There can be no doubt that the country is now firmly on the road that leads to integration into Euro-Atlantic structures such as the EU. When this will happen depends on the people of the State Union of Serbia and Montenegro. The OSCE Mission will continue to assist these efforts and support those who support our common European values.

## Violence in Kosovo Calls for a Fresh Look at the Mission's Priorities<sup>1</sup>

### *Introduction*

The violent events of 17-19 March 2004 that left 19 dead, over 900 injured, and drove over 3,000 people from their homes have shaken the international community's confidence in its ability to transform the troublesome province of Kosovo into a multi-ethnic, open and tolerant society. Even before the events of March, everyone in Kosovo was aware that a difficult year lay ahead following the victory of nationalist parties in the Serbian parliamentary elections in December 2003 and with Kosovo-wide elections scheduled for autumn 2004.

However, at least two positive developments gave grounds for cautious optimism. First, the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Provisional Institutions of Self-Government (PISG) had been close to completing the draft Standards Implementation Plan, a blueprint that would lay out what Kosovo's people and institutions would need to deliver in terms of good governance, the rule of law, and six other areas to allow for status negotiations to begin. What was more, with the setting of a first review date for mid-2005, the PISG had moved away from their previous attitude of confrontation with UNMIK's "standards before status" policy to one that stressed partnership and joint responsibility.

Second, at the start of March, direct dialogue with Belgrade was initiated at working group level. Two of the planned four working groups had met for the first time in Prishtinë/Pristina. Moreover, handover of responsibilities to the Provisional Institutions within the limits of UN Security Council Resolution 1244 had been largely completed at the turn of the year, even though doubts remained as to whether the Provisional Institutions possessed the capacity to administer these efficiently and fairly.

Generally, it was believed that a slow but gradual stabilization was underway. Real progress had been made in securing freedom of movement in many places, with the NATO-led Kosovo Force (KFOR) having removed all fixed checkpoints. Responsibility for securing the Mitrovicë/Mitrovica Bridge had been handed over to the local Kosovo Police Service (KPS). Return figures were increasing steadily as people were beginning to move back into previously ethnically mixed areas. Significant reductions in the interna-

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<sup>1</sup> The author wishes to acknowledge extensive use of analytical material produced by the Mission's Office of Political Affairs. The article reflects the state of affairs as of April 2004 and does not necessarily reflect OSCE policy.

tional security presence of both KFOR and UNMIK Police had been carried out with further cuts foreseen for 2004.

Many of these steps towards normalization have now been reversed, and it seems that Kosovo has been set back several years in its development in a number of areas. The international community, while it has confirmed its committed to remain engaged, has been forced to reassess its programmes and the underlying assumptions on which they were built. The OSCE Mission in Kosovo (OMiK), too, is undergoing a careful review of its policies and programmes.

### *Outbreak and Causes of the Violence*

Two unrelated events sparked the violence. First, on 15 March, a Kosovo Serb male was shot and wounded in a drive-by shooting incident on the main Prishtinë/Pristina to Skopje highway in a village just south of Prishtinë/Pristina. A few hundred Serbs from the area blocked this road and another connecting Prishtinë/Pristina and Gjilan/Gnjilane. Kosovo Albanian protesters would try to “lift” the roadblock the following day. Then, on 16 March, two Albanian boys aged nine and twelve drowned in the river Ibar. The exact circumstances of their deaths will probably never be known, but the Kosovo Albanian media immediately jumped to the conclusion that Serbs must have been behind the incident, forcing the boys into the water, although there was no evidence to support this theory.

These two events led to three days of rioting by crowds of Kosovo Albanians that began in the divided northern city of Mitrovicë/Mitrovica, near where the boys drowned, but rapidly spread to other areas in Kosovo. Serb residences and churches were targeted, and UN buildings were also attacked. On 18 March, there was a series of attacks against Serb targets, which had all the appearance of being a co-ordinated campaign. Over 3,000 Kosovo Serbs were evacuated to safe areas or moved to Serb-majority areas. Some Roma and Ashkali communities were also attacked. A few hundred Kosovo Albanians fled their villages in the Serb-dominated north of Kosovo.

After the arrival of KFOR reinforcements on 19 March, the level of violence subsided, though sporadic demonstrations and house burnings continued to occur. On 20 March, the situation was quiet. There were fears that the funerals of the drowned boys on 21 March would spark further protests, but, although they were heavily attended, they remained peaceful.

As part of the Mission’s response to these events, a preliminary assessment of the underlying causes that led to the violence was made and communicated to the Permanent Council in Vienna. Reference was made to organized nationalism, the unresolved status issue and fear rooted in the past, the lack of employment and education for the young generation, the behaviour of the media, and the unpopularity of the international community.

The protests that were initially sparked by spontaneous reactions to the perceived injustices of the drowning and the roadblock rapidly took on an organized and co-ordinated character. It was the effectiveness of a small number of well-organized radicals in directing the mostly teenage rioters that allowed the protests to continue beyond 17 March. The protests furthermore revealed that the disaffected young generation, seeing little hope of educational or economic advancement, can easily be manipulated and motivated to commit violent acts.

Frustration at economic and political stagnation leaves many Kosovo Albanians feeling that their cherished goal of independence can only be achieved once the deadlock is broken. To some, the protests seemed to offer just that opportunity. The Serbs were the nearest target to hand.

The general feeling amongst Kosovo Albanians is that progress for Kosovo as a whole is being sacrificed to serve the interests of a privileged minority that has shown little willingness to integrate into Kosovo society and therefore remains a factor of instability and a threat to the interests of the majority population. Irritation with Belgrade's continued presence in Kosovo – the so-called parallel structures in the areas of health, culture, education, justice, and even security – and UNMIK's lack of resolve to dismantle them also runs strong among Kosovo Albanians, and many seem susceptible to the argument that this situation will only change once Kosovo Serbs are eliminated from the province. If that were to happen, so the argument goes, independence would become the natural option for the international community to pursue.

The United Nations thus became a secondary target during the violence not only because it sought to protect the Kosovo Serbs and, to a lesser degree, Kosovo Serb property but also because for many the time has come for UNMIK to leave Kosovo and to be replaced by a purely advisory international presence – or none at all. Dissatisfaction with the economic and political situation is now stronger than erstwhile feelings of gratitude to the international community.

Finally, the Albanian-language media, which has been highly critical of UNMIK for many months, stands accused of reporting the river drowning in a biased and highly unprofessional manner that, wittingly or unwittingly, contributed to the spread of violence.<sup>2</sup>

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2 For an analysis of media behaviour during the March events, two reports warrant attention: the report of the OSCE Representative on Freedom of the Media on "The Role of the Media in the March 2004 Events in Kosovo", issued on 22 April, and the Temporary Media Commissioner's report on the performance of the three Kosovo-wide TV stations issued a day later. Both can be found online at [www.osce.org](http://www.osce.org).

Like the entire international presence in Kosovo, OMiK was completely caught out by the events of March. No one had expected a violent backlash of these proportions. At first, the Mission's priority was to protect its staff, especially those of Serb ethnicity. Some who found themselves cut off from their homes as the violence unfolded were given refuge in OMiK headquarters. Fortunately no OMiK staff member was seriously injured. Some OMiK Offices were temporarily evacuated; the Office in Mitrovicë/Mitrovica was closed for over a week. A number of Kosovo Serb staff resigned and decided to leave Kosovo in the aftermath, but a majority decided to stay. One or two vehicles were slightly damaged, but this stands no comparison with the more than 100 UN vehicles that went up in flames, not to speak of the damage done to UNMIK buildings and other facilities. The situation in Prizren, where the local OMiK office was not affected, even though it is located right next to the Regional UNMIK headquarters (which suffered considerable damage), illustrated clearly that OMiK itself was not targeted. OMiK, whose few executive functions concern the organization and administration of elections, is perceived as inoffensive and perhaps irrelevant to the struggle for independence. Nonetheless, this is no guarantee that OMiK will not be targeted if violence flares up again.

Once the security of staff was assured, the Mission began to assess what had happened. As the lead agency on human rights within UNMIK, the Mission began to gather facts on human rights violations and on how the authorities, and especially the security forces (KFOR, UNMIK Police, and KPS), reacted to the violence. Human rights teams were sent to sites for Internally Displaced Persons throughout Kosovo to conduct interviews with victims and witnesses. In addition, OMiK gathered all available information from the Mission's field offices to arrive at an assessment of the reaction to the events of March by central and local authorities, media, and civil society. The initial findings of this assessment together with a consideration of the root causes of the violence informed the subsequent discussion on what changes would have to be made to the Mission's policies and programme priorities.

On the recommendation of a Senior Management Retreat held on 26 March, five cross-departmental task forces were established. Over a period of two weeks, they reviewed issues identified as relevant to the underlying causes of the violence and to existing and future Mission policy:

- *Task Force 1 (Youth and Education)* was asked to establish why so many youths were prepared to go out onto the streets to attack their fellow citizens and explored what OMiK could do to help give these young people a better future and turn them away from violence and intolerance. The task force found that although OMiK had worked with young people in many programmes, these activities had not been part of a coherent strat-



egy towards youth, considered as the single biggest special-needs group in Kosovo society. The Mission is looking into the possibility of creating a new education unit or even a full-fledged department to place youth education in the mainstream of the Mission's thinking. A feasibility study for this purpose has already been commissioned. Emphasis is likely to be placed on civic education to promote tolerance among young people. In this endeavour, the Mission is counting on the support and advice of the OSCE Mission to Bosnia and Herzegovina in helping to define the structures and policies of the new unit or department.

- *Task Force 2 (Respect and Diversity)* looked into OMiK's considerable investment in inter-ethnic dialogue programmes and asked why these had shown so little effect. It was recommended that the Mission should not abandon its efforts to bring members of different communities together, but that ways would have to be found to pass the message of tolerance on to a greater number of people. More emphasis should be put on promoting tolerance and respect for diversity, whether ethnically defined or otherwise.
- *Task Force 3 (Media)* discussed why the media failed to live up to its responsibilities after several years of media development programmes. It recommended that the Mission, in co-operation with other donors, should try to make suitable professional-development opportunities available to journalists within Kosovo, while continuing to push for the establishment of self-regulatory mechanisms within the sector. OMiK should also step up its media monitoring to cover media outside Prishtinë/Pristina.
- *Task Force 4 (Fear of the Past)* noted that there was little OMiK could do to address the fundamental problem of Kosovo Albanians and Kosovo Serbs remaining committed to mutually exclusive ideas for the future of Kosovo (with Serbs wanting to retain Kosovo within the Serbian state and Albanians seeking security from oppression in a state they can call their own). However, it was suggested that the Mission, more so than UNMIK as a whole, has some potential to be seen as an honest broker and should use its good offices to build confidence between the communities.
- *Task Force 5 (PISG and Civil Society)* was tasked with establishing what OMiK should do to improve the performance of the PISG and civil society. Faced with the outbreak of violence, the PISG had seemed almost entirely irrelevant; they were powerless to stem the tide. Similarly, civil society actors, if they reacted at all, were initially more inclined to condone rather than condemn the violence. In light of this, OMiK will become more selective when it comes to choosing civil society implementing partners. The task force paid particular attention to the question of whether the balance between the Mission's capacity-building activities and its monitoring work would need to be adjusted as a result of the March events.

After the five task forces had finalized their deliberations, OMiK arrived at a number of preliminary conclusions regarding the future work of the Mission:

- OMiK will continue to monitor, build capacity and offer advice to the Provisional Institutions, the media, and civil society. Ways will have to be found to make sure that monitoring is not strengthened at the expense of capacity building. Indeed, monitoring should always feed back into capacity-building activities because it is only through these that the PISG's performance can improve.
- In implementing its mandate, OMiK will follow a model of partnership, committing itself to take into account local views at every step of the process.
- The Mission will further seek to establish contacts that extend beyond the institutions and the usual NGO partners to tap into society at large, including, for purposes of information-gathering, interlocutors, such as the UCK/KLA War Veterans Associations, that have not been solicited so often in the past. This will allow the Mission to arrive at a more accurate picture of society and help identify opportunities for confidence building.
- In recognition of the fact that the concept of multi-ethnicity enjoys rather less credibility in the aftermath of the events of March, the Mission plans to concentrate on activities which will foster an attitude of mutual respect throughout society. This is not to say that multi-ethnicity has been abandoned as an objective, but that the focus will be on more fundamental building blocks that will eventually lead towards this objective, namely confidence building and the promotion of tolerance.

At the same time as the task forces were pondering the future orientation of the Mission, the departments began reviewing their programmes. At the time of writing, this process was still in its very early stages, and the following can therefore only offer a preliminary indication of possible changes. The new priorities, once determined, will spell the end for some projects that appear less central to the Mission's mandate under the new circumstances. In some cases, projects based on multi-ethnicity have simply become unfeasible and will be put on ice or abandoned. Project money freed up in this way should benefit other projects – both old and new – that remain to be defined.

*Democratization* is likely to be the department most affected by the review. It includes what is left of OMiK's former Media Department that was closed in 2002. The department's Media Development Team should be strengthened after the events of March revealed an appalling lack of media professionalism. Democratization is also the department that has so far run the vast majority of OMiK youth activities – mostly to promote multi-ethnicity. The creation in 2005 of an education unit or possibly even a separate educa-

tion department to enhance and consolidate these tasks is currently under discussion.

Although the international community is still working out political and strategic responses to March's violence, it is already apparent that, as part of UNMIK, OMiK will need to pay greater attention to issues such as decentralization and parallel structures. Prior to the events of March, the Democratization Department was involved in fostering debate through round table discussions on decentralization. In 2003, the *Human Rights/Rule of Law* Department issued a comprehensive and widely discussed human rights report on parallel structures. OMiK possesses the capacity to make a significant contribution to the discussion and possible implementation of any future agreement on these two important issues.

In 2004, the Mission had expected to make progress in its transition from classical human rights monitoring to an advisory and capacity building role. However, following the violence, it was decided to postpone extending a pilot project that had seen human rights experts placed in eight municipalities for advice and capacity-building purposes to the remaining 22 municipalities. The roll-out is now likely to be delayed until 2005, because monitoring will have to remain the immediate priority for now. A report outlining the human rights challenges that have arisen from the violence is currently in preparation and includes recommendations in the areas of property, non-discrimination, law enforcement, and the judiciary.

The *Elections* Department continues to prepare for the Kosovo-wide 2004 elections after Special Representative of the UN Secretary-General (SRSG) Harri Holkeri confirmed the 23 October elections date. The fallout from the events of March will add to the complexity of electoral activities. The handover of operational responsibilities to the newly established and locally-run Central Election Commission Secretariat (CECS) is scheduled to go ahead, the assumption being that the CECS will conduct election preparations in an unbiased and inclusive way. Certain sensitive aspects of the election operation will in any case be retained by OMiK, including the registration of political parties, the Voters' List, the operation of the central Count and Results Centre and the By-Mail Programme for eligible voters outside Kosovo. A majority of the more than 3,000 newly displaced persons will probably not have returned to the place where they are registered, and alternative measures such as conditional voting or re-registration will have to be put in place to give these people the opportunity to vote. In the aftermath of March's violence, participation of the Kosovo Serb community in the 2004 elections seems even more uncertain than in previous election cycles. The international community will need to encourage both the Kosovo Serbs and Belgrade to support the electoral process. The planning of security measures on election day will need to rely less on KPS than originally planned and more on UNMIK Police and KFOR, as serious attempts to disrupt the electoral process cannot be excluded.

*Police training* was naturally called into question at first given the serious criticism under which the response to the March events on the part of KPS and UNMIK Police came. It is clear that the KPS is not yet sufficiently well equipped and trained to handle huge crowds and violent protestors. Even though the basic concept of OMiK police training remains sound, there will need to be changes – or rather additions – to the training curriculum. Thought should also be given to enhancing inter-ethnic awareness and community policing as well as strengthening the crowd control component. In light of the events of March, the final number of police recruits to be trained might be revised upward. This is a matter that UNMIK's Pillar I (Police and Justice) and OMiK will have to determine jointly.<sup>3</sup>

The review has also considered aspects of management (strategic planning, information sharing and reporting, and project development and implementation, to name but a few). Independently of the re-evaluation of programmes, a frank assessment of these issues should also serve to improve the functioning of the Mission as an organization. The Mission's review is underway and some initial conclusions have been reached regarding OMiK's work within its own mandate. However, this assessment will now have to be brought into the discussion that has begun to take place within UNMIK as a whole. Ultimately, an agreement on the conclusions and lessons learned will have to be reached across the four pillars. Much depends also on the general policy direction the International Community (UN and Contact Group) intends to pursue.

### *Standards and Dialogue*

After the events of March, the international community, while acknowledging a serious setback for a multi-ethnic Kosovo, confirmed that the Standards process would continue. The PISG also insisted that the process should not be abandoned and expressed their continued commitment. Previously, over a period of almost two years, the PISG had shown very little enthusiasm for either the Standards or the benchmarks that had preceded them.

It will be recalled that UNMIK devised eight benchmarks as a quantifiable means of measuring Kosovo's progress in developing a democratic society when the PISG government took office in May 2002.<sup>4</sup> UNMIK presented the benchmarks as an attempt to offer the PISG and the general public guidance on what was required of them if they were to help build an open and tol-

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3 UNMIK has four components or "pillars": Police and Justice, Civil Administration (both UN), Institution Building (OMiK), and the EU-led Economic Reconstruction and Development component.

4 For more details, cf. Bernhard Knoll/Kara Johnston Molina, *A Rocky Path: Kosovo's Transition to Provisional Self-Government*, in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 131-149, here especially pp. 147-148.

erant society. As UNMIK undertook to raise the public profile of the benchmarks through billboards and an explanatory film, the slogan “standards before status” emerged and became a favourite way of responding to constant Kosovo Albanian demands for independence.

With every quarterly report to the UN Security Council that indicated continued shortcomings on implementing the benchmarks, the reaction of the PISG became more hostile. They increasingly felt that “standards before status” was a policy deliberately chosen to keep the status issue off the table. They argued that the PISG should not be held accountable for a lack of progress in areas controlled by UNMIK. Instead, Kosovo Albanians strongly endorsed the view that the determination of Kosovo’s status was a precondition for reaching the Standards, thus turning “standards before status” on its head.

UNMIK’s public relations campaign on the benchmarks also failed to win over the public at large, who felt patronized and were critical of the fact that the benchmarks had been worked out behind closed doors by UNMIK officials and imposed without any prior consultation with the Kosovars themselves. When the then SRSG, Michael Steiner, left Kosovo in summer 2003, senior UNMIK officials realized that the benchmarks would have to be more precisely defined if they were to become meaningful to ordinary Kosovars and accepted by the PISG as the framework for progress towards resolving Kosovo’s final status. Upon his arrival, Harri Holkeri, the new SRSG, emphasized the need for UNMIK and the Provisional Institutions to work towards implementing the Standards in partnership, but it was the visit of US Undersecretary of State Marc Grossman in November 2003 and his setting of a concrete date for Standards review in mid-2005 on behalf of the Contact Group that secured a more positive attitude towards the Standards.

The “Standards for Kosovo” document launched by SRSG Holkeri and Prime Minister Bajram Rexhepi on 10 December 2003 resulted from the efforts of five joint UNMIK-PISG working groups. The Standards concern: functioning democratic institutions; rule of law; freedom of movement; returns and the rights of communities; economy; property rights and cultural heritage; dialogue; and the Kosovo Protection Corps (KPC).

On the same day, work commenced to define a comprehensive implementation plan for the Standards. The five joint UNMIK-PISG working groups resumed their activity and began to draft action plans for the eight Standards. OMIK participated in four of them, co-chairing the first group, which covered three of the eight Standards (functioning democratic institutions, property rights and cultural heritage, and the Kosovo Protection Corps), with UNMIK Pillar II (Civil Administration). A final draft was expected to be released in mid-March. However, preparations were interrupted by the eruption of violence.

Finally, on 31 March SRSG Holkeri and Prime Minister Rexhepi jointly launched the Standards implementation plan. In his speech, the Special Representative noted that the plan was a living document that could be revised

whenever the circumstances warranted. In particular, two of the Standards – returns and the rights of communities, and freedom of movement – would have to be reviewed in light of the March events. Prime Minister Rexhepi reiterated that the government was committed to the Standards and stressed the importance of the review date that remains set for mid-2005. The Plan calls for constructive engagement from Belgrade in “a process designed to protect and promote the interests of all communities in Kosovo”. Kosovo Serbs had refused to participate in the elaboration of the plan but provided comments on one of the final draft versions.

The plan details actions to be undertaken for the fulfilment of the eight Standards, names the responsible implementing and supporting actors, and defines timelines for implementation. Although it is Kosovo and its institutions that are required to make progress on the Standards, UNMIK has an essential supporting role to play in the implementation process, either through the provision of resources, capacity building, and advice, or through the impact the exercise of executive power in the reserved areas may have on the Standards.

OMiK is recognized as a supporting actor in a wide range of activities and has thus taken on important responsibilities in several areas pertaining to its mandate. The possibility that OMiK will become the key institution in Kosovo for monitoring the Standards from as early as 2005 cannot be excluded, although this remains speculation at present. This could happen as part of a restructuring of UNMIK that would see the UN role diminish further in line with a further transfer of competencies to the PISG. While the OSCE is likely to maintain a significant presence in Kosovo for several years to come, and the EU is likely to take on a greater share of responsibilities, as the example of Bosnia and Herzegovina shows, the UN will in all likelihood further downsize its presence in Kosovo to redirect its resources to other parts of the globe. The monitoring functions currently performed by Pillar II could be assumed by OMiK with relative ease, even though the current field network of eight offices covering the 30 municipalities would have to be strengthened. As stated before, the above scenario remains speculation, and an entirely different restructuring plan might prevail. Meanwhile, the mechanisms for monitoring and reporting on the Standards here and now, that is in April 2004, still have to be worked out in detail.

UNMIK also remains committed to the dialogue between Prishtinë/Pristina and Belgrade on practical issues within the scope of Standard 7 (Dialogue). The dialogue officially began at a meeting held in Vienna in October 2003. Again, but for different reasons, the PISG found it extremely difficult to commit to this process. Divisions between and within the parties run deep, and, after the Kosovo Assembly failed to even discuss the issue, it was unsurprising that the prime minister decided not to attend for fear of sparking a government crisis. In the end, no representative of the PISG went to the Vienna meeting, but the attendance of the president and the assembly president

(both Democratic League, LDK) allowed the formal process to begin. Four working groups (on energy, transport, missing persons, and the return of displaced persons) were scheduled to meet in March and April. The two inaugural meetings that did take place in Prishtinë/Pristina in early March 2004 had been low-key but encouraging and, despite the violence of the same month, UNMIK now wants to see the process resumed as soon as possible.

Alongside NATO and the EU, the OSCE assumed the role of guarantor to the process and remains committed to dialogue activities. In support of the Belgrade-Prishtinë/Pristina dialogue process, OMiK had organized a symposium on negotiation techniques in October 2003, which was attended by PISG ministers and senior ministry officials. Apart from supporting the official dialogue, the Mission remains determined to pursue other OMiK-sponsored dialogue initiatives. Through its Civic Dialogue Initiative, which brings together Belgrade- and Kosovo-based NGOs, the encouragement of inter-parliamentary links, and meetings of journalists and editors, OMiK has been very active in this field. The Mission is also going ahead with plans for a round table for various organizations promoting dialogue at official and less official levels.

### *Conclusion*

The events of March 2004 have been a setback not only for Kosovo, its institutions, and society at large, but also for UNMIK and the entire international presence. OMiK is undertaking a thorough review of all its activities to make sure that its programmes respond to the needs of Kosovo's citizens. In doing so, OMiK has sought, first, to analyse the underlying causes of the violence, and second, to consider how OMiK policy and programming should change to address these wherever possible. More emphasis on youth, on dialogue, and on tolerance building are the fruits of this review. In the light of these discussions, a third step, currently underway, will make concrete decisions on which projects will have to be cancelled, which projects may remain, and what new projects might need to be undertaken. OMiK remains committed to a model of partnership with the PISG and the people of Kosovo and will continue to work towards an open and democratic society. Within the wider political context, OMiK, as part of UNMIK and the wider international presence in Kosovo, remains committed to the Standards process and the Prishtinë/Pristina-Belgrade dialogue. OMiK will have a role to play in both these processes. In 2005, a restructuring of UNMIK can be expected. Whether as an integral part of the successor arrangement or as an institution in its own right, OMiK will continue to serve the people of Kosovo in the years to come.





## Conflict Prevention and Dispute Settlement – The OSCE Project Co-ordinator in Ukraine

### *Explaining OSCE Field Presences*

The OSCE's broad definition of security and its dimensions are described in its various documents,<sup>1</sup> as are the rationales for establishing OSCE missions: "Although no two mandates are the same, generally speaking the missions' purposes are twofold: to facilitate the political processes that are intended to prevent or settle conflicts, and to ensure that the OSCE community is kept informed of developments in the countries where missions are present."<sup>2</sup>

OSCE documents (and those of its predecessor, the CSCE) should be read in historical context. Since the foundational documents were negotiated, both the world situation and the relationships among many of the nations that signed the documents have changed. Developments set in motion a dozen years ago have since borne fruit. With the enlargements of NATO and the EU this year, the dreams of a number of the signatories of the Charter of Paris of 1990 are being realized.

The CSCE/OSCE has thus evolved, and it continues to do so. The adoption of the Charter of Paris by the participating States was the beginning of the most dramatic period of changes experienced by the CSCE/OSCE since its inception in 1975. In 1994, the *Conference* became an *Organization*. Judging by the results, but without arrogating to the CSCE/OSCE a direct or exclusive cause-and-effect relationship, it has to be seen as an effective mechanism for promoting integration among its members. It is also a means through which nations can work to realize their aspirations to integrate with other institutions and international organizations.

It is well known that the OSCE has established and maintains a number of field presences, including the OSCE Project Co-ordinator in Ukraine. Just as the OSCE is constantly adapting to the new security environment, so are its field presences also evolving. Some of the fundamental reasons for their existence, their rationales, practices, and procedures have changed and are

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1 Much of the material cited here is available on the OSCE's website (<http://www.osce.org>); some documents are not readily available to the public; a number are restricted. Restricted materials are quoted with the permission of the originators of the documents. This article covers the period up to autumn 2004.

The easiest reference is to the OSCE Handbook: OSCE Secretariat, OSCE Handbook: 1975-2000, Vienna 2000, also available at: <http://www.osce.org> (hereafter "OSCE Handbook"). See also Charter of Paris For a New Europe, Declaration of the Paris Meeting of the Heads of State or Government of the CSCE, 21 November 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 537-581.

2 OSCE Handbook, cited above (Note 1), p. 45.

continuing to change. They are the subjects of articles, studies, and continuous internal committee work that all aim to describe and improve their functioning.

### *Establishing a New Form of Co-operation*

The history of Ukraine's field presences constitute a good example of this process of evolutionary change. In the mid-1990s, the OSCE established a mission in Ukraine for a specific purpose. After the mission was closed, and following a process of negotiations, the OSCE and Ukraine agreed to establish the OSCE Project Co-ordinator in Ukraine (a name given to the office as well as to the head of the office) and to vest it with a limited capacity to pursue general purposes. To achieve these goals through projects implemented in co-operation with host nation authorities, the OSCE framed its relationship with the host nation through a "Memorandum of Understanding between the OSCE and the Government of Ukraine" (MoU). The Project Co-ordinator was conceived of as a unique type of field presence, established for stated purposes, including, "to establish a new form of co-operation between the OSCE and Ukraine".<sup>3</sup>

### *Perceptions in Transition*

Notwithstanding the new, and demonstrably improved, relationship between the Organization and the host nation in the case of Ukraine, OSCE field missions are still generally seen in a negative light. For instance, on 3 July 2004, nine of the twelve CIS heads of state made the following public statement: "It is also cause for concern that the OSCE 'field missions' focus their activity not on the main statutes of their mandates providing aid and assistance to the authorities of the receiving country within the entire spectrum of the Organization's activity, but exclusively on the functions of monitoring the situation in the sphere of human rights and democratic institutions."<sup>4</sup>

It has also been stated in OSCE forums and elsewhere that an OSCE field presence in a host nation is some sort of a black mark on that country. Having such a presence, it has been said, makes a negative statement concerning the ability of the country to handle its own problems. It would be fair to say that this thought was in the minds of some of the negotiators on behalf

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3 Memorandum of Understanding between the OSCE and the Government of Ukraine, Article 1, paragraph 1 (unpublished).

4 Statement by Mr. Alexey N. Borodavkin, Permanent Representative of the Russian Federation, at the meeting of the OSCE Permanent Council, PC.DEL/630/04, 8 July 2004.

of Ukraine during discussions concerning whether there would be a follow-on presence after the first mission was closed.<sup>5</sup>

Indeed, there is still a belief, hopefully held by only a very few people in Ukraine, which is ostensibly based on outdated descriptions of the purposes of field presences and upon attitudes such as those expressed in the CIS statement referred to above, that there is no need for an OSCE field presence in Ukraine. (Ukraine endorsed the CIS statement cited above.) After all, Ukraine does not have any internal conflict the settlement of which would require international assistance. Nor does it think it needs an officially sanctioned resident watchdog to report what goes on in the country. Hence, neither of the justifications given in the above-mentioned OSCE Handbook is relevant in Ukraine. As is regularly reported in the mainstream media, Ukraine does not want foreigners meddling in its internal affairs. The question of whether Ukraine needs a presence or not depends upon definitions and purposes. In today's world, however, perhaps it may not be a question of need, but rather one of usefulness based upon a calculus of costs and benefits.

### *The Mandates*

Mandates, which form the foundations and define the activities of each field presence, are negotiated and agreed upon by the host nations and the other OSCE participating States, and are ultimately adopted by consensus by the OSCE Permanent Council. They may, but need not, be based on a mutual agreement concerning the need or desirability for assistance relating to the implementation of OSCE commitments, which all the participating States are pledged to uphold and which constitute the shared values of all OSCE participating States.<sup>6</sup> In response to the CIS statement mentioned above, the USA cited both the Charter for European Security and the 1991 Moscow Document to the effect that the participating States "categorically and irrevocably declare 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>7</sup>

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5 A brief description of some of the events of the time is contained in a report written by Randolph Oberschmidt under the aegis of the Netherlands Institute of International Relations "Clingendael"; see Randolph Oberschmidt, *Improving the Effectiveness of OSCE Missions: The Case of Ukraine*, The Hague 2002.

6 Cf. ODIHR/OSCE, *OSCE Human Dimension Commitments. A Reference Guide*, Warsaw 2001; also available at the website of the Office for Democratic Institutions and Human Rights (ODIHR), at: <http://www.osce.org/odihr>.

7 United States Mission to the OSCE, *Statement in Response to Netherlands Foreign Minister Bot*, 14 July 2004; see also the *Document of the Moscow Meeting of the Human Dimension of the CSCE*, Moscow, 3 October 1991, in: Bloed (ed.), cited above (Note 1), pp. 95-97.

### *New Perceptions Needed to Match New Realities*

Obsolete general statements concerning the purposes of field presences are not helpful. Arguments over whether this or that mission is necessary are counterproductive. Whether one believes a necessity exists is probably a matter of perspective. But while there may be compelling arguments on both sides, it cannot reasonably be claimed that having a field presence creates a stigma. Every OSCE participating State could profit from a properly constructed field presence in some way, especially those aspiring to accomplish particular projects or to achieve deeper integration into any greater community. A reasonably funded, well-managed field presence with a properly crafted, mutually agreed mandate can be an important factor in helping any nation realize its goals. If perceptions are handled correctly, and can be altered to match reality, nations should actually want a field presence to supplement local expertise and to help fund projects, thereby helping them to accomplish their goals.

It might be appropriate to revise the section of the Handbook that contains the description of the purposes of missions, as it does not mention the important reasons why some of these presences are now referred to by names other than “mission”, although it does refer to offices, presences, etc., including the OSCE Project Co-ordinator in Ukraine, as “other field activities”. Many commentators have begun to refer to them as “field presences” or simply “presences,” as I have done here. None of these terms is specifically defined in OSCE documents.

### *Defining Goals*

The tasks assigned to the OSCE Project Co-ordinator in Ukraine are defined by the mandate, which, in turn, is based on the MoU. This document, a pertinent section of which is quoted below, is broad in its description of the range of permissible activities. It does, however, not specify the activities themselves, which has made it necessary to consult with the authorities and to refer to other resources to determine the host nation’s priorities.

There are some clear indications concerning what the host nation deems to be the purposes and preferred activities of the office:

The efforts of the Project Co-ordinator should be focused on projects aimed at assisting Ukrainian authorities in adapting legislation, institutions and policies to the requirements of democracy based on rule of law. As an overall goal the activities of the Office should contribute to

strengthening the rule of law and good governance, thereby furthering Ukraine's European and Euro-Atlantic integration.<sup>8</sup>

This office favours projects that improve infrastructure, provide sustainability, and have measurable results – criteria that are also emphasized by the host nation. Without the demonstration of a solid need, neither the office nor the host nation would favour the organization of conferences, seminars, colloquia, and workshops, although an exception is made for training programs for lawyers and judges, soldiers displaced by military downsizing, and victims of human trafficking. Several projects in the areas of rule of law, economic development, anti-trafficking, and defence conversion have a significant educational component.

This office has also had the benefit of written statements made by the host nation clearly stating the aspirations of the host country. These were also comprehensively set forth in various action plans it has developed in association with NATO (the latest, dated 22 March 2004, is the NATO-Ukraine 2004 Annual Target Plan) and a Partnership and Co-operation Agreement with the EU.

### *Practice and Procedure*

With respect to all of its activities, this presence is careful to stay within the limits of its mandate. From its inception, it has worked to develop a partnership with its host based upon principles of reasonableness. All proposed projects and project ideas are submitted to the Foreign Ministry for consideration prior to finalization or submission for inclusion in the OSCE Project Database. All project proposals submitted so far have been considered and approved – at least preliminarily – within a reasonable period of time. A proposed elections project represents a special case and is discussed in more detail below.

The presence aims to strike a balance between fulfilling its own determination to provide only meaningful, coherent, and above all sustainable assistance, and an often conflicting determination to satisfy occasional *ad hoc* requests for specific projects from particular host nation agencies, which may or may not fit into the system of priorities of the host nation as a whole and, therefore, that of the presence. It walks the fine line between submitting projects *for consideration* prior to implementation and submitting them *for prior approval*, between submitting reasonably specific, but still broad, descriptions of projects designed to accomplish mutually agreed goals and describing projects with such specificity that modalities may become the subject of

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8 Statement by the Delegation of Ukraine, in: Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 525, Extension of the Mandate of the OSCE Project Co-ordinator in Ukraine, PC.DEC/525, 20 December 2002.

the host nation's veto power. In practice, however, these distinctions turn out to be mainly semantic: distinctions without differences. This field presence expressly avoids debates over construction of its mandate.

The presence does not attempt unilaterally to define problems within the host nation. It does not contrive proposed solutions in the abstract and does not assume the role of teacher. Nor does it need to compromise on matters of principle.

Issues articulated by or with the host nation are considered jointly, and this office attempts to assist in mutual problem solving and to help raise funds. All decisions regarding projects and priorities made by this office are made mutually following discussions with the relevant authorities. An idea for a project may be proposed by this office, by an agency or individual from the host nation, or an OSCE institution or the Secretariat. Regardless of origin, however, they are all brought to the attention of relevant authorities immediately, and project proposals evolve jointly.

All project proposals or ideas that become projects are developed with an eye towards assisting in the accomplishment of the enunciated goals of the host nation.

#### *Ensuring the Survival of the Office by Respecting the Expressed Goals of the Host Nation*

To ensure extension of its mandate, this presence requires consensus among all OSCE participating States. This presence is therefore mindful of the fact that if it engages in activities that defy the wishes of its host – especially activities of lesser priority – there might come a June or December when its mandate is not extended. Decisions on projects and the means to implement them are made on the basis of judgements of their importance. In addition, this office takes the position that if part of the rationale of providing a presence is to assist the host nation and work on its behalf, then the presence has to be sensitive enough to the interests of the host nation to use reasonable means to avoid creating a confrontation that would carry negative consequences for the host nation.

It is certainly possible to disagree with the approach this presence takes. However, a look at its achievements, and particularly its acceptance by its host nation, should confirm to any reasonable critic that its conciliatory approach has been fruitful. That acceptance has made it possible for this presence to continually accomplish important work in the fields of rule of law, defence conversion, anti-trafficking, economic development, and elections, which otherwise might not have been achieved if it had engaged in fruitless debates with its host over the meaning of imprecise terms contained in its mandate or over matters of secondary importance.

In any event, Ukraine has risen to the occasion. It has met this presence halfway on all potentially difficult issues, lending credence to the notion that there can be a truly beneficial, mutual host nation/OSCE presence relationship with respect to all matters of substance in Ukraine.

### *Staying within the Mandate*

In several areas, the presence has deferred to the host nation's interpretation of the mandate:

*The relationship between the presence and the Secretariat, OSCE institutions, the Chair-in-Office, the Parliamentary Assembly:* The host nation takes the position that this office does not represent the OSCE, that its activities are limited to projects, and that, unless a project involves some other element of the OSCE, the office neither represents nor serves them. This office has not asserted any prerogatives in this regard.

*The issue of prior approval of projects:* It is appropriate to give sufficient advance notice of proposed activities to allow the host nation to react before activities related to a given project begin. It is also fair to expect a relatively speedy response. If difficulties are foreseen, it is reasonable to expect fair, arms-length negotiations to take place, which can reasonably be anticipated to result in a mutually acceptable resolution. To date, all proposed projects have been submitted with sufficient detail, including projected costs and timetables, and all have received sufficient timely approvals to allow work to proceed. Issues raised by the host nation have been resolved by mutual agreement. Detailed project proposals or details of implementation plans have not been demanded. Except in one instance (elections), none has been provided until the projects were mature and ready for funding. There has been no attempt on the part of the government to micro-manage projects.

*The elections (2004) project:* This was the most sensitive project for both this office and the host nation. It was initiated by statements made by governmental officials at all levels up to the President expressly stating that Ukraine wished to conduct fair and transparent elections. Certain of those officials, as well as numerous members of the international community and several NGOs, determined that co-ordination by this office of the efforts of the most active potential participants in the process, including Ukrainian authorities, would be helpful. A partnership relationship was developed with the principal authorities, the Central Election Commission, and the Ombudsman. A proposed project was drafted in concert with Ukrainian authorities. It was submitted to the Foreign Ministry on 11 July 2003, along with a number of other project proposals, in the first tranche of new proposals following the appointment of the new Project Co-ordinator. The Foreign Ministry gave its preliminary approval for the project on 31 July 2003. It was posted on the OSCE project website and attracted sufficient funding. Elements of the pro-

posed project were commented upon favourably by the Permanent Representative to the OSCE from Ukraine in response to a semi-annual report of the OSCE Project Co-ordinator in Ukraine to the Permanent Council:

The first steps of the Co-ordinator aimed at assisting Ukraine in preparing for the next Presidential elections [...] deserve positive assessment. Establishment of a high-level Working Group that includes representatives of the Diplomatic Corps and the Government of Ukraine, with the purpose to discuss issues related to the elections is also important in this regard. I would like to stress that Ukraine is ready for close and transparent co-operation with the international community in this sphere.<sup>9</sup>

Subsequently, the Foreign Ministry suggested that a detailed action plan would be helpful. One was drafted in consultation with the authorities and other actors over a period of approximately three months, and was subsequently subjected to close scrutiny. The Ukrainian authorities made numerous substantive and formal suggestions on how the document could be improved, all of which were helpful and were incorporated into the draft. A “final” version was submitted in Ukrainian to the Foreign Ministry in December 2003. Because the project had already received preliminary approval, the hiring of experts and various other preparatory activities had already commenced. With the passage of time, and after several unofficial suggestions from a variety of sources that the plan was satisfactory, this office took the position that silence meant approval. However, in March 2004, a rumour emerged that the action plan might not be approved. This elicited several requests to Ukraine’s Delegation in Vienna that the Foreign Ministry should be requested at least not to disapprove of the action plan. After several months, extensive review by every relevant governmental agency, and the adoption of a number of additional modifications suggested by the authorities, none of which weakened the document, the action plan was finally approved on 18 June 2004.

*The proportion of international staff to local hires:* This office hires as many local nationals as is reasonably practicable. At this time, all staff are local hires except for three international staff (provided for in the MoU), two elections experts, and two interns.

*Staff versus project costs:* This office attempts to maximize the amount spend on projects and has substantially increased the proportion of funds spend on project implementation.

*Fair and balanced reporting concerning events in the host country:* Reporting concerning the political situation or political events in the host nation

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9 Statement of the Ukrainian Permanent Representative to the OSCE to the Permanent Council, 3 October 2003 (unpublished).



is not part of the mandate or any project and is not carried out by this presence.

### *Applying the Recommendations of Critics and Institutions*

Whatever the legitimacy or rationality of concerns over the existence of this or any field presence may be, this office is learning to deal with sensitivities created by outmoded negative connotations concerning the existence of a field presence in a country. In its activities, its language, and its relationships with external agencies, including the OSCE Secretariat, OSCE institutions, and the Chair-in-Office, this office is careful to conduct itself in a way that takes the host nation's sensitivities into account to counterbalance or overcome any misperceptions both inside and outside the host country.

In a food-for-thought paper produced in September 2003, certain countries proposed several ideas for consideration by the Organization regarding how field presences should be administered. This paper echoes the sentiment expressed in the CIS statement, but gives more specific details. All of the relevant portions of the paper have been incorporated into the practices of this field presence. Some of the most salient are quoted here.

- Bring missions' activities in strict compliance with the existing mandates, which should reflect the genuine requirements of the Host countries [...]
- An absolute priority in the field activities should be given to the implementation by the missions of specific projects embracing all three dimensions [...]
- Political impartiality – non-interference in the internal affairs of the Host country – should be an absolute rule for all missions. None of their activities should violate national legislation and effective regulations.
- Missions should have a standard period of duration of their mandates [...]
- Mission reporting [...] should primarily contain information on activities related to mandate implementation [...]
- Obtain agreement of the Host country on the nomination of the head of the mission.
- Extra-budgetary contributions of the donor States should be spent only on officially approved mission projects which have become part of their activity plan.
- Carry out regular exchange of opinions on various regional issues, and when necessary to combine efforts for the implementation of joint projects.
- Elaborate a mechanism to evaluate the effectiveness of the missions' work [...] Paragraph 41 of the Charter for European Security should be

at the core [...] In accordance with that provision, the main objective of the missions is the assistance in building the national capacity of the Host country that “would facilitate an efficient transfer of the tasks of the operation to the Host country, and consequently the closure of the field operation”.<sup>10</sup>

At the same time, this presence has assiduously avoided actions that could reasonably subject it to the criticisms or accusations voiced in the same food-for-thought paper, even before it was specifically aware of them:

- In a number of Host countries the missions have virtually ignored the calls of authorities to abide by the existing mandates.
- With time the Organization has begun to acquire more and more the features of a human rights watchdog.
- The OSCE, while continuing to claim the comprehensive approach to security, focused in fact mostly on the humanitarian dimension.
- So-called independent assessments [are] often based on subjective opinions or unverified information, which is in breach of the principle of objectiveness and impartiality.
- The main focus of field operations has shifted from the fulfilment of their specific mandates to following the internal political situation in the Host country.
- Some missions [have] made efforts to influence the political processes in a number of sovereign states, which was rightly considered as interference into the internal affairs of these countries.
- Such perceptions were further enhanced by concrete examples of using budgetary and extra-budgetary contributions to finance and subsequently implement the projects, which were not reviewed by the Host Governments nor agreed upon with them in advance.

Additional considerations were raised by a recent meeting of the Informal Group of Friends of the Chair on Improving the Functioning and Effectiveness of OSCE Field Operations, which is open to all participating States:

- An annual review of each mandate is in our view necessary in order to assess whether it responds adequately to possible developments in the host countries.
- The review should be part of [a general] and substantive annual discussion of the activities of the Mission in the preceding year.

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<sup>10</sup> Organization for Security and Co-operation in Europe, Charter for European Security, Istanbul, November 1999, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 425-443, here: p. 437.

- [Each mission] should develop a yearly Working Plan with benchmarks against which its activities can more easily be measured.

In her remarks to the meeting, the Chair of the Group of Friends stated that

Missions are not there to impose their program activities on the host country, but offer expertise and assistance wherever needed in the context of a constructive dialogue.

As already stated, there are different kinds of field presence, and each has its own mandate. Generalizations about them are therefore likely to be inappropriate. Moreover, the OSCE Project Co-ordinator in Ukraine is unique. However, although it is a certainly not a formula that would work in every case, this office assiduously aims to act in a way that is consistent with the above criticisms, statements, and suggestions.

### *Composition of the Office*

In accordance with the MoU, the Co-ordinator's staff is composed of a core of internationally and locally hired staff as well as internationally or locally hired experts and technical staff required for the implementation of the projects. The size of the Co-ordinator's expert staff may be changed as required by the projects.<sup>11</sup>

The first Project Co-ordinator, the Swiss diplomat Peter Burkhard, was appointed in October 1999 and served until February 2001. After a hiatus of over 13 months, the present Project Co-ordinator<sup>12</sup> was appointed on 12 March 2003 by the Chairman-in-Office. The office currently consists of three international staff members (an American, an Austrian, and a German), as provided for – and limited by – the MoU, two international election experts from Sweden and Denmark, two interns (a Canadian and a citizen of the United Kingdom), and twenty-four local hires, including two Ukrainian economists and six Ukrainian lawyers, two accounting specialists, and three drivers. Due to the small number of international staff, none of the issues raised in a report produced by the Hamburg Centre for OSCE Research (CORE) is of serious concern to this presence. This office has been fortunate to have been able to select personnel from a large pool of highly qualified prospective secondees.<sup>13</sup>

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11 OSCE Survey of OSCE Long-Term Missions and other OSCE Field Activities, 28 May 2004; see also OSCE, Mission Survey, OSCE Project Co-ordinator in Ukraine, at: <http://www.osce.org/publications/survey/survey18.htm>.

12 The current author, a US diplomat.

13 From 2002-2003, the Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg conducted research into the se-

*Basic Decision*

Established by: Permanent Council Decision No. 295, 1 June 1999, PC Journal No. 231<sup>15</sup>

*Tasks*

According to Permanent Council Decision No. 295 of 1 June 1999 and following the closure of the OSCE Mission to Ukraine, an OSCE Project Co-ordinator in Ukraine was established for the purpose of carrying out tasks related to the new form of co-operation between Ukraine and the OSCE. According to PC Decision No. 295, “this co-operation will be based on the planning, implementation and monitoring of projects between relevant authorities of Ukraine and the OSCE and its institutions. Such projects may cover all aspects of OSCE activities and may involve governmental as well as non-governmental bodies of Ukraine.”<sup>16</sup>

*Deployment*

A memorandum of understanding was signed by the Ukrainian Government and the OSCE on 13 July 1999.

*Duration*

The Project Co-ordinator in Ukraine was established initially for the period from 1 June 1999 until 31 December 1999. It was further resolved to make the mandate renewable for periods of six months. It has so far been extended on ten occasions, most recently at the 512th Plenary Session of the Permanent Council with Decision No. 615, when it was renewed for the period from 29 June 2004 to 31 December 2004.

*Financial Implications*

The OSCE Unified Budget for 2004, adopted at the 489th plenary meeting of the Permanent Council on 24 December 2003, established the budget of the OSCE Project Co-ordinator in Ukraine at 1,085,300 euros.<sup>17</sup> Extra-budgetary contributions, which amounted to 115,000 US dollars in 2003, exceeded 1,500,000 US dollars in 2004. For 2005, they are projected to be even higher.

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lection and training of personnel for OSCE field missions, the results of which were presented to the OSCE Secretariat in December 2003. Institute for Peace Research and Security Policy at the University of Hamburg (IFSH)/Centre for OSCE Research (CORE), *Working in OSCE Field Missions*, Hamburg, November 2003 (unpublished).

14 Cf. OSCE Survey of OSCE Long-Term Missions and other OSCE Field Activities, cited above (Note 11).

15 OSCE, Permanent Council, Decision No. 295, 1 June 1999, PC.DEC/295, in: PC Journal No. 231, 1 June 1999.

16 Ibid.

17 Cf. OSCE, Permanent Council, Decision No. 590, Approval of The OSCE’s 2004 Unified Budget, PC.DEC/590, 24 December 2003, Annex I, p. 5.

## *Projects in 2004*

### *Economic and Environmental Dimension Projects*

#### A. Community Development

- Zherebkovo Community Development Project (also mentioned under Defence Conversion, below)
- Improving the water supply system in Zolotonosha/Oblast Cherkasy

#### B. Economic Development

- Encouraging local economic development by improving the business infrastructure for SMEs
- Raising prosperity by promoting investment
- Assisting Ukrainian oblast administrations in attracting foreign direct investments and promoting investment opportunities
- Establishing enterprise networks (“cluster-building”)
- Studying the impact of Ukraine’s WTO accession on social-economic conditions in two oblasts of Ukraine

### *Human Dimension Projects*

#### A. Rule of Law

- Creating an information and documentation centre at the Ukrainian Ministry of Justice
- Adapting law (human rights legislation)
- Reforming local self-government legislation
- Assisting in elaboration of state immunity in commercial transactions
- Training staff of the Ukrainian General Prosecutor
- Assisting in setting up bar associations at local, regional, and national levels
- Assisting the Supreme Court of Ukraine – training of judges, model administrative courts
- Assisting with the publication of judicial literature
- Assisting the Ukrainian Constitutional Court in developing an information network
- Creating a database of Supreme Court rulings
- Assisting with administrative justice reform
- Assisting in applying the new civil and commercial codes
- Implementing international anti-corruption instruments
- Auditing the current Ukrainian system of residence registration (*propiska*) and considering possible reforms

- Assisting the state judicial administration
- Assisting the Ministry of Finance and the National Bank of Ukraine in holding an international conference on the legal framework of mortgage financing
- Assisting in the creation of a guidebook for detainees on their rights before, during, and after trials

#### B. Human Rights

- Anti-trafficking: supporting the implementation of the national anti-trafficking programme: prevention
- Supporting regional and national counselling hotlines and regional prevention campaigns
- Providing training to NGOs and public officials on trafficking issues in the regions
- Assisting in developing curricula on human rights and anti-trafficking issues for universities, orphanages, and public officials
- Carrying out assessment studies of labour markets in the regions; identifying needs and high-risk groups and developing sustainable economic empowerment strategies
- Publishing books for high-risk groups on “How to start my own business”, “No job, what to do?”, and “After school and now what?”

#### C. Elections

- Supporting further improvement of the election process in Ukraine

#### *Security Dimension Projects*

##### A. Defense Conversion

- Zherebkovo Community Development Project (see also Community Development, above)

##### B. Social Integration of Former Service Personnel

- Supporting the integration of military personnel being transferred to the reserves or discharged
- Supporting retraining measures aimed at social integration of military personnel being transferred to the reserves or discharged

##### C. Border Control

- Border delineation (aerial photography); border installation security

*Disclaimer: The Applicability of this Presence's Experience May Be Limited*

This field presence has been working to define its new form of co-operation ever since its inception. We believe that a mutual understanding has been achieved in practice. It is not the purpose of this article to presume to impose any specific philosophy or method of operation on any other field presence. Each one, like each host country and their leaderships, will remain unique. The experience of this field presence may or may not be applicable to other field presences. It should be recognized that there may be contradictions between OSCE commitments and conditions inside a particular country, notwithstanding that the country has subscribed to live up to OSCE commitments. Those conditions may result in negotiations that are not based on shared goals. If the activities of the presence are seen to be provocative, or if criticism of a field presence is designed merely to discredit it in order to deflect the host nation's failures to live up to OSCE commitments, then the prescription for co-operation described herein might not achieve the desired result.

The relationship described in this article depends upon discussions held in good faith between parties working towards shared goals. It presupposes that each party trusts the other enough to exclude any sinister intentions. Sometimes it takes time for that good faith to be demonstrated. In that context, this presence has, at the very least, demonstrated that some of the suggestions articulated by host countries and former host countries that have been critical of field presences are feasible at least at this one time and in this one place. It is hoped that the experience of this field presence will help dissipate negative perceptions relative to the existence of field presences generally.

*Conclusion*

Although its activities may contribute to conflict prevention and dispute settlement in an indirect way, the OSCE presence in Ukraine is not directly involved in any conflict prevention or dispute settlement activities.

The new co-operation between OSCE and its host nation envisioned at the time when the current presence was established is taking shape and bearing fruit. The view that field presences constitute a stigma is not the only view, and it should be realized that there are presences that, basing their work on mutual relationships and mutual goals, should, in fairness, not carry that stigma. It is to be hoped that perceptions are changing, in part, because of the experience of the field presence in Ukraine.





Focus on the Caucasus



## The Limits of Democratization in Postauthoritarian States: The Case of Azerbaijan

### Introduction

After 14 years of transition, Azerbaijan stands at a crossroads. The political leadership needs to agree on the direction the country should take in the future. There are two paths they could choose: creating a dynastic system or sharing power pluralistically. In Azerbaijan, party pluralism, which was introduced in the early 1990s, has not inevitably been accompanied by democracy. While following the path that leads to becoming an open society, Azerbaijan appears to have stopped at the stage of “democracy lite”. Institutional standards that are fundamental for democracies, such as free and fair elections, freedom of the press, assembly, expression, and information have too often been ignored and not infrequently deliberately curtailed<sup>1</sup> – most recently in the presidential elections of October 2003. Violent clashes between outraged demonstrators incited to riot and the police and the military resulted in several deaths and dozens of injuries. Arrests of opposition politicians with the appearance of arbitrariness also suggest the abuse of power. The events discredited the very idea of using free and fair elections to legitimize rule, causing lasting damage to the democratic system. Moreover, a consideration of the population’s access to TV and print media reveals a serious deficit with regard to political participation. As we shall see later, there are considerable obstacles to free opinion forming in Azerbaijan.

The presidential election in 1992 came nearest to meeting international standards in terms of organization, structure and execution. Twelve years have passed since then. And although international organizations recognize that progress towards democratization has been made, there has also been a considerable degree of backsliding into the autocracy of the former system.

The roots of the dynastic turn now also evident in the Central Asian successor states of the former Soviet Union can be traced back to 1992 and the founding of the New Azerbaijan Party (*Yeni-Azerbaycan Partiyası*, YAP). This followed three turbulent years, which led from the collapse of the authoritarian communist regime in 1990 via a post-communist restoration to the government of the Azerbaijani-nationalist Azerbaijan Popular Front in 1992-3. The victory of İlham Aliev, the son of Heydar Aliev, in the 2003 presidential election represents a new high point in the concentration of power in the hands of the state. İlham Aliev is also the starkest manifestation

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<sup>1</sup> On the fundamentals of a definition of democracy, see: Robert Dahl, *Polyarchy: Participation and Opposition*, New Haven/London 1971, pp. 2ff.

yet of the principle of hereditary succession. Before the election, he had not only been one of the leaders of the YAP, but also the vice president of the state oil company, SOCAR, and head of the National Olympic Committee. His appointment as prime minister by President Heydar Aliiev on 5 August 2003 marked the completion of the hereditary transfer of power.

The present contribution concerns certain aspects of the democratization process in Azerbaijan. A look at the various phases of political development since 1989 provides the background before which current events are unfolding. The aim is to assess the transition process in Azerbaijan, which continues despite all the adverse circumstances, and to identify potential for future development. The Nagorno-Karabakh conflict – an important background factor influencing political processes and decisions – will only be treated briefly. The following analysis does not deal with economic factors – not out of ignorance of the extremely powerful and lucrative oil business, but rather simply to remain on topic.

### *Nationalism as a Government Programme*

One thing Azerbaijan certainly does not have is a long tradition of democratic elections. Between April 1920, when the Bolshevik Red Army brought an end to the Republic of Azerbaijan, and independence in 1991, Azerbaijan was ruled by Moscow. For 70 years, while the Communist Party exercised authoritarian or even totalitarian control and sought to create a single “Soviet people”, there was no place for free, fair, secret, and equal elections. Only with the arrival of perestroika and glasnost, the mass demonstrations of 1988-9, and the intensification of the conflict over Nagorno-Karabakh were elections to Azerbaijan’s supreme soviet held for the first time (in 1990). The 350 elected members of this “transitional parliament”, which was given the task of leading Azerbaijan to independence, were nominated either by the Communist Party or by popular organizations, such as the reform-oriented Azerbaijani-nationalist “Democratic Bloc”. In this way, a crack was opened up in the monolithic power structure of the USSR, and it was only a matter of months until this led to Azerbaijan’s departure from the Soviet Union.

One of the first political concessions the new government made to the combined opposition groups, which were united under the banner of the Azerbaijan Popular Front (*Azerbaycan Xalq Cephesi*, AXC)<sup>2</sup>, was to formally recognize them as a political organization. The AXC won its second victory in October 1991 with the government’s introduction of the *milli meclis* – or National Council. The establishment of this body – consisting of 25 representatives each of the communist government and the opposition – was a

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2 The AXC only registered as a political party in 1995, since when it has been known as the AXCP (Azerbaijan Popular Front Party), although two factions have each claimed the name for themselves since a split in 2001.

clear sign of the shifting balance of power. In the opposition press, this was fêted as the victory of the Popular Front and an expression of the true relations of force in the country.<sup>3</sup> The Popular Front itself declared that, “After creation of the National Council, the APF [AXC] controls the legislative body. Representatives of APF are also in executive bodies of power. That’s why APF should have exact and perfect conceptions for all fields of national development. It demands to set up a special Brain Centre in APF. APF accomplished a historic mission with honour. If the National Regeneration Process at the beginning of the 20th century was connected with the Musavat Party then now this process was connected with the Azerbaijan Popular Front.”<sup>4</sup>

By now, the AXC had achieved a degree of organization and popularity that should have allowed it to assume power. At the same time, however – and in common with numerous other national-democratic parties throughout the former Soviet Union – the AXC was suffering as a result of the vagueness of its programme, which was basically limited to three points:

- Overthrowing the communist regime
- Building civil society
- Establishing a (social) market economy

With the AXC unable to function as a strategic umbrella movement, significant fractions split off and established themselves as independent political parties. Several of the decisive political forces in Azerbaijan emerged from the Popular Front:<sup>5</sup>

- The Social Democratic Party of Azerbaijan (*Sosyal Demokrat Azərbaycan Partiyası*, SDAP)
- The Azerbaijani Independent Democratic Party, (*Azərbaycan Müstəqil Demokrat Partiyası*, AMDP)
- The National Independence Party of Azerbaijan (*Azərbaycan Milli İstiqlal Partiyası*, AMİP)
- The Azerbaijani Democratic Independence Party (*Azərbaycan Demokrat İstiqlal Partiyası*, ADİP)
- The New Equality Party (*Yeni Müsavat*, Müsavat)
- The Grey Wolves (*Boz Qurd*).

While Azerbaijan’s first free parliamentary elections were postponed several times and only finally held in November 1995, a groundbreaking presidential election took place in July 1992. Not only did the AXC leader, Abulfaz El-

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3 Cf. Azadlıq, 29 November 1991.

4 From material produced by the AXCP.

5 Cf. İsmayıl Veliyev/Cavid Hüseynov, *Azərbaycanın Siyasi Partiyaları və İctimai Təşkilatları*, in: *Azərbaycan Ensiklopediyası Neşriyyat-Poliqrafiya Birliyi*, Baku 1995, pp. 7-31.

chibey (1938-2000), receive 60 per cent of the vote to end the rule of Ayaz Mutalibov,<sup>6</sup> who came to power in a dubious election in September 1991, he also represented the claim to power of the Azerbaijani nationalists. On taking office, Elchibey presented the main themes of his presidency: Democracy, Turkism, Islam. These were the three pillars on which he believed the Republic of Azerbaijan rested. He faced criticism from the West, which alleged that the AXC leadership was taking Azerbaijan down the road of Islamism, and thus on the way to becoming the next Islamic republic, on the model of Iran. In Elchibey's view, however, the interplay of these three factors was the basis of national renewal: "We emphasize democratic values because we recognize the principle that human rights are more important than interests based on class, religion and nationality. However, the rebirth of the Azerbaijani people is closely intertwined with Panturkism and with the Islamic civilization within which the Turkic peoples developed. That is why these three principles are logical."<sup>7</sup>

In terms of foreign policy, two of Elchibey's presidential decrees pointed the way forward: They led to Azerbaijan's exit from the CIS in 1992 and the uncompromising policy pursued in the war over Nagorno-Karabakh.

Over the years, talks convened by international organizations to resolve the Nagorno-Karabakh conflict, such as the Minsk Group of the OSCE, have been dominated by the clash between two fundamental positions: Protection of vested territorial interests (Azerbaijan) versus actual possession of territory on the ground (Armenia). Both parties seek to justify their positions historically, either in legal terms by reference to old treaties that remain legally valid, or in terms of the ethnic make-up of Nagorno-Karabakh. In one respect at least, there is nothing to choose between the two parties: They are both equally convinced of the rightness of their territorial claims. These fundamental positions, which have hardened over the years, make alternative approaches to resolving the conflict politically infeasible. Representing uncompromising positions is often tied to career prospects, and moderate voices more prepared to compromise are thus not only rare but also tend to be drowned out.

The outbreak of conflict not only threatened Azerbaijan's hard-fought stability, it also boosted nationalism and the country's national independence movement. Over the years, Nagorno-Karabakh developed into a cornerstone of Azerbaijani government policy. The political fate of every government – both rise and fall – has been linked to the insistence on the territorial integrity of Azerbaijan and the claim that Nagorno-Karabakh belongs to Azerbaijan.

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6 After the Azerbaijani Communist Party voted to dissolve itself in August 1991, Mutalibov, now a party leader without a party, took the bull by the horns and called presidential elections for 8 September. When his only opponent, Zardusht Alizadeh, withdrew his candidature, Mutalibov's total victory was ensured.

7 *Moskau News*, July 1992, p. 5 (this and all following quotes from foreign-language material translated by the author).

Elchibey's presidency ended in summer 1993 after just a few months. This was the end of the Popular Front's period in government, which was too short to see more than the beginning of the reform process. A collapsing economy, a refugee crisis, and a lack of ideas within the party virtually incapacitated the AXC. The war over Nagorno-Karabakh exacerbated Azerbaijan's underlying problems. The AXC's fixation on retaining or winning back territory served to make the conflict situation worse. To solve the territorial conflict, which would simultaneously be the key to holding on to power, the AXC chose to follow the path of Azerbaijani nationalism. But while this encouraged patriotism, it excluded the possibility of a diplomatic solution. Thus, the party locked itself into a vicious circle.<sup>8</sup>

Furthermore, the Azerbaijani nationalist parties, and the AXC/AXCP in particular, discredited themselves through internal mismanagement. Frequent splits, the founding of new parties, and conflict between party factions were symptoms of an intra- and cross-party power struggle that interfered with the parties' main activities and made them appear incapable of effective action.

Once the Popular Front was forced into opposition, these problems were joined by a lack of policies and the inability to form coalitions. Much stronger, however, was the tendency of the population to associate these parties with the ongoing conflict over Nagorno-Karabakh. It was the nationalist president Elchibey that led the country ever deeper into the war in 1992, and the population lays responsibility for the tens of thousands of dead and the 500,000 internal refugees at the door of the AXCP. Even if it did not cause the war, the party has to take responsibility for escalating the situation. Moreover, the fact that it was Aliiev, the leader of the YAP, who negotiated the 1994 ceasefire that holds to this day, thus establishing an "armed peace", deepened the population's mistrust of the Azerbaijani nationalist parties. The AXCP and its successors have lost whatever advantage they once had. A survey carried out by the International Republican Institute (IRI) revealed that 48 per cent of Azerbaijanis feared the return of war.<sup>9</sup>

#### *Old Structures – New Hierarchies*

While the once high level of support for Elchibey and the Popular Front shrank as the conflict over Nagorno-Karabakh escalated, the popularity of Heydar Aliiev grew. Aliiev's long career had seen him rise through the ranks of the nomenklatura to reach the centre of power in Moscow. After falling out with Gorbachev in 1987, he spent five years as leader of Nakhichevan. His political renaissance began in November 1992 with the founding of the YAP. From the start, the party was the multi-ethnic counterweight to the

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8 For a comprehensive analysis, see Hendrik Fenz, *Transformation in Aserbajdschan* [Transformation in Azerbaijan] (forthcoming), Part II, Chapter 2.  
9 Cf. [www.iri.org](http://www.iri.org).

Popular Front, which had a platform based on Turkism and pan-Azerbaijanism.<sup>10</sup> The ethnic make-up of the YAP's executive committee (Azerbaijanis, a Russian, a Talysh, and a Lezgi) underlined the party's political approach. The cause of the last three groups, in particular, which, as minorities in Azerbaijan, had been especially concerned about their social, cultural and political future, was taken up by the YAP, first in Nakhichevan, then in the country as a whole. Of course, this policy was also an attempt to secure the political loyalty of ethnic groups.

On 15 June 1993, Aliev celebrated his return to Baku as the newly elected speaker of the Azerbaijani parliament. Three days later, fearing for his life, Elchibey fled to his home region of Nakhichevan. What followed was a clever political manoeuvre: In the president's absence, it is the speaker of the parliament, in this case Aliev, who assumes his duties. When President Elchibey refused categorically to return to Baku, the National Council waited only a few days before transferring all presidential powers to Heydar Aliev, on 24 June 1993. In effect, the elected president was overthrown. Aliev's presidency was given the seal of approval by the Azerbaijani public in a referendum held in August 1993 and a presidential election called at short notice in November 1993, which he won with 98.8 per cent of the vote, a figure reminiscent of the communist era.<sup>11</sup> Aliev set about immediately to rebuild his power. Decisions made by the Popular Front, such as the intention to sign a major international agreement for the exploitation of Caspian oil, were revised, while Azerbaijan's accession to the CIS, which had been shelved in 1992, was quickly implemented. The most significant achievement of Aliev's first year in power was the ceasefire with Armenia in 1994. He consolidated his hold on power by surrounding himself with loyal appointees. In statements that also display autocratic tendencies, Aliev revealed – with no hint of modesty – the role he imagined for himself: “They believe in me. Or, more exactly, they believe in me in the religious sense. It is a desperate belief, perhaps the last belief, in a politician as the messiah, in a politician who can free his entire people from need.”<sup>12</sup> And: “I built huge factories here, power stations, roads, bridges, apartment buildings. Here in Baku within a single year, I built one million square meters of apartment buildings. Do you see all these buildings? They all were built by me.”<sup>13</sup>

While Aliev saw himself as the builder of Azerbaijan, the new regime used repressive measures such as arrests, bans on newspaper, and the occupation of AXCP headquarters to force the opposition, and particularly the

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10 Cf. Ebulföz Elçibey, *Bütöv Azərbaycan Yolunda*, Ankara 1997.

11 Cf. Center for Strategic and International Studies (CSIS), *Azerbaijan presidential election*, at: [www.csis.org/ruseura/caucasus/pubs/cew\\_030605.pdf](http://www.csis.org/ruseura/caucasus/pubs/cew_030605.pdf).

12 Vek, 28 January/3 February 1994, cited in: Rainer Freitag-Wirringhaus, *Kurzbiographie Haidar Aliev*, in: *Orient* 1/1994, pp. 5-14, here p. 5.

13 Interview with Heydar Aliev, in: *Azerbaijan International* 3/2001, pp. 14ff., available at: [http://www.azer.com/aiweb/categories/magazine/93\\_folder/93\\_articles/93Aliyev.html](http://www.azer.com/aiweb/categories/magazine/93_folder/93_articles/93Aliyev.html).



Popular Front, out of the political process.<sup>14</sup> It was no coincidence that the opposition newspaper *Müxalifet* published an open letter accusing the president of being the enemy of Azerbaijan's deliverance.<sup>15</sup> If Aliev's domestic stance was uncompromising towards the opposition, his foreign policy looked beyond partnership with Turkey and sought to intensify relations with Russia. Azerbaijan's return to the CIS fold reopened the gateway to the Caucasus for Moscow's interests. This meant, however, that the government of Azerbaijan thus gave room on its unstable ship of state to a partner driven above all by its own economic and strategic military considerations.

#### *Elections: Benchmarks of Democracy*

The table on page 172 aims to provide an overview of turnout and the share of the vote in presidential elections. Two figures in particular may require explanation: The results of the 1991 and 1993 elections, in which one candidate (Mutalibov and Aliev, respectively) received over 98 per cent of the vote, can be explained with reference to the context in which the ballots took place. While competing candidates succeeded in winning a significant portion of the vote in 1992, 1998, and 2003, the rulers (not yet presidents in name) stood without serious opposition in 1991 and 1993.

Only the 1992 election, in which Elchibey won 60.9 per cent of the vote to beat his opponents, can be considered a free and democratic ballot in the strict sense. In contrast to the contests that followed, there was far less control over the media, which meant the population was provided with far better access to information. It is thus possible to view the result – which would have been seen as humiliatingly low in Soviet times – as illustrating the growing willingness of the population to participate politically.

The three elections held within 24 months in 1991, 1992, and 1993 reflected Azerbaijan's domestic instability. As well as feeling the effect of the Nagorno-Karabakh conflict, the state was undergoing a fundamental transformation from one system to another. Only with Heydar Aliev's assumption of the presidency in 1993 do we see the start of the political stabilization process that appears to have continued into the rule of his son.

For the 2003 election, the nationalist opposition formed the "Our Azerbaijan" alliance, to try once again to unseat Aliev and change the balance of power by democratic means. However, a meeting of opposition parties (*Müsavat*, *AMİP*, *AXCP*) held in London in late August 2003 proved unable to agree on a common candidate. Unable to pool their resources in the campaign, the opposition parties lost.

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14 According to Human Rights Watch, at least 137 members of the opposition were arrested in 1993. Cf. [www.hrw.org/reports/1994/WR94/Helsinki-02.htm](http://www.hrw.org/reports/1994/WR94/Helsinki-02.htm).

15 Cf. *Müxalifet*, 28 October 1993, p. 1.

*Percentage share of the popular vote in presidential elections*

	1991	1992	1993	1998	2003
Ayaz Mutalibov, AKP	98.5	-	-	-	-
against Mutalibov	1.5	-	-	-	-
Elbufez Elçibey, AXÇ(P)	-	60.9	-	-	-
Nizami Süleymanov, AZDİ	-	33.8	-	8.2	-
İlyas İsmayılov, ADİİH	-	0.7	-	-	0.8
Rafiq Abdulayev, XCP	-	0.5	-	-	-
Tamerlan Qarayev		1,6			
Yaqub Mamedov, independent	-	1.7	-	-	-
Heydar Aliev, YAP	-	-	98.8	77.6	-
Zakir Tagiyev, AHP	-	-	-	-	-
Kerar Abilov, VAP	-	-	1.02	-	-
Etibar Mamedov, AMİP	-	-	-	11.8	2.0
Firudin Hesenov, AKP	-	-	-	0.9	-
Eşref Mehdiyev, QP	-	-	-	0.9	-
Xanhüseyn Kazımlı, SRP	-	-	-	0.3	-
İlham Aliev, YAP	-	-	-	-	77.97
İsa Gember, Müsavat	-	-	-	-	11.91
Lala Şövkət, Milli Birlik	-	-	-	-	3.22
Sabir Rüstəm xanlı, VHP	-	-	-	-	0.76
G. Hasanguliyev, XC	-	-	-	-	0.44
H. Hacıyev, Yeni Müsavat	-	-	-	-	0.32
Others	-	-	-	-	2.58
“None of the above”	-	2.4	-	0.3	-

Source: Florian Grotz/Raoul Motika, Azerbaijan, in: Dieter Nohlen (ed.), *Elections in Asia and the Pacific*, Oxford 1999, pp. 348-369, here: pp. 363f. See also [www.ifes.org](http://www.ifes.org).

As Arif Hajiev, the deputy chairman of the Müsavat party was correctly forced to conclude: “The parties’ leaders have come to a common opinion that they need cooperation to prevent monarchy in the republic.”<sup>16</sup>

The governing YAP party also played a tactical masterstroke in the selection of their candidate. By waiting until the last minute to withdraw the candidature of the seriously ill President Heydar Aliev they not only gave the opposition no opportunity to take concerted action to react but, by fielding

16 Cf. [www.bakutoday.net/view.php?d=5922](http://www.bakutoday.net/view.php?d=5922).

only a single candidate, namely Ilham Aliev, they also improved his chances of victory. Even discounting the electoral irregularities frequently denounced by international observers – which ranged from simple ballot-paper forgery to threats against candidates and their representatives – Aliev’s victory would almost certainly have been assured.<sup>17</sup>

With 77 per cent of the vote, Aliev’s margin of victory appears comfortable. However, there are two reasons why it can be seen as thin enough to stop the new president from resting on his laurels. First, power struggles between the wings of his party are likely. If the party was previously held together by the charismatic former president – a master of every political and diplomatic trick in the book – Ilham Aliev faces a legitimation crisis. This carries a real risk of a split within the party, although the external “push factors” that tend to encourage party unity may be strong enough to prevent the worst from happening. The second problem is that the YAP party is also entangled in the Nagorno-Karabakh conflict. However much the current situation may also be seen as a political deadlock, it nonetheless still represents the lowest common denominator acceptable to the presidents of Azerbaijan and Armenia and a “minimal solution”, on which they have fallen back. To threaten this could set in motion dangerous and uncontrollable forces.

As the long-serving vice president of the SOCAR oil company, Ilham Aliev is likely to possess adequate financial lubricant to keep the engine of his presidential apparatus ticking over. If reference is commonly made to “his” offices, thus implying that “offices” are private property, this point of view reflects an understanding of power widespread in Azerbaijan. In that country, as in many other Soviet successor states, power is never simply institutionalized but is always personalized. This was again revealed clearly in the 2003 presidential election campaign: a contest between personalities, where vicious polemics had to stand in for the lack of policies. The party manifestos contained little more than close-up images of the candidates and, at best, slogans such as “Bread, Work, Karabakh”.

The assessment of Peter Eicher, head of the ODIHR election observation mission during the 2003 election, is unambiguous about the limitations on the democratic process in Azerbaijan: “This election was a missed opportunity for genuinely democratic elections.”

#### *Azerbaijan and Ilham Aliev*

To the extent that this can be judged only a few months into his presidency, Ilham Aliev appears to be using both his father’s tried-and-tested methods and his own business contacts to consolidate his political power. In doing

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17 Cf. ODIHR, *Final Report on the Presidential Election in the Republic of Azerbaijan*, 15 October 2003 (12 November 2003), at: [http://www.osce.org/documents/odihr/2003/11/1151\\_en.pdf](http://www.osce.org/documents/odihr/2003/11/1151_en.pdf).

this, he can make use of a party machine that is extremely closely integrated with the state and its institutions. The party is far more than just a political organization: It is a giant job-creation scheme, and its members are interested in remaining in power simply for the personal benefits it brings them. Here we find one of the causes of the corruption that affects every aspect of life in Azerbaijan. Although, in the 1970s, Heydar Aliev understood the importance of fighting corruption and nepotism, Azerbaijan has once more reached the point where a lack of legal security makes investing in the country a gamble.

International organizations such as Transparency International, Freedom House, and Human Rights Watch credit Azerbaijan with making a certain degree of progress towards creating an open society. Azerbaijan's admission – alongside Armenia – in 2001 to the Council of Europe was also a reward for the country's reform efforts. However, Europe's geopolitical interest in the South Caucasus – and in Azerbaijan in particular, thanks to its oil reserves and its strategic location north of the Islamic republic of Iran – casts a political shadow over the accession, and awakes the suspicion that the admission of Azerbaijan is about more than the promotion of democracy. The influence of the centralized power structure inherited from the communist era remains too strong – and is not even perceived by the population as deeply undemocratic. As a result, Azerbaijan came a poor 140th (of 146) in Transparency International's 2004 corruption index. A 2003 survey by the International Republican Institute (IRI) tells a different story: Only four per cent of Azerbaijanis even consider corruption as a problem, although the population is highly critical of developments in Azerbaijani society. Only 19 per cent believe that the situation in Azerbaijan is now better than during the Soviet period.

The following table reveals the total dominance of the government in the state-owned media during the 2003 election campaign. While the two Alievs received the undivided attention of the media in the form of two hours and 36 minutes of TV airtime (Ilham Aliev) and 46 minutes (Heydar Aliev), respectively, the opposition candidates shared a grand total of twelve seconds. Expensive advertising campaigns and omnipresent coverage of the government candidates in the media – something the opposition had no chance of matching – critically influenced popular opinion in the run-up to the election. The survey of press freedom carried out by Freedom House is also clear on this matter: Azerbaijanis enjoy neither free access to the media, nor freedom of assembly and opinion. Azerbaijan's press is described as “not free”<sup>18</sup>

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18 On a scale of 1-100 (from very good to very poor), Azerbaijan received a very weak 73.

### *Access to the media*

	<i>State TV</i>	<i>Private TV</i>
Ilham Aliev	2:36	10:51
Heydar Aliev	0:46	-
All others	0:00:12	0:24

The president's power monopoly is also accurately mirrored in the Azerbaijani press. Although significantly more opposition newspapers are sold (34,000) than pro-government organs, only the latter are available throughout the country.

### *Newspaper reach*

<i>Name</i>	<i>Circulation</i>	<i>Distribution</i>	<i>Owner</i>	<i>Political stance</i>
Yeni M <span>ü</span> sav <span>at</span>	19,500	Baku	M <span>ü</span> sav <span>at</span>	Opposition
Echo	6,000	Baku	Private	Independent
Zerkalo	4,500-6,500	Baku	Private	Independent
Azerbaycan	8,700	Nationwide	State	Government
Respublika	9,500	Nationwide	State	Government
Xalq	3,500	Nationwide	State	Government
Bakinski Rabo <span>ç</span> i	3,300	Nationwide	State	Government
Azadlıq	6,500	Baku	Private	Opposition
525	2,500	Baku	Private	Opposition
Millet	5,000	Baku	AM <span>İ</span> P	Opposition
H <span>ü</span> rriyet	10,350	Baku	DP	Opposition

Source: ODIHR

### *Parliamentary Hesitancy and Extraparliamentary Opposition*

In 1997, the Pan-Azerbaijani Union (*Bütüv Azerbaycan Birliği*, BAB) was formed in an attempt to occupy the political middle ground that had separated government and opposition since 1993. The new party aims to capture ideological ground from the existing nationalist parties, especially the AXCP, which are seen as ideologically contaminated. The BAB is the creation of the nationalist opposition, and the Popular Front and Müsavat in particular. The party members chose as their leader the former anti-Soviet dissident, one-time president of Azerbaijan and nationalist, Abulfaz Elchibey, and he is the inspiration for the uncompromising fixation on territorial questions in the party's programme. The BAB seeks not only the incorporation of the Azerbaijani provinces of Iran, but also parts of Iraq, Dagestan, Armenia and, of course, Nagorno-Karabakh.

The BAB can be seen as a collective political movement, whose supporters share a dedication to Azerbaijani unification. Although it is currently not an explicit goal, it seems possible that the BAB may eventually develop into the party of Greater Azerbaijan.<sup>19</sup> The BAB leadership consists largely of members or sympathizers of nationalist Azerbaijani parties. Since the end of its time in government, the AXCP remains committed to a nationalism that includes South Azerbaijan, i.e. the Azerbaijani provinces of Iran. The YAP, on the other hand, limits its national claims to Azerbaijani state territory. The BAB was thus founded in the run-up to the 1998 presidential election, as the nationalist opposition sought to form a coalition capable of breaking the power of the Aliev cartel.

A significant proportion of BAB supporters were once members of the Popular Front government. This government, which lasted from 1992-3 had a strong Azerbaijani nationalist tendency, something also reflected in the current BAB programme. Can the BAB therefore be seen as the long arm of the Popular Front, or as its nationalist *avant garde*? If one reads the BAB's manifesto and compares it with statements made by the late President Elchibey, there can be no doubt. The BAB co-operates closely with organizations such as the World Azerbaijani Congress (*Dünya Azərbaycan Konqresi*, DAK) and the Southern Azerbaijan National Awakening Movement (*Güney Azərbaycan Milli Oyanıb Herekatı*, GAMOH). Contacts to Iranian organizations demonstrate that the potential for concerted action also exists there.

### *Outlook*

If Heydar Aliev, who died in December 2003, stands for the dynastic retention of power, the Azerbaijani nationalist opposition around Abulfaz Elchibey, who died in 2000, symbolizes freedom from the Soviet Union and “actually existing socialism”, but also for an extreme Azerbaijani nationalism. Despite considerable initial successes, the opposition remains weak, divided, and its platform – to the extent it has one – has an extremely narrow focus. At the same time, the YAP is using both its own power and the resources of the state to safeguard its own interests.

Does democratic pluralism – an open society – currently represent a realistic alternative to the monopoly of the YAP and the central figure of Aliev? Even if the answer is yes, it is not enough for the opposition parties to have this aim in mind if they lack the leadership, willingness to achieve consensus, and tactical and strategic will to form a coalition.

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19 This was at least the cautious opinion expressed by several BAB functionaries in conversation with the author in March 2001.

The nation-building process in Azerbaijan has come so far that we can speak of consolidated state building in the sense used by Linz and Stepan.<sup>20</sup> On the one hand, the republic is on the way to establishing popular sovereignty. On the other, the recourse to nationalism – as helpful as this was in encouraging democratization in the early 1990s – and the enforcement of ideological orthodoxy on democratically legitimated institutions are barriers to progress. On the continuum of political systems, Azerbaijan stands between defective democracy and a semi-authoritarian system.<sup>21</sup> A strong civil society will not be established as long as the elites (and not only those in Azerbaijan) remain fixated on the state monopoly of power and see political pluralism and the rule of law as a slippery slope that leads to the collapse of the state. But it is precisely here that democratization offers the best hope. Only a reduction of centralized control can enable a “dehierarchization of relations between state and society”<sup>22</sup> so that civil society organizations can enjoy greater (and ideally better) opportunities for political participation.

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20 See Juan J. Linz/Alfred Stepan, *Problems of democratic transition and consolidation*, Baltimore/London 1996, pp. 15ff.

21 Wolfgang Merkel, *Systemtransformation* [System Transformation], Opladen 1999, pp. 54f.

22 Aurel Croissant, Demokratisierung und die Rolle der Zivilgesellschaft in Südkorea, Taiwan und auf den Philippinen [Democratization and the Role of Civil Society in South Korea, Taiwan and the Philippines], in: *Aus Politik und Zeitgeschichte* B48/1998, pp. 25-33, here: p. 31.





## Georgia's New Nationalism: A Better Opportunity for State Building?

### Introduction

The much-discussed question of Georgia's "succession" was resolved in an unexpected manner: On 23 November 2003 – eighteen months before the end of his second term in office, Eduard Shevardnadze, the patriarch of the new Georgian state, resigned. Shevardnadze had ruled the country for 25 years in all: from 1972 to 1985 as first secretary of the Georgian Communist Party, and from 1992 to 2003 as president of an independent Georgia.

Shevardnadze's 1992 return to his homeland was welcomed as an opportunity for deliverance by a country devastated by civil war. He was indeed successful in ending the chaos and laying the foundations of the new state. However, the system of governance he established was highly focused on his person. Shevardnadze thus became – at one and the same time – the sole factor guaranteeing Georgia's stability and a major problem: What would happen when the charismatic patriarch stepped down? Would Georgia descend once again into chaos?<sup>1</sup> To ensure stability, a quasi-hereditary succession (such as has occurred in Azerbaijan or even in Russia) appeared to be a sensible solution.

Events in Georgia have disproved this logic. The overthrow of Shevardnadze did not lead to major turbulence within Georgia's fragile political system. On the contrary, the events can be seen to have given new momentum to a constructive nationalism (nation building), which can lead to a strengthening of state institutions and related social structures in the medium term.

Does this indicate a fundamental change of direction in the development of the Georgian state? Only time will tell. The initial acts of the new government in both domestic and foreign policy allow the identification of but a few general tendencies. This article concerns itself with the first ten months following the "Rose Revolution" (from the end of November 2003 to the start of October 2004). The analysis focuses above all on measures taken to strengthen central government and their consequences for domestic and foreign policy, especially with regard to the resolution of the conflict in Ajaria and Russian-Georgian relations.

A brief exposition of socio-political processes since the start of the 1990s will demonstrate the extent of Georgia's structural problems. These, I

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<sup>1</sup> This problem also exists in other South-Caucasian countries. On this topic, cf. Rainer Freitag-Wirringhaus, *Politische Konstellationen im Südkaukasus* [Political Constellations in the South Caucasus], in: *Aus Politik und Zeitgeschichte* B 42/1999, pp. 21-31.

believe, represent both opportunities and obstacles for the development of the Georgian state. They determined Shevardnadze's style of government while simultaneously leading to his fall. They cannot be overcome merely by a change of regime, and will also demand the attention of Georgia's new leaders.

### *Georgia after Independence: Shevardnadze's System of Governance*

Georgia, devastated by civil war, achieved independence at the end of 1991. In January 1992, the country's first president, Zviad Gamsakhurdia, was overthrown by various militia groups. To win international recognition for the new regime, the Military Council recalled as president the former Georgian party leader and Soviet foreign minister, Eduard Shevardnadze, who was respected as a democrat in the West. Shevardnadze took charge of a country in ruin: Power lay in the hands of numerous paramilitary groups, the economy had collapsed, and a new civil war had broken out with supporters of Gamsakhurdia in the west of the country. At the same time, the conflict in the Autonomous Region of South Ossetia escalated once again; and war was also threatening to break out in Abkhazia, eventually doing so in August of that year.<sup>2</sup>

Although Shevardnadze was appointed head of state and succeeded in legitimating his position in the parliamentary elections of 1992, he had to share his power with a number of influential paramilitary leaders, foremost among them Tengis Kitovani, the leader of the National Guard, and Jaba Ioseliani, the leader of the semi-official "Mkhedrioni" militia. It took Shevardnadze until the mid-1990s to consolidate his power and bring the militias under state control. This required him not only to forge numerous domestic and foreign alliances, but also to accept several defeats, e.g. in South Ossetia, Abkhazia, and Georgia's third autonomous area, Ajaria. While the first two regions declared their independence from Georgia in the wake of military confrontations, Ajaria, which is populated by ethnic Georgians, remained formally part of the Georgian state. At the same time, however, Ajaria's leader, Aslan Abashidze, distanced himself from the central government and consolidated his *de facto* sovereignty in the region.

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2 On the early years of independence, see: Jonathan Aves, *Path to National Independence in Georgia, 1987-1990*, London 1991; Suzanne Goldenberg, *Pride of Small Nations*, London/New Jersey 1994 (chapter on Georgia); Shireen T. Hunter, *The Transcaucasus in Transition*, CSIS, Washington D.C. 1994 (chapter on Georgia); Stephen F. Jones, Populism in Georgia: The Gamsakhurdia Phenomenon, in: Donald V. Schwartz/Razmik Panossian (eds), *Nationalism and History: The Politics of Nation Building in Post-Soviet Armenia, Azerbaijan and Georgia*, Toronto 1994, pp. 127-149; Stephen F. Jones, Adventurers or Commanders: Civil-Military Relations in Georgia, in: Constantine Danopoulos/Daniel Ziker (eds), *Civil-Military Relations in the Soviet and Yugoslav Successor States*, Boulder 1996, pp. 35-52.

During his long career in the Communist Party, Shevardnadze had learned to turn even defeats to his advantage. He was thus able to take advantage of the military defeat in Abkhazia to disempower the paramilitaries while they were dispersed and weakened. The defeat also dealt a severe blow to the anti-Russian tendency in Georgian politics: Georgia joined the Commonwealth of Independent States (CIS) and Shevardnadze signed the agreement on the establishment of Russian military bases in Georgia without provoking significant opposition in Georgia. With Russian help, he ended the ongoing civil war with the followers of his predecessor Gamsakhurdia in western Georgia and took a hard line against paramilitary groups. However, the thaw between Tbilisi and Moscow was short-lived. The two sides had vastly different understandings of what co-operation entailed. For Moscow, it referred, above all, to its military presence in the region (military bases, peacekeeping and border troops), whereas Shevardnadze wanted to use co-operation with Russia to preserve Georgia's territorial integrity and, most importantly, to enhance his own power.

Nevertheless, the brief honeymoon in Georgian-Russian relations did allow him to strengthen his domestic power base. Shevardnadze revived networks of loyalty that had existed since Soviet times and made them the basis of his rule. For the most part, he relied on informal personal relationships, cloaked with the help of formal institutions.<sup>3</sup> Shevardnadze thus established a bureaucratic-patrimonial state, corresponding to the type of politics that had in practice prevailed in Georgia since the 1970s. This style of governance can be represented by a pyramidal power structure, with the ruler at the apex. He bases his power on a range of informal groups, creating new ones (often designated "families") and dissolving old ones at will, playing them off against each other and always keeping a tight grip on the reins of power.<sup>4</sup> An interesting feature of systems of this kind is that they emerge within formal state institutions and make use of the latter's organizational capacities. Admittedly, this makes the creation of a politically neutral bureaucracy all but impossible; nonetheless, in the former Soviet republics, there exist bureaucracies that will serve whoever happens to be their "master".

Shevardnadze's decision to re-establish a Soviet model was not necessarily a matter of personal choice. In a highly traditional society, dismembered by civil war, personal (familial) trust was (and remains) irreplaceable. In such a context, state institutions can only be trusted to work effectively when informal personal contacts are maintained with their leaders. In other words, during the years of chaos, establishing new state institutions on the basis of personal loyalty was a matter of survival for Shevardnadze: Corrup-

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3 For a consideration of similar structures, cf. Wolfgang Merkel/Aurel Croissant, *Formale und Informale Institutionen in defekten Demokratien* [Formal and Informal Institutions in Defective Democracies], in: *Politische Vierteljahresschrift* 1/2000, pp. 3-31.

4 Shevardnadze's influential vassals, who have often also been each other's rivals, have at different times included Jaba Ioseliani, Shota Kviraia, Kakha Targamadze, Nugzar Sajaia and Zurab Zhvania.

tion, nepotism, the sale of offices, and continual changes of personnel aimed to keep the system perpetually in motion.

Ten years later, the means Shevardnadze used to overcome the problems of the 1990s sealed his own fate; he began to fear the growing strength of Georgia's state institutions – and the security sector in particular. When in November 2003 the regime needed to use its repressive apparatus in an attempt to maintain its hold on power, it found that the structures it needed were no longer under its control. Corruption and the sale of offices had so undermined the patronage system within the police force – always considered to be Shevardnadze's power base – that in the end not a single officer remained loyal to the regime. The pyramid system – a suitable model for the consolidation of power in the early 1990s – proved useless ten years later.

Shevardnadze's biggest "error" proved to be his "democratic tendencies". The former Soviet foreign minister and a major player in the creation of the new Europe considered himself the father of Georgian democracy. A commitment to freedom and democracy was necessary to secure Western support<sup>5</sup> for his efforts to strengthen his position both within Georgia and towards Russia. Georgia had neither oil (*vide* Azerbaijan) nor an influential Western diaspora (as does Armenia) to arouse the interest of the West. "The only thing we have to offer is democracy", was how the parliamentary speaker and Shevardnadze's then ally, Zurab Zhvania, expressed it at the time. This comment pointed to how democracy and the regime's pro-Western orientation served a domestic political function, namely to strengthen the regime. To this end, Shevardnadze created a "reform-oriented, democratic wing" among his supporters, which aimed to secure the financial and political support of the West, while the traditional (conservative) wing ensured domestic "stability".

Relations with the West were also determined by the logic of the patronage system inherited from the Soviet Union. During the 1970s and 80s, Shevardnadze ensured that Georgia remained loyal to the Kremlin. This loyalty was rewarded by successive Soviet leaders, who allowed Shevardnadze to act autonomously within the area under his control. Shevardnadze understood the role of the West to be similar: Its task was to provide protection and financial support to his regime both in domestic disputes and with regard to Russia, officially in the interest of furthering the reform process, but without interfering too deeply in "internal matters".<sup>6</sup> This arrangement functioned for a while, but it soon became clear that the West's good faith had been quickly exhausted.

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5 "Western" is used here to refer to the OECD states.

6 Shevardnadze was visibly upset when the former US Secretary of State James Baker presented his plan for establishing the Central Election Commission during a visit to Georgia in the summer of 2003. Baker's aim was to ensure free and fair elections. In Shevardnadze's opinion, however, his former friend's mission amounted to excessive interference in Georgian domestic affairs. Although Shevardnadze agreed with the proposal, his parliamentary majority scuppered the plan.

In the last instance, this “staged democracy”<sup>7</sup> was detrimental for the regime. With financial support from the West and the help of transnational corporations, new zones of freedom were created within Georgian society: non-governmental organizations and an independent media. These were able to disseminate government-critical points of view among the population and establish a basis for the creation of centres of power outside government control. Following the revolution, Shevardnadze stated in a television interview that “I never thought that the kids [author’s note – this refers to the “Kmara” (“Enough”) movement, funded by the Soros Foundation, which made a major contribution to the mobilization of the masses] could get so far just by waving flags. I misread the situation. I should have acted against [George] Soros sooner. He shouldn’t have interfered in politics.”<sup>8</sup> Here, once again, his style of governance was the cause of his downfall: The staged democratic processes destroyed the informal structures based on loyalty.

### *The Prelude to and the 20 Days of the “Rose Revolution”*

On 30 October 2001, officers of the Ministry of State Security entered the building of the independent television station “Rustavi 2”, ostensibly to examine financial irregularities. Whether or not the company’s accounts did in fact breach any of Georgia’s then applicable laws, the population saw the operation as an attack on media freedom. In November, thousands took to the streets in Tbilisi demanding the resignation of the ministers of security and interior affairs, considered the key supports of the regime.

November 2001 foreshadowed the revolution. A new centre of power crystallized within the political system itself, one that knew to exploit the population’s dissatisfaction with social conditions. This new elite came into being within the moderate wing of the government. The former minister of justice, Mikhail Saakashvili, who had resigned in September 2001, formed an alliance of forces opposed to Eduard Shevardnadze.<sup>9</sup> Parliamentary Speaker Zurab Zhvania had, even before the Rustavi 2 incident, written an open letter to Shevardnadze, in which he described the situation in the country as “on the brink of catastrophe”.<sup>10</sup> Following the government’s attempt to close down the independent broadcaster, Zhvania resigned in the hope of encouraging Shevardnadze to dismiss Interior Minister Kakha Targamadze, Security Minister Vakhtang Kutateladze, and Prosecutor General Gia Meparishvili.<sup>11</sup>

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7 Guram Tevzadze, *sakartvelo: dzalauplebis sumulatsiebi* [Georgia: Simulations of Power], Tbilisi 1999.

8 Broadcast by various television channels, e.g. by *Imedi-TV* on 30 November 2003.

9 Cf. Dimitri Bit-Suleiman, Domestic Discord Hampers Georgia, *Eurasia Insight*, 1 October 2001.

10 Eurasianet.org, 29 August 2001, <http://www.eurasianet.org/resource/georgia/hypermail/200108/0084.html>.

11 Cf. Jean-Christophe Peuch, Shevardnadze unlikely to emerge from crisis unscathed, *Eurasia Insight*, 6 November, 2001.

With the departure of the parliamentary speaker and his group, Shevardnadze lost the last of his moderate supporters.<sup>12</sup>

Nevertheless, the Rustavi 2 protests ended in victory for Shevardnadze, the more experienced political operator. He succeeded in reversing an attack initially aimed at him and using it to destroy two opposition groups. With the sacking of Targamadze (known as “the iron man” in the Georgian press), he disposed of the threat posed by the increasingly powerful interior minister. Targamadze was the successor to Shota Kviraia, the influential interior minister during the 1990s, and as known for largely pursuing his own political goals in the Pankisi Gorge.<sup>13</sup> Shevardnadze also freed himself of the group known as the “reformers”, who demanded “reforms that were too wide reaching”. In the style of a neo-patrimonial ruler, who changes his following to match the political climate, Shevardnadze placed his hope in a new group, headed by Security Secretary Nugzar Sajaia.

This was, however, to be the veteran campaigner’s last victory. Shevardnadze’s manoeuvring failed to quell the population’s discontent. On the contrary, his former associates swelled the ranks of the opposition. For the first time in Georgia’s recent history, the government found itself faced with a challenge it could not master. The West suspended the financial support it provided to the regime<sup>14</sup> and began to support the opposition. The independent television station Rustavi 2 continued to mobilize the population.

Before the 2003 parliamentary elections, the distribution of political power in Georgia was relatively straightforward. Shevardnadze’s party, the electoral alliance “For a New Georgia”, consisted of former communists, corrupt politicians and criminals, populist nationalists, and those who would otherwise have had no chance of making a political career. Nevertheless, most commentators did not expect this group to achieve the seven per cent of the national vote needed for entry to Georgia’s parliament. This was partially confirmed by the 2002 local elections, which resulted in a catastrophic defeat for the governing party, which, for example, was unable to win a single seat on Tbilisi city council. The government was forced to rely on its majority on the electoral commissions, i.e. to manipulate the results. Local authorities and even the police also interfered with the election; not only the results, but also the register of voters were falsified.<sup>15</sup>

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12 Another splinter group left the governing majority before Saakashvili and Zhvania. Its members founded the political movement “The New Right”, which currently forms the opposition in the Georgian parliament.

13 The Pankisi Gorge borders on Chechnya and, for a time, served as a refuge for Chechen fighters. For this reason, Georgia was frequently accused by Russia of supporting terrorism. Targamadze is said to have had contacts with the Chechens (but also with the Russians) and to have made deals that were both financially and politically lucrative.

14 For example, the International Monetary Fund and the World Bank temporarily suspended all programmes for Georgia.

15 Cf. Vanessa Liertz, *Demokrawas? Chaos mit System: Betrug bei den Wahlen in Georgien* [Democrawhat? Organized Chaos: Electoral Fraud in Georgia], in: *Die Zeit* 46/2003, 6 November 2003.

Nonetheless, it was a complete surprise when the parliamentary elections were won by the government party. Equally unexpectedly, second place went to the “Agordisineba” party of the authoritarian Ajarian leader, Aslan Abashidze. These two “conservative” groups and a number of pseudo-opposition parties<sup>16</sup> formed the majority in parliament and were thus able to put an end to all attempts at reform. Contradicting the official results, the parallel count of votes carried out by NGOs and the independent media concluded that the government and its allies had lost the election.<sup>17</sup>

However, the opposition was clearly prepared for this turn of events and called for mass demonstrations. The electoral alliances “National Movement” (Saakashvili) and “Democrats” (Burjanadze and Zhvania),<sup>18</sup> together with several smaller parties, united in opposition to the government. The 20 days of the Rose Revolution<sup>19</sup> revealed where the real alliances and the true balance of power lay in Georgia. Most of all, it became clear just how weak a state built around a single person is. Faced with organized pressure, the corrupt security structure of the regime was unable to offer any resistance. Many leading state officials changed sides. The police and other security forces made no attempt to stop demonstrators from storming the parliament building as the president was opening the newly elected parliament. The next day, on 23 November 2003, Shevardnadze stepped down.

### *The New Nationalism*

In the presidential elections that were brought forward to 4 January, 2004, Saakashvili was unopposed, receiving 96 per cent of the vote. That may be “uncomfortable” for a democratic politician, but it is in fact a fairly accurate representation of political reality.<sup>20</sup> Saakashvili was quite deliberate in naming his bloc “National Movement” – in Georgian “Natsionaluri Modzraoba”. The Georgian equivalents of the Latin noun “natio” and the adjective “national” are “eri” and “erownuli”, respectively. “Erownuli” implies an ethnic-

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16 In particular the labour party of the populist Shalva Natelashvili.

17 The main headline of the independent newspaper 24 Saati [24 hours] on the day after the elections was “The Regime is Defeated”. Cf. *24 Saati*, 3 November, 2003, p. A1.

18 Nino Burjanadze became President of the Georgian Parliament on 9 November 2001.

19 The mass demonstrations began on 3 November and reached their climax on 22 November as the demonstrators stormed the parliament building and presidential offices to prevent the opening of the new parliament with its pro-government majority. A number of the demonstrators carried roses, giving the revolution its name and echoing Portugal’s “Carnation Revolution”. The rallies were broadcast live on television. Given the key role played by the media in mobilizing the masses, the revolution may also be called considered a “revolution by media”.

20 The parliamentary elections were held on 28 March. An absolute majority was won by the alliance “National Movement – Democrats”, which forms the current government. The only opposition group to clear the seven per cent hurdle was “Industry Will Save Georgia – New Right”. Both elections were considered an improvement on previous contests. Cf. the OSCE’s evaluation at: <http://www.osce.org/Georgia>.

based conception of nationhood and was often used by Zviad Gamsakhurdia, Georgia's first president, who stood for an exclusive nationalism. Sakashvili, by contrast, prefers the Latin term "natsionaluri", using it to stress the positive aspect of nationalism – its integrative, inclusive aspect. He defines the Georgian nation not ethnically, but politically. To a certain extent, this cultural watershed can stand for the overall goal of the new regime: the establishment of a modern state.

The first acts of the new government give cause for hope that the Georgian hybrid state may be capable of gradually becoming modern. Institutional changes provide the first indications of this: Cabinet government has been introduced, comprehensive vertical and horizontal reforms of the executive have been carried out, and a start has been made in fundamentally improving the financing of public services.<sup>21</sup> Reforms aimed at increasing the efficiency of the highly critical security sector are a matter of urgency.<sup>22</sup> Various reform plans had already been developed under Shevardnadze with the help of Western partners but were never successfully implemented. Following the change of regime, the pace of their execution has now greatly increased. The organs of state security (public prosecution service, police, secret service) are being used above all to combat corruption and criminality, which has already led to the high-profile arrests of well-known politicians and notorious gang bosses. The greater efficiency of the state is also evident in the growing levels of revenue generated by the tax police and the customs service, considered up till now to be the most corrupt public authorities. As a result of tax reform, government revenue was 21 per cent higher in the first quarter of 2004 than in the same period of the previous year. In August 2004, state income and expenditure both rose for the first time since independence, by 106 and 112 million US dollars, respectively.

The initial successes of the new government also have consequences in the area of foreign policy. The West – the USA, the EU and its member states, and international financial organizations – are supportive of the new Georgian regime. A large number of financing projects that were suspended in recent years owing to the Georgian government's lack of willingness to carry out reforms are now back on the agenda. The USA alone has doubled the volume of direct aid it provides to Georgia (to around 160 million dollars in 2004) and has included Georgia in the Millennium Challenge Account

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21 On the one hand, various civil-service departments have been closed and the number of state employees has been reduced. At the same time, funds to provide supplementary pay to senior civil servants and those who work in the security sector have been established with the help of international organizations.

22 The border guards were relocated to the interior ministry and transformed into a border police force. Within the interior ministry itself, a range of reforms have been carried out: Several police forces were combined to create new units with responsibility for carrying out patrols (ensuring order and security) or performing criminal investigations. The troops of the interior ministry have been reassigned to the defence ministry. For further details of the reform plans, cf. Georgia, The Government's Strategic Vision and Urgent Financing Priorities in 2004-2006, Donors Conference, Brussels, 16-17 June 2004.



programme (Georgia will receive some 200 million US dollars within the scope of this programme). This illustrates that Georgia's difficult transformation is not feasible without external support, which may even increase if sufficient progress is made.

### *Ajaria as a First Test Case*

The new government's first major success – both domestically and in terms of foreign policy – was the peaceful resolution of the conflict in Ajaria. The Autonomous Republic of Ajaria, situated in the southwest of the country on the Black Sea, had effectively removed itself from the control of the central government following the break up of the Soviet Union. The local ruler, Aslan Abashidze, possessed his own militia force and controlled the brigade of the Georgian army stationed in the region. His regime received security guarantees, including one from the Russian military base situated near the Ajarian capital Batumi. Unlike Abkhazia and South Ossetia, Ajaria did not declare itself independent. Over 90 per cent of the population are ethnically Georgian,<sup>23</sup> ruling out ethnic separatism. The fundamental problem in Ajaria was the regime's authoritarian-patrimonial style: Ajarian society is structured along traditional lines, with clans playing a major role in social mobilization. Aslan Abashidze ruled the republic in an authoritarian manner, relying on his relatives for support (including in-laws through his marriage to Maguli Gogitidze). While democratic processes slowly developed under Shevardnadze, Ajaria remained an island of authoritarianism.<sup>24</sup>

Shevardnadze avoided any open attempts to tackle the conflict between Tbilisi and Batumi. His state apparatus was too weak to support such a move. In any case, Abashidze was an integral part of his convoluted system of governance. The two practitioners of *realpolitik* frequently entered into short-term alliances. In presidential elections, Abashidze never failed to provide his rival with open or tacit support. The new central government, however, was not interested in continuing this arrangement, but sought to gain control of the entirety of Georgian territory. Moreover, the planned reforms, especially the implementation of more effective customs checks and the fight against smuggling, would be impossible without control of the strategic port of Batumi and the Sarpi customs post on the Turkish border.

Without a doubt, Ajaria was the new regime's first major success<sup>25</sup> and represents one of the few conflicts between central and regional governments

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23 Ajaris, most of whom are Muslims, are ethnically Georgian.

24 Cf. Markus Wehner, *Mit Geschick und Größenwahn* [Method and Megalomania], in: *Frankfurter Allgemeine Zeitung*, 6 May 2004, p. 7.

25 The status of Ajaria as an Autonomous Republic has remained unchanged. The position of President of the Autonomous Republic was abolished in accordance with the law on power sharing between Tbilisi and Batumi. The Chairman of the Executive Council (government) is nominated by the Georgian president and confirmed by a vote of the Ajarian

in a Soviet successor state to be resolved rapidly and peacefully. The way Abashidze's fall was so carefully engineered also demonstrates the new regime's skill: Abashidze lost his authority in Ajarian society, the central security services broke up the official and unofficial militias that had served the local leader, and the Georgian military carried out manoeuvres near the Ajarian border, which contributed to the regime's psychological collapse. Finally, intensive consultations were held with the international community, in particular with Russia.

### *Relations with Russia*

Abashidze left Batumi together with the secretary of the Russian Security Council, Igor Ivanov. Following a phone-call between Saakashvili and the Russian president, Vladimir Putin, Ivanov flew to Ajaria with the task of persuading Abashidze to step down and seek exile in Russia. Ivanov, in his previous role as Russian foreign minister, had also visited Tbilisi some six months earlier as a mediator during the peaceful transition of power from Shevardnadze. For the first time in a decade, ordinary Georgians were talking about Russia in a positive light.<sup>26</sup>

The new Georgian government has retained the foreign-policy orientation of its predecessor: Priorities include the relationship with the USA in the area of security policy and integration into NATO and the EU.<sup>27</sup> Of equal importance on Georgia's foreign-policy agenda is the improvement of relations with Russia. Saakashvili declared his meeting with his Russian counterpart Putin a turning point in Russian-Georgian relations. Both Russia and Georgia are currently consolidating their state structures, and both countries are interested in ensuring stable development in neighbouring states.<sup>28</sup>

This rhetoric of friendship notwithstanding, problems in Russian-Georgian relations continue to exist:

1. The conflicts in Abkhazia and South Ossetia
2. The Russian bases in Batumi and Akhalkalaki

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Supreme Council (parliament). Border, customs and security matters are directly controlled by the central government.

26 According to numerous commentators, Ivanov merely ensured that "a lost cause was not fought to the bitter end"; cited in: Markus Wehner, *Der Abwickler* [The Liquidator], in: *Frankfurter Allgemeine Zeitung*, 6 May 2004, p. 10 (author's translation).

27 Evidence of the continuity of Georgia's pro-Western orientation can be seen, for example, in the appointment of Salome Zourabichvili, the former French ambassador in Tbilisi, as the country's foreign minister. Salome Zourabichvili is ethnically Georgian, but spent a considerable time in the French diplomatic service. During a visit to Brussels, Saakashvili declared that Georgia's strategic goals are membership of NATO and the EU.

28 Many Russian experts nevertheless remain sceptical as regards declarations of friendship by the Georgian president. Cf. Sergei Blagov, Saakashvili "Makes Friends" With Putin During Georgian Leader's Moscow Visit, in: *Eurasianet*, 12 February 2004, at: <http://www.eurasianet.org/departments/insight/articles/eav021204.shtml>.

3. The visa requirement for Georgian citizens
4. The control of the Pankisi Gorge on the Chechen border
5. Georgia's security co-operation with the USA.

Georgia has increased its control over the Pankisi Gorge, and Saakashvili agreed with the Russian proposal of carrying out joint border checks on the Chechen segment of the Russian-Georgian border. In return, the visa requirement for Georgians travelling to Russia may soon be dropped.

In other areas, however, there have been no significant breakthroughs. The two sides remain at loggerheads on the issues of military bases and the orientation of Georgia's security policy. Georgia would like to close the Russian military bases in Batumi and Akhalkalaki within three years; Russia estimates that it will take at least eleven years, or seven with foreign (e.g. US) financial help.<sup>29</sup> Moscow is concerned at the co-operation between Georgia and the USA in the area of security policy and would like to conclude an agreement with Georgia – currently in preparation – asserting that Georgia will not be allowed to agree to the stationing of any foreign troops on its soil following the withdrawal of the Russian troops. Georgia, for its part, is not interested in undertaking such a commitment given the increasing likelihood of its joining NATO at some point in the future.

The escalation of the conflict in South Ossetia in July and August and the terrorist attack in the North Ossetian town of Beslan in September 2004 have led to further tension in Russian-Georgian relations. Tbilisi accuses Moscow of having supported the regime in South Ossetia and of having sent Cossack units to the region, while, following the tragedy in Beslan, Moscow closed the border to Georgia and once more raised the question of Chechen fighters on Georgian territory. These events make clear just how difficult it may be to bring about a qualitative and above all a rapid improvement in Russian-Georgian relations.

### *Conclusions*

Georgia has a new flag, a new national anthem, and a new coat of arms. These are the symbols of a new attempt at state building. Is this attempt more promising than the one carried out at the start of the 1990s?

Saakashvili's initial successes are impressive. However, the view that the available supply of relatively easy successes has already been used up is gaining support. While the Rose Revolutions in Tbilisi and Batumi were by no means easy to secure, the conflicts in Abkhazia and South Ossetia are incomparably more complex. Especially in view of their ethnic background, they are not easily soluble by the "tried-and-tested" means of a revolution, as

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29 Following the conclusion of a recent agreement between Russia and Georgia, the Russian bases are set to close by the end of 2008.

the escalation of the conflict in South Ossetia clearly showed. The Georgian government's attempt to repeat the events in Ajaria in South Ossetia led to violent clashes with loss of life on both sides and the central government was forced to call off its offensive.

Saakashvili has declared that his next challenge is to deal with Georgia's ailing economy. This requires not only a comprehensive effort to tackle corruption and the structural causes of corruption, but also the enhancement of political, legal and social conditions, to encourage, for example, foreign investment in the country. In this connection, it is not rare to hear the view expressed that Georgia's patrimonial state has not really ceased to exist, but that there has merely been a "change of guard" with one elite replacing another. The new leadership is said to make use of the same methods as the old one.<sup>30</sup>

The question of whether the second wave of Georgian nationalism will succeed depends on a large number of developments – not only domestic, but also regional and international. It is thus clear that it will only be decided in the years to come. What is apparent, on the other hand, is that after a decade of independence which left it considered an incompetent "failed state", Georgia has received an new and unexpected opportunity – one in which it is being supported by the international community. This opportunity is one that could benefit all the countries of the former Soviet Union.

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30 Cf. the article on the alleged redistribution of Georgia's lucrative businesses, in: *Akhali Versia* 44/2004, 17-23 May 2004, pp. 3-4, 6.

## The OSCE's Support for the Reform Process in Armenia<sup>1</sup>

### *Introduction*

Armenia became a member of the OSCE in 1992 alongside the other Soviet successor states. In 1999, the government of Armenia agreed to host an OSCE Office in Yerevan (hereafter referred to as the "OSCE Office"). This was a major milestone in Armenia's relationship with the OSCE, as it enabled the co-operation between them to take on a whole new dimension. The Permanent Council Decision to open the OSCE Office was taken on 22 July 1999, and arrangements were progressing when the shocking assassinations of the prime minister, the speaker of parliament, the two deputy speakers, one minister, and three other members of parliament took place in the session hall of the Armenian National Assembly on 27 October 1999. These shootings shook the Armenian nation. For the next few years, the prosecution and trial of the accused was to be a major subject of internal political debate in Armenia. While public discussion on the assassinations subsided following the conclusion of the trial in December 2003, they continue to reverberate in Armenian political life. The tragic events also delayed the opening of the OSCE Office, which finally took place in February 2000.

### *Armenia's Relationship with the OSCE*

Armenia has played an active role within the structures of the OSCE, particularly in recent years. Since the OSCE Office in Yerevan opened in 2000, increased information exchange and more intensive dialogue have helped relations between the OSCE and Armenia to grow even closer. The first Head of Office, Ambassador Roy Reeve from the UK, contributed a great deal to this process. From the time of the OSCE Office's establishment, Armenia has welcomed the OSCE's full range of activities in the country wholeheartedly. This is a unique relationship between a host state and the OSCE, which should not be taken for granted: Not all the countries hosting an OSCE presence have the same approach. This relationship can only be described as highly co-operative, truly in the spirit of the OSCE's *raison d'être*.

Because the OSCE is a political organization with no legally binding attributes (in contrast to the Council of Europe), there is a unique relationship

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<sup>1</sup> The views represented in this article are solely those of the author and do not reflect any position of the OSCE.

between the Organization and its participating States. Armenia has taken this particularly to heart and has tried to make the most out of its membership in the Organization. It co-operates very openly with all the Organization's structures and is an highly active participant in OSCE meetings, especially Permanent Council meetings in Vienna. Despite the limited size of its representation in Vienna (and the fact that its representation is not only responsible for the OSCE but also for relations with Austria and neighbouring countries, and for the United Nations in Vienna), the Armenian Delegation participates in a great number of side meetings, *ad hoc* committees, and other working-level discussions.

The mandate of the OSCE Office as stated in the Decision of the Permanent Council is to promote the implementation of OSCE principles and commitments in the three OSCE dimensions, thereby fostering stability and security in Armenia. However, the mandate can be interpreted as implicitly signalling the potential for an early-warning or conflict-prevention function, as these are two of the main goals of the Organization. Unlike some other missions, which deal with open or frozen conflicts, the OSCE Office in Yerevan has no such mandate. The conflict dealt with by the Minsk Conference (Nagorno-Karabakh) is being treated by other OSCE bodies (the Minsk Group, the Personal Representative of the OSCE Chairman-in-Office, and the High Level Planning Group) and will therefore not be touched upon in this contribution.

#### *Security Co-operation*

As Armenia continues on its journey of reform, the OSCE is continually listening and responding to new developments in the country. Despite Armenia's progress, it nonetheless suffers from a number of internal security threats as a result of its geographic location, lack of natural resources, weak democratic institutions, weak economy, the blockade of two of its four borders, and a polluted environment. The OSCE, with its comprehensive, multi-dimensional approach to security, attempts to contribute to general security and stability building via its field presence by actively working in a number of directions, such as promoting co-operation among different sections of society. At the same time, the OSCE Office in Yerevan helps to establish links at the international level.

The OSCE Office monitors the situation in the country day in, day out and reports fortnightly to the participating States in Vienna. These reports make it possible to establish dialogue with the participating States and allow them to respond in a timely fashion to developments in the country. Reporting is made possible by the efforts of the OSCE Office to remain in constant contact with all the relevant actors in the country. While the most important point of contact is the ministry of foreign affairs, the OSCE Office has open

and unhindered access to key ministries, government bodies, and institutions. In addition, the OSCE Office has equally regular contacts with civil society entities (e.g. NGOs) and the Armenian media. In sum, the OSCE Office has a very free and open relationship with all the key actors in the country. This is of particular significance in times of accelerated political change in the country, such as around election periods. It is then that the unwritten part of the OSCE Office mandate relating to early warning and conflict prevention becomes clearly perceptible. Equally important, however, is the role of the OSCE Office on the ground when political circumstances change unexpectedly or not in line with regularly scheduled events such as elections. It is in these critical moments of potential change that the OSCE, particularly through its field presence, co-operates most intensely with Armenia. Frequent consultations, information sharing, monitoring, and reporting serve to assist Armenia in following the path of democratic reform in a peaceful, secure way. As stated above, all Armenian interlocutors have great trust in the OSCE and are truly convinced that it is well placed to assist Armenia in achieving its objectives.

### *Relations with International Organizations*

As it navigates its way towards the future, Armenia, like other evolving democracies, finds itself experiencing new economic, social, and, particularly, political circumstances. Its location in the South Caucasus means it enjoys a unique position between Europe and Asia. The reform process is driven by the desire to be a part of Europe. This became particularly clear when Armenia entered discussions with the European Union on joining the “Wider Europe” programme. Since 2003, the EU has taken an increasing interest in the South Caucasus, as illustrated by its appointment of a Special Representative for the region as well as Armenia’s June 2004 accession to the Wider Europe programme. Armenia became a member of the Council of Europe in January 2001, and this has also had a direct impact on the domestic reform process. In addition, Armenia is a member of the United Nations, whose programmes are implemented with the direct participation of the Armenian government. Armenia also participates in NATO’s Partnership for Peace programme (PfP), is a member of the Euro-Atlantic Partnership Council (EAPC), and has welcomed NATO’s initiatives in the sphere of military security. Armenia has hosted NATO training exercises and has actively participated in NATO activities outside the country. Unfortunately, this willingness to participate has not always been reciprocated by all host countries, which, on one occasion, led to a tragic outcome.<sup>2</sup>

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2 This refers to the refusal to allow Armenia’s representatives to enter Azerbaijan for NATO exercises, and to the murder of an Armenian soldier by an Azerbaijani one during a NATO language course in Budapest, both in 2004.

Since its opening, the OSCE Office has followed political developments in the country in depth. In the development of Armenia's political life, 2003 was a significant year, as it saw presidential elections in February/March and parliamentary elections held simultaneously with a referendum on constitutional amendments in May. Indeed, 2003 was to be a year of frenzied electoral activity not just for Armenia but also for the other countries of the South Caucasus, with presidential elections being held in October in Azerbaijan and parliamentary elections in Georgia in November (which later resulted in early presidential elections).

Much attention was focused on the 2003 elections in Armenia, as there were hopes that these elections might finally meet international standards. However, all elections held in Armenia in 2003 were assessed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Council of Europe observation missions as falling short of meeting international standards for democratic elections. Unfortunately, the types of problems and violations witnessed in Armenia's previous elections continued to be present throughout this election cycle. There were, however, several noteworthy features in these elections: For the first time in a CIS country, an incumbent president was not re-elected in the first round of elections. Armenia was also the first country in the CIS to use transparent ballot boxes. For the first time in 80 years, no communist party made it into the parliament. And, also for the first time in a CIS country, a referendum proposed by the president failed to be accepted by the voters.

While the number and type of violations that occurred during the elections were of particular concern to the international community, it is worth noting that the Constitutional Court of Armenia also took up a number of cases in connection with both rounds of the presidential elections and the parliamentary elections. While the Court ruled that there had been violations in both rounds of the presidential elections, it nonetheless stated that they were not significant enough to call the results of the elections into question. The final decision of the Constitutional Court with regard to the second round of presidential elections is still reverberating in Armenian society today. It includes a provision recommending "within one year, in consonance with democracy and the rule of law, to bring the Law on Referendum in compliance with the requirements of the Armenian constitution and to proceed with organizing a referendum of confidence as an effective measure to overcome the social resistance deepened during the presidential elections."<sup>3</sup> This was a clarion call for the opposition, which maintains that the results of the elections were falsified and the current government is thus illegitimate. The opposition factions in parliament insist that the Law on Referendum be

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3 Decision of the Constitutional Court of Armenia dated 16 April 2003 (unofficial translation).



amended to allow for the recommended referendum of confidence in the president to be held. However, the government does not intend to follow the recommendation contained in the Constitutional Court decision, which it maintains is not a legal obligation. Faced with this situation, the opposition factions in parliament decided to begin their protest actions by boycotting the spring 2004 session of parliament, which began in the first week of February. This was followed by a number of rallies and demonstrations in the provinces and later in Yerevan. The arrest and detention of a number of opposition supporters and violence against protestors and journalists covering the events have raised deep concerns within the OSCE and the international community. Tensions peaked at a rally held in front of the National Assembly on the night of 12-13 April, but waned over the summer. While the opposition largely maintains its boycott of parliament, it has held no more rallies, despite declaring its intention to carry on its public protest.

The May 2003 parliamentary elections also saw various violations of electoral procedures. A number of re-runs were ordered by both territorial electoral commissions and the Constitutional Court. Particular concern was raised with regard to several of the majoritarian races, where it is commonly accepted that a number of wealthy businessmen used their resources to buy victory.

A referendum on constitutional amendments proposed by the president was held on the same day as the parliamentary elections. Several of the proposed amendments related to Armenia's obligations before the Council of Europe. The authorities made little effort to publicize the fact that a referendum was being held, let alone the contents of the proposed amendments, and it was thus no great surprise that they did not receive the required number of votes, even though there was a slight majority in favour of the amendments.

Following these events, Armenia finds itself once again having to review and amend its electoral legislation and to redraft constitutional amendments and re-propose them to the population. It is hoped that an amended Electoral Code will be passed by the National Assembly by the end of 2004; however, this may slip over into 2005. Both the OSCE and the Council of Europe are heavily engaged in providing support and expertise for electoral reform. As for the constitutional amendments, the Council of Europe "expects [...] that a referendum can be held as soon as possible and in any case not later than June 2005", according to a Parliamentary Assembly resolution of January 2004.<sup>4</sup>

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4 Council of Europe Parliamentary Assembly Resolution 1361 (2004) [1] "Honouring of obligations and commitments by Armenia".

In light of these and other developments, the OSCE Office has determined the priorities of its work on a year-by-year basis. Within its overall mandate of promoting security and stability, the OSCE Office focuses on advancing good governance; comprehensive legislative reform; raising awareness, for example in the field of human rights; promoting civil society; and organizing discussions on key issues, such as anti-corruption, among a range of social actors. In recent years, the OSCE has increasingly assisted Armenia in promoting its goals and objectives through concrete activities or projects. This is true for each of the OSCE's three dimensions, with expanding activities in the politico-military and economic and environmental dimensions growing in importance since 2003 in particular. The OSCE participating States decided late in 2002 to allocate additional financial and human resources to the OSCE Office's 2003 budget specifically earmarked for activities in these dimensions. Subsequently, in 2004 the OSCE Office requested that participating States fund follow-up activities directly through its core budget. This has been repeated in the Office's budget proposal for 2005, thus ensuring that there is now a solid base for OSCE activities in these two dimensions in Armenia to complement the already well established work in the human dimension.<sup>5</sup> The human dimension, which has been the bedrock of the Organization since its inception, remains one of the foundations upon which the OSCE's work in Armenia is based. As the Organization as a whole evolves over the years, balancing the three dimensions is becoming more important, and this is increasingly reflected in the work of the field missions.

#### *Politico-Military Dimension*

In the politico-military dimension, new political priorities have led to the availability of additional resources both in the field and at the OSCE Secretariat. As a result, the OSCE has become active in Armenia in two new areas in particular: police reform and counter terrorism. In the former, working together with the Strategic Police Matters Unit (SPMU) in the OSCE Secretariat, the Office signed a memorandum of co-operation with the Armenian police service in 2003. The goal of the Police Assistance Programme is to promote confidence between the police and the population. Following detailed assessment, three co-operation projects were selected: a pilot project to develop community policing in one Yerevan district, a project to improve the

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5 On 3 July 2004, the presidents of nine CIS countries signed a joint declaration containing several proposals for reform of the OSCE. The declaration devotes much attention to the work in the three OSCE dimensions, calling in particular for the "elimination of the imbalance between the three dimensions [...] as soon as possible". PC.DEL/630/04, 8 July 2004, Statement by Mr. Alexey N. Borodavkin, Permanent Representative of the Russian Federation, at the meeting of the OSCE Permanent Council.

Police Training Centre, and a project to strengthen Yerevan's emergency response system.

The field of anti-terrorism is of course, by nature, much more difficult to tackle, and it is understandable that the Armenian authorities are less open to offers of assistance in this area. Nonetheless, the OSCE, through its Action against Terrorism Unit (ATU) in the Secretariat and the OSCE Office, is pursuing initiatives that aim at accelerating the adoption of counter-terrorism conventions (e.g. in relation to UN Security Council Resolution 1373), countering terrorist scenarios (e.g. hijackings), implementing measures to combat false travel documents, and combating money laundering and the financing of terrorism.

Another area of engagement is the fight against corruption, a scourge of many transition states. In recognition of the danger that corruption poses for the effective social, economic, and political development of Armenia, the OSCE Office has been heavily involved in trying to assist the Armenian authorities in developing an anti-corruption strategy. It has also been promoting the role of civil society in these efforts. The government of Armenia finally published an anti-corruption strategy in January 2004. It had been several years in the making, during which time the Armenian authorities were not only assisted by the international community, and the OSCE Office in particular, but also prodded in the right direction by them. Unfortunately, however, the final result does still seem to be rather thin on substance. Nonetheless, this aside, the real measure by which to judge the government's efforts will be the implementation of serious anti-corruption measures, which are yet to be seen.<sup>6</sup>

Corruption in Armenia did not arise overnight with independence, rather it is a phenomenon whose historic roots stem mainly from the Soviet system under which Armenia existed for seven decades. However, independence and the transition to democracy have left Armenia facing a huge struggle to tackle corruption, which in Armenia's case is particularly engrained, both in government and in society. Due to its small size and the close-knit nature of Armenian society, Armenia has and will continue to have a harder task of combating this vice than other larger and more diverse countries. Not only is corruption widespread throughout government and the civil authorities, but the general population in Armenia has become so accustomed to making use of personal connections, under-the-table payments, bribes, and the like in carrying out their daily business that it is difficult to really know where to begin.

Since its inception, the OSCE Office has worked extensively with the National Assembly of Armenia to assist and provide expertise on a number of pieces of draft legislation. In 2004, the OSCE Office initiated two new projects, specifically geared to improving the functioning of the parliament. The

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6 According to Transparency International's Corruption Perception Index for 2004, Armenia is less corrupt than other CIS countries, for example, Georgia, Azerbaijan, and Russia.

first was an advanced three week training programme for experts from three of the parliament's standing committees, followed by a week-long visit to the Hungarian parliament for some participants. The second consists in assisting the parliament to develop a code of conduct for its members. It is hoped that these two new initiatives will raise the parliament's level of professionalism, improving not only its law-making capabilities but also its relationship with Armenian society. These OSCE Office projects are carried out with the co-operation and assistance of the OSCE Parliamentary Assembly.

#### *Economic and Environmental Dimension*

In recent years, the Organization has struggled to define a niche for itself in the economic and environmental dimension. As a result, the OSCE has determined that it should function as a catalyst to promote economic and environmental aspects of security while not duplicating the efforts of other more specialized organizations or agencies in these fields. This policy adjustment has also trickled down to affect the work of the field presences, whose activities in this dimension have been better defined and more purposeful in recent years. Priorities in this dimension are determined in large part each year by the topic of the annual OSCE Economic Forum and its preparatory seminars. In 2004, the focus is on the development of small and medium-sized enterprises (SMEs). In recent years, the OSCE has also expanded into other security-related economic issues. For instance, the OSCE Office, together with the Co-ordinator of OSCE Economic and Environmental Activities (CEEAA), has become involved in areas such as trade facilitation, the promotion of foreign investment, and local economic development in Armenia's southernmost region.

The OSCE's involvement in the environmental field, which is also undertaken in co-operation with the CEEAA, has picked up even more strongly during the last few years. The greatest successes of the OSCE Office in this area are the promotion of Armenia's accession to the 1998 ("Århus") Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, and the subsequent establishment of an Armenian Public Environmental-Information Centre to serve as a tool for implementing the three pillars of the convention. The OSCE Office has also become increasingly involved in supporting the OSCE/UNEP/UNDP Environmental Security Initiative, which is primarily focused on identifying and addressing major environmental risks to security, and in promoting water management issues within the framework of the OSCE/NATO river monitoring project in the South Caucasus. The latter is a unique regional project involving all three of the South Caucasus countries.

## *Human Dimension*

As for the human dimension, the OSCE's assistance to Armenia has been primarily undertaken by ODIHR. ODIHR began to operate programmes in Armenia on the basis of a memorandum of understanding signed with Armenia in 1998, i.e. before the field presence opened in 2000. The activities of the OSCE Office in this dimension stem from these original projects, and a relationship of close co-operation has evolved over the years. Together with ODIHR, the OSCE Office develops human dimension projects for implementation in the country each year in line with Armenia's current needs and developments. The areas currently in focus include penitentiary reform, countering trafficking in human beings, promoting gender equality, facilitating democratic institution building (e.g. establishing an ombudsman institution), promoting free and fair elections, developing a civil register, promoting religious freedom and alternatives to military service, and assisting the development of civil society by providing training and other support.

A vital area of co-operation is the extensive assistance provided by ODIHR in the form of expertise for the drafting of Armenian legislation. This work of legislative assistance has increased in recent years due to the obligations resulting from Armenia's accession to the Council of Europe. Virtually all of the expertise provided by ODIHR in recent years has been co-ordinated closely with the Council of Europe in order to present a common front to the Armenian authorities. By the end of 2003, Armenia considered that it had met most of its Council of Europe commitments by drafting and passing relevant legislation. As far as the OSCE is concerned, however, there remain areas where legislation needs to be improved – even in areas where statutes have recently been developed or amended (e.g. the Law on Rallies and Demonstrations and the Law on Elections). Unfortunately, a single legislative act did not suffice in several areas: Some laws were only passed to meet deadlines, others in response to political exigencies, all of which makes it necessary to repeat the effort of redrafting or amending certain laws after a relatively short time. In addition, there are also cases of laws whose adopted version is acceptable to the international community, including the OSCE, but which certain Armenian authorities wish to have amended before they come into effect (e.g. the Law on Freedom of Information). In summary, the legislative reform process in Armenia will continue for some years to come and the OSCE will try patiently to assist with it. It must be borne in mind, however, that the resources are not always readily available and may become less so when repeat work is to be done.

Last but not least, in connection with the human dimension, it is important not to omit one of ODIHR's main activities (and not only in Armenia): its election observation work. In the first half of 2003, ODIHR observed the two rounds of presidential elections and the parliamentary elections. While none of these were found by ODIHR to meet international standards, the

process of observation and the related follow-up activities are significant for Armenia's improvement in the electoral sphere. The observation, carried out over several weeks as usual, took an in-depth look at all aspects of the electoral framework in Armenia, and pointed out a number of areas where improvements need to be made. This will guide the work of the OSCE Office and the Armenian authorities well into 2004 and beyond. Although the OSCE provided Armenia with expertise to help reform its electoral legislation in the years leading up to the 2002 amendments to the Electoral Code, the 2003 elections showed that further improvements to the legislation – and, even more critically, to the administration of elections – are needed. The OSCE can help with the former. The latter is more an issue of political will – and that must be provided by Armenians themselves, although the OSCE has certainly tried to convince the Armenian authorities that improving their electoral administration can only bring about positive change in the country.

Media freedom is another area in which the OSCE has become increasingly involved in Armenia over the last few years. The elaboration of media-related laws (in particular the Law on Mass Information and the Law on Freedom of Information) and, more recently, encouraging changes to the Law on TV and Radio have raised the profile of this field of activity considerably. In this connection, co-operation with the OSCE's Representative on Freedom of the Media has also increased in recent years, as his institution has been relied upon to provide expertise for draft legislation and to comment upon and be available for consultation on media-related developments in Armenia.

The last two years in Armenia have not been particularly positive for media freedom. This has led the OSCE Office to become more involved in this field. In April 2002, the broadcasting licences of two television stations generally regarded as independent were not renewed in the newly established tender process, which had come into force after the adoption of the Law on TV and Radio – a law that, in the view of international experts, contains a number of shortcomings. After losing their initial bids to renew their frequency licences, the affected broadcasters have participated in numerous tenders in the two years since – to no avail. Since television is the main source of information for most Armenians, it is a matter of real concern that television stations wishing to present alternative views cannot succeed in obtaining broadcast licences. The lack of breadth of views available to the public was also noted by the 2003 election observation missions.

In a country where levels of violence are generally very low – the one major exception being the assassinations in parliament on 27 October 1999 – the last few years have seen some severe, albeit isolated, incidents of violence against the journalistic community. In 2002, one journalist suffered injuries from a hand-grenade attack, while the head of the state television channel was murdered. Most recently, the violence against journalists covering opposition demonstrations in April 2004 has also drawn much criticism from the OSCE and the international community.

## *Conclusion*

Seen narrowly, Armenia still has much to achieve on its path of democratic reform. However, taking a broader perspective and looking at where Armenia has come from and the context in which it finds itself, the country has made significant strides forward. The main task now is to keep up this progress while not letting the pace slacken.

In this context, the co-operation between Armenia and the OSCE, especially through the work of its field presence, the OSCE Office in Yerevan, is thriving in several directions, all of which promote security and stability in Armenia. Through its field presence, the OSCE is a forum for raising, discussing, and addressing issues co-operatively at all levels. Political and diplomatic tools are one part of this work. Concrete activities and projects in each of the three dimensions of the OSCE's comprehensive approach to security are another. Through monitoring and advising and promoting good governance and democratic institution building, the OSCE contributes to the development of a stable and secure Armenian state – one that is on the path to European integration.





## The Conflict over Nagorno-Karabakh

This contribution is an attempt to analyse the background and dynamics of the Azeri-Armenian conflict over Nagorno-Karabakh. It focuses particularly on the genesis of Azeri and Armenian nationalisms in relation to the conflict. It also undertakes a concise analysis of international involvement in the conflict. Finally, it discusses potential ways of resolving the conflict, both peacefully (with an emphasis on OSCE-mediated efforts) and via military means.

### *Background to the Conflict*

When the conflict known as the Armenian-Tatar war<sup>1</sup> broke out in 1905, few could foresee that the ethnic tension it caused would still be an active force in the Caucasus a hundred years down the line. The clashes, which began in oil-rich Baku and spread more or less spontaneously into the areas shared by both Armenians and Azeris, initially had socio-economic causes. The masses of Azeri poor, provoked by Russian governors pursuing a classical divide-and-rule policy, attacked their neighbours, prosperous Armenian craftsmen and traders, whom they perceived to be unscrupulous exploiters. Abandoning a nearly thousand-year history of peaceful co-existence, the first hostilities between the two ethnic groups claimed nearly ten thousand victims.

It was a turning point. Growing Armenian popular revolutionary nationalism, which, in the aftermath of the pogroms of 1894-1896, gradually acquired a distinctly anti-Ottoman character, was enriched by a vision of the enemy in the form of the "Azeri Turk" and took on a lasting anti-Turkic and anti-Islamic cast. Following the 1915 Armenian massacres/genocide,<sup>2</sup> tens of thousands of desperate and furious refugees flooded into Russian (Caucasian, eastern) Armenia, at least a third of whose inhabitants were, however, ethnic Azeris, who traditionally controlled the fertile agricultural land. The slightest

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1 Unlike the Armenians, who have always had a clearly defined ethnic identity, there was always a degree of uncertainty concerning the ethnic identity and self-consciousness of those now known as Azeris, as was also the case with other Turkic peoples. In the not-too distant past, they have variously been referred to as Azerbaijani/Transcaucasian Tatars (Tsarist era), Turks (partly an autoethnonym; official ethnonym in the 1920s and 30s); Muslims (partly an autoethnonym; official ethnonym 1918-1936), and Azerbaijanis (1918-1920; 1936/1937 to the present).

2 Armenians are convinced that it was a planned genocide that claimed the lives of approximately 1.5 million of Armenians in the Ottoman Empire in 1915. Ankara officially rejects the term genocide, but does admit that the deaths of as many as 300,000 Armenians were partly caused by deportations organized by the Young Turks. However, it also partly ascribes these casualties to the civil war that was raging in Anatolia at that time and claimed the lives of a similar number of Turkish civilians. Turkish sources differ significantly on this matter.

incentive would now be enough to spark a renewed Armenian-Azeri conflict. In the aftermath of the two Russian revolutions and various complex local developments, the independent Armenian Republic was established in 1918. It was ruled by the ultranationalists of the Dashnak Party, who soon started an extensive campaign against their own Azeri (and Turkish) population, which was further intensified following the invasion of Armenia by the Kazım Karabekir Paşa's Turkish forces during the Turko-Armenian war (1920). Ethnically motivated killings and ethnic cleansing claimed the lives of thousands of people, mostly of Turkic origin, who were accused of supporting their Turkish compatriots. Tens of thousands of them were forced to flee.<sup>3</sup> At this point, a territorial aspect was added to the ethnic conflict as the newly established republics of Azerbaijan and Armenia entered into a bloody war (1919-1920) over a number of disputed territories with mixed Armeno-Azeri populations: Zangezur, Nakhichevan, and of course, Karabakh. As a consequence of the civil war following the Karabakhi Armenian uprising against Baku in 1918, as well as hunger and epidemics, Karabakh lost one fifth of its population.

The ultimate end of the war, in which both sides achieved short-lived successes, came only with the occupation of first Azerbaijan and then Armenia by the XI Red Army in 1920 and 1921, respectively. In 1921, the central government in Moscow forced the leader of the Azeri communists Nariman Narimanov to accept the transfer, or – as Armenians claim – the return, of Nakhichevan, Zangezur, and Karabakh to Armenia. Shortly thereafter, however, Narimanov revoked his decision, and, a few months later, the Moscow leadership committed itself in the Soviet-Turkish Treaty of Brotherhood and Friendship (Moscow Treaty, 1921), despite the futile protests of Armenians, to giving Karabakh and Nakhichevan to Azerbaijan. In 1923-1924, a completely new territorial unit which had never before existed was established within the Azerbaijani Soviet Socialist Republic – the Nagorno-Karabakh (Russian for Mountainous Karabakh) Autonomous Region, which consisted of approximately half of the historical territory of Karabakh. Over 90 per cent of the inhabitants of the Autonomous Region were Armenians.

### *The Moral Arguments of Both Sides*

The thaw in Cold War relations in the late 1980s ended another phase of peaceful coexistence between Armenians and Azeris during which peaceful relations had prevailed both within and outside Nagorno-Karabakh despite a

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3 At this point, it should be noted that in the 20th century (in the 1920s, and in 1947 and 1965) additional tens of thousands of ethnic Azeris were forced to leave Armenia for Azerbaijan. Simultaneously, a process of Armenianization, or, as Armenians claim, re-Armenianization of originally majority Azeri/Turkic toponyms was carried out on the territory of what is now Armenia. The vast majority of archaeological monuments bearing witness to the Azeri/Turkic presence in Armenia were also destroyed.

certain degree of suspicion and tension. In fact, the official Soviet ideology of “friendship among nations” imposed severe restrictions on any public debate of former Azeri-Armenian violence. Moreover, the proximity of cultures and traditions ensured that there were few conflicts in day-to-day relations between the two groups. This is documented by the relatively high rate of inter-marriage, especially in the cosmopolitan city of Baku, which had a substantial Armenian minority.

The final years of the ailing USSR saw the emergence of attempts by local intelligentsias to construct new national identities free of the ideological clichés of the Soviet era. As these were constructed during the period of escalation of the Karabakh conflict, the two tended to become intertwined: The Nagorno-Karabakh conflict was rewritten as a national epic and the opponent became characterized as the “eternal enemy”. The very idea of national renaissance became directly linked with retaining Karabakh (for Azeris) or regaining it (for Armenians). It is for this reason that the conflict is so very bound up with questions of identity. Indeed, realizing their exclusive and unquestionable “historical rights” to the ethno-political domination of Karabakh became the key element in the post-Soviet “restoration of justice” for both Armenians and Azeris.

According to the Armenian historiographic tradition, the history of the autochthonous Armenian ethnic community goes back three thousand years. In contrast, Azeris are considered to be descendants of “barbaric” Turkic nomads, who arrived “somewhere from Altay” in the relatively recent past. They are therefore seen as to be “guests”, with no moral right to claim a territory of their own in the Caucasus. The martial principalities of Nagorno-Karabakh (Artsakh in Armenian) became for the Armenians – for whom the loss of state sovereignty (the fall of the Kingdom of Cilicia in 1375) is still a painful memory – the only part of “Great Armenia” “where a tradition of national sovereignty was preserved unbroken until the late medieval period”.<sup>4</sup> Even in the years 1919-1920, despite considerable Azeri military successes, the “unconquerable bastion” of Nagorno-Karabakh was never completely captured. Even the establishment of the Azeri/Turkic Khanate of Karabakh in the mid 18th century is described in terms of inner-Armenian fratricidal (feudal) treason.

On the Azeri side, there is clear evidence in recent years of a desire to backdate the Turkic presence in the South Caucasus to a period before the eleventh century (the Seljuk theory, which is generally accepted) to the sixth or seventh century (the Khazar theory). According to a third theory, the “Albanian theory”, which seems to have been incorporated into the contemporary state ideology of Azerbaijanism, Karabakh fell within the territory of the Caucasian Albanians, an autochthonous Caucasian-speaking people, who were Islamicized and later largely Turkified with the arrival of the Turkic

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4 Patrick Donabedian, *Ancient and Medieval Karabakh*, in: Christopher J. Walker (ed.), *Armenia and Karabakh: The Struggle for Unity*, London 1991, p. 79.

tribes and therefore played an important role in the ethnogenesis of the Azeri people. According to this view, the Karabakh Armenians were originally (Caucasian) Albanians, who, in the early middle ages, accepted Christianity from the Armenians, thereby assuming a Gregorian and Armenian identity. Considering the Azeris to be the descendants of the majority Albanians (as well as of Turkic tribes) is seen as giving them a natural claim to Karabakh, which was an integral part of the various Turkic (Azeri) state entities from “time immemorial”.<sup>5</sup> Modern Azeri historians also use the fact that, following the Russian conquest of the region (1801-1828), St. Petersburg, appreciating the proven loyalty of Armenian Christians, set out to form an “Armenian Province” by transferring hundreds of thousands of Turkish and Persian Armenians to the Khanates of Yerevan and Nakhichevan (the area now increasingly called Western Azerbaijan). These areas had been governed for centuries by Khans and Beys who belonged to the Azeri majority. Further tens of thousands of Armenians, mainly from Persia, were moved into the territory of the former Khanate of Karabakh. These events were later to be used to support the myth of Armenians as “treacherous and ungrateful guests”.

### *Chronology of Escalation*

The ideological and power vacuum associated with the demise of the USSR, together with the inability or unwillingness of the central government to prevent conflicts, led to the local Soviet organs losing credibility and the emergence of nationalistic associations (the Azerbaijan Popular Front, APF, and the Armenian Karabakh Committee) who used the Karabakh issue as a convenient way to gain popularity and – consequently – power. The rhetoric of the nationalists, their efforts to prove their “true patriotism”, devotion to the national interest and determination to pursue it (in contrast to the local Communist party bosses, who traditionally looked to Moscow) left little space for negotiation and compromises.

In the late 1980s, the dissatisfaction of the Karabakh Armenians with the policy of the Autonomous Region’s gradual Azerbaijanization not only corresponded with the concerted lobbying of the Armenian intelligentsia in Kremlin, but was to a great extent actively spurred on by the latter. These intellectuals formed the Karabakh Committee, which focused on the revocation

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5 The increasingly popular ideology of Turkism claims as Azeri important regional states, which were originally founded and/or directed by local Turkic tribes or dynasties such as the Seljuk, Ak Koyunlu, Kara Koyunlu, Safavid, Afshar, and Qajar dynasties. These days, therefore, mention is frequently made of the “Azerbaijani State of the Qajars”, etc. More than anything, this view allows the Azeris to assert that they have enjoyed continual rule over Karabakh, claiming, for instance, that the Karabakh Khanate belonged to the Azerbaijani State of the Qajars at the start of the 19th century rather than being a vassal of Persia.

of “Stalin’s” decision to transfer Karabakh and Nakhichevan to Azerbaijan.<sup>6</sup> Given the unprecedented growth of nationalism, even a marginal problem such as the refusal of Baku to include Armenian history in the Karabakh school curriculum became a major site of conflict. As Dean Pruitt and Jeffrey Rubin noted, “What starts out as a small, concrete concern, tends, over the painful history of an escalating exchange, to be supplanted by grandiose and all-encompassing positions and by a general intolerance of the other party.”<sup>7</sup>

The conflict itself was triggered off by clashes in the village of Char-dakly, to the north of Nagorno-Karabakh, where the local Armenian majority refused to accept the appointment of an Azeri as leader of the local *sovkhos* (state farm). The news reached Yerevan swiftly, where an environmental demonstration with thousands of participants was rapidly transformed into a rally to support the “unification of Artsakh”, attracting many more participants in the process. The expulsion of ethnic Azeris from Armenia and Karabakh (as well as of some Turkophone Muslim Kurds) began, accompanied by violence and plundering. On 26 February 1988, bloodshed was officially reported for the first time, with two Azeri youths being killed during clashes near Agdam. In the following three days, Azeri refugees from Armenia, together with criminals that had allegedly been released early from prison, organized pogroms against the local Armenians in Sumgayit near Baku with the culpable passivity of the Soviet troops. The Sumgayit events both conjured the ghosts of the past and echoed with the newer ideological constructs forged by the Armenian nationalists, who had pioneered the Karabakh movement. Another taboo was breached on 24 April of the same year during the rally in Yerevan to mark the anniversary of the Armenian genocide (an annual event since 1965), at which the “Azeri Turks” were publicly identified with the Ottoman Turks. Confirmed in their conviction of the need for self-defence and supported by the diaspora, the Armenians began swiftly to form armed units.

In 1989-1990, the conflict escalated still further: Armed clashes in Nagorno-Karabakh and surrounding regions intensified and the number of victims grew. Armenian and Azeri gunmen were now going as far as to attack local Soviet troops or to negotiate with their commanders to secure weapons and ammunition. On 28 November 1989, Moscow dissolved the direct ad-

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6 According to the last Soviet census, which was taken in 1989, the population of Nagorno-Karabakh was 76.9 per cent Armenian (145,500 persons) and 21.5 per cent Azeri (40,600 persons), who were concentrated mainly in the city of Shusha/Shushi (Shusha is the Azeri name, Shushi the Armenian) and its surroundings. This represents a substantial increase in the number of Azeris compared with the previous census. In Nakhichevan, thanks to the expulsion of the Armenians in the 1920s and 30s, the Azeris represented nearly 100 per cent of the population at the time of the break up of the USSR. The fear of “suffering the same fate as the Nakhichevan Armenians” cultivated by the Yerevan activists was a key mobilizing factor for the Karabakh Armenians. Many Armenians never accepted the *de facto* settlement and, in 1936, 1947, and 1965, they appealed to Moscow to return Karabakh to Armenia.

7 Dean Pruitt/Jeffrey Rubin, *Social Conflict: Escalation, Stalemate and Settlement*, New York 1986, p. 64.

ministration of the Autonomous Region, which had been established a year previously, thus documenting its inability to cope effectively with the escalating conflict. On 1 December, the Supreme Soviet of the Armenian SSR unilaterally declared Nagorno-Karabakh part of the republic.

The events in Karabakh were used to mobilize the Armenian and Azeri publics. In Armenia, the All-Armenian Movement (AAM) was formed through the unification of the Karabakh Committee with other nationalist groups. It succeeded in establishing itself as the strongest parliamentary party in the elections of May 1990.<sup>8</sup> In Azerbaijan, however, the tension between the alternative power-centre of the increasingly popular APF, led by the pan-Turkist nationalist Abulfaz Elchibey, and the official pro-Kremlin Communist government, headed by Ayaz Mutalibov, remained. Starting from 11 January 1990, the APF organized mass protest meetings in Baku to denounce the passivity of the republic's authorities over the Karabakh issue. The demonstrations attracted hundreds of thousands of participants, and also saw public calls for independence. On 13-14 January, a fanatical crowd started to attack the local Armenians, leaving some one hundred people dead; there was absolutely no response from the Soviet troops stationed there. On 20 January, however, the Soviet army took this massacre as a pretext for entering Baku, where it shot dead more than 130 Azeri civilians and severely injured several hundred others.

The sudden dissolution of the Soviet Union removed the last obstacle on the way towards the full escalation of the conflict. In fact, while the Armenians succeeded in building up an effective fighting force during the final years of Soviet rule, the Communists' ongoing grip on power in Baku effectively prevented any such attempts. On 31 August 1991, in the euphoric aftermath of the farcical putsch attempt by Communist hardliners in Moscow, Azerbaijan declared independence. On 2 September the Karabakh Armenians also declared independence, which they underscored by means of a swiftly organized referendum, in which 99 per cent of the (Armenian) population voted for full sovereignty. "Reciprocally" the Azeri parliament abolished the autonomy of Karabakh, which, however, had no further real influence on developments.

By the winter of 1991-92, full-scale war had already broken out. The capture of the Azeri-inhabited town of Khojali, which is located on the strategic road from Stepanakert (the capital of Karabakh) to Agdam, during the night of the 25-26 February led to much brutality, including many cases of torture, rape, and execution. Of the town's approximately 8,000 inhabitants 613 were killed, and more than 1,000 injured – mostly women, children, and

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8 The power of the Communist party increasingly began to wane following the accession of the leader of the AAM, Levon Ter-Petrosyan, to the position of chairman of the Armenian Supreme Soviet (August 1990) and his convincing victory in the presidential elections in October 1991.

the elderly.<sup>9</sup> “In the capture of Khojali and the subsequent attacks on the other Azeri towns and villages, entire units of the 366th Regiment of the Commonwealth of Independent States (CIS) took part, though in theory their task was actually to prevent large-scale violent confrontations.”<sup>10</sup> Such brutality was most likely aimed at scaring the population and played a key role in the successful ethnic cleansing of the occupied territories in the years to come.

The news from Khojali shocked the Azeri public; the parliament forced President Mutalibov to resign. However, he returned to the presidency after a month of virtual anarchy, remaining in office until May, when he was forced to flee following a *coup d'état* staged by the APF. Abulfaz Elchibey then became president. Another change of government came about when the forces of Armenia and Karabakh captured the mostly Azeri-inhabited town of Shusha. Known as “the heart of Karabakh”, and situated on a massive rock, Shusha is the region’s historical capital and has a profound place in the national feelings of both Armenians and Azeris, as well as significant strategic importance for the defence of the area. The almost simultaneous seizure of the Lachin corridor – the part of Azerbaijan proper that connects Karabakh with Armenia – solved the logistic problems of the Armenian side once and for all and played a key role in the further course of the war.

After they had defeated the Azeri attack in the northern part of Nagorno-Karabakh in summer 1992, the united Karabakh and Armenian forces conquered nearly the entire territory of the self-proclaimed republic. In the spring of the following year, they also occupied several regions of Azerbaijan proper that have a majority Azeri (Fizuli) or mixed Azeri/Kurdish (Kelbajar) population. In Resolution 822 of 30 April 1993, the UN Security Council demanded unsuccessfully that Armenian forces retreat from Kelbajar, since there was no threat to Armenian-inhabited areas. By not withdrawing, the Armenians were aiming to strengthen their bargaining position for future peace talks with Azerbaijan.

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9 26 February has been recognized as the day to commemorate the genocide of Khojali, and has become a corner-stone of anti-Armenian sentiment, a sort of Azerbaijani equivalent of the Armenian 24 April. Officially, however, 31 March was proclaimed the official day of the Azerbaijani genocide: It was on this day in 1918 that 15,000 Azeri civilians were killed by Russian Bolsheviks and Armenian nationalist Dashnaks in street fighting and massacres in Baku.

10 Svante Cornell, Nagorno-Karabakh: Dynamics and Prospects for Resolution, in: Dmitriy Furman (ed.), *Azerbaijan and Russia: Societies and States*, Moscow 2001, p. 445 (in Russian; author’s translation). No discussion of the Russian military involvement in the conflict is complete without mentioning “Operation Ring” (“*Koltso*”), which began in the spring of 1991. The Moscow-directed operation was carried out by Soviet army troops and the elite forces of the Azerbaijani ministry of the interior. As the result of the operation, thousands of Armenians living in the Shaumyan and Geranboy districts north of Nagorno-Karabakh were expelled and their homes plundered. This operation was conceived as a peculiar “reward for loyalty” from the Kremlin to the Azeri Communists, but was stopped following the failure of the August putsch in Moscow and the rise of Yeltsin’s democratic forces to power in Russia.

In June 1993, an Azeri colonel, Süret Hüseynov, initiated another *coup d'état* when he moved his "private army" out of their barracks in Gyanja and towards Baku. They were strengthened by arms and ammunition belonging to the Russian 104th Paratroop Regiment. Elchibey fled to his native village. However, he called upon his Nakhichevan compatriot Heydar Aliiev, the former leader of Soviet Azerbaijan, a former member of the Politburo of the Central Committee of the Communist Party of the USSR, and a KGB general, to come to the capital. In a move worthy of General de Gaulle, Aliiev immediately returned to Baku and, with the blessing of Kremlin, made a deal with Hüseynov, who received the posts of prime minister and minister of defence. Aliiev himself became president of the parliament and thus head of the republic, pursuing policies of national consolidation, establishing a proper army, and repairing Azerbaijan's catastrophic international standing.

Meanwhile Armenian forces took full advantage of Azerbaijan's internal chaos and, with little resistance from the demoralized Azeri troops, successively occupied Agdam, Horadiz, Kubatly, Jabrail, and Zangelan, reaching the Azerbaijani-Iranian border at the river Arax, which led the Iranian army to put on a show of strength by crossing the river. Terrified of ethnic cleansing and other brutalities, local villagers fled even before the Armenian troops reached their territory; hundreds of people died on high mountain paths from starvation and hunger. UN Security Council Resolutions 853, 874, and 884 followed in July, October, and November 1993, requesting in vain that the Armenian troops withdraw immediately and unconditionally from the occupied territory. In the winter of 1993-1994, the hastily formed Azerbaijani army engaged in a full-scale attack on the entire perimeter of the front, only to fail after some initial successes. At this stage, neither side had enough strength left to continue with offensive operations. Hence, on 12 May 1994, an armistice was signed in Moscow that has lasted ever since. Nevertheless, snipers, mines, and occasional artillery duels continue to cost the lives of two to three hundred soldiers and civilians each year.

The war claimed at least 30,000 victims (of whom around 7,000 were Armenians) and created around 1,100,000 displaced persons (of whom at least 800,000 were Azeris). Seven districts of Azerbaijan proper were occupied (Lachin, Kelbajar, Agdam, Fizuli, Kubatly, Jabrayil, and Zangelan), amounting to 14 per cent of Azerbaijani territory. The economies of both countries were ruined. Armenia is still being blockaded by Azerbaijan and Turkey, while Nakhichevan is blockaded by Armenia. Due to permanent migration, the population of Armenia was reduced to two to 2.5 million.

### *International Responses*

Given its timing, geographical location, and significance for regional security, the Karabakh conflict was bound to make major waves in international



diplomacy. From the very beginning, the Russian reaction was decisive. The Russian ministry of interior's initial lack of interest in developments along Russia's southern borders was accompanied by relatively autonomous activities on the part of various Russian institutions, particularly the ministry of defence and the commanders of the local military bases. However, Russia's approach was not as chaotic as it might seem at the first glance. As Jan Wanner observed, "Already in May 1992, a strange series of accidents occurred. Following Azerbaijan's refusal to join the Tashkent Treaty on Collective Security and its withdrawal from the CIS, the Armenians decided in the space of a few days to undertake an offensive in Nagorno-Karabakh. This resulted in the occupation of Shusha and the opening of the Lachin corridor to Armenia."<sup>11</sup> Elchibey, who was responsible for the radical shift in Azerbaijani policy, firmly rejected both the establishment of Russian military bases on the territory of the republic and the presence of Russian peacekeeping forces in Karabakh. Moreover, at the same time, he initiated what became known as the "deal of the century" – an agreement with leading Western oil companies on the exploitation of Azerbaijan's enormous oil reserves, which was signed in London at the end of June 1993. Interestingly, that oil deal excluded any participation of Russian (and Iranian) companies. This represented a serious threat to Moscow's interests in the vast Caucasian and Central Asian region, and it was in this context that Hüseyinov's troops marched on Baku as mentioned above, which led to the replacement of the inflexible Elchibey with the seemingly pro-Russian Aliiev, who swiftly returned his country to the CIS and even talked about the possibility of establishing Russian military bases on Azerbaijani soil.

The establishment of five independent Turkic states in the South Caucasus and Central Asia in the early 1990s was a cause of great optimism in Ankara. The original attempt to maintain stable relations with Armenia was soon replaced by the necessity of supporting "Azeri brethren" in their fight against Armenians, with public opinion having a highly significant impact on the rhetoric and thinking of the authorities.<sup>12</sup> There were, however, also pragmatic reasons for Turkey to keep its very close ties with Baku, as they ensured access to the oil-rich Caspian Sea and to Central Asia. Intriguingly, when Armenia was evidently preparing an attack on Nakhichevan in 1992, Ankara threatened to use the provisions of the Soviet-Turkish Kars Treaty (1921), which charges it with ensuring Nakhichevan's security, and dispatched armed forces to the Turkish-Armenian border in a show of force. The international tension around the issue of Karabakh reached its peak when the

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11 Jan Wanner, Russian Politics and the Caucasus Region, in: Bohuslav Litera/Luboš Švec/Jan Wanner/Bohdan Zilynskyj (eds), *Russia? Mutual Relations of the Post-Soviet Republics*, Prague 1998, p. 120 (in Czech; author's translation).

12 For instance, shortly after the fall of Kelbajar, the former Turkish President Turgut Özal claimed, that "it is high time we showed Armenia our teeth". Since Robert Kocharyan's seizure of power in 1998, both the Armenian government and the diaspora have concentrated on achieving international recognition of the Armenian genocide (1915), which has resulted in a further worsening of Turkish-Armenian relations.

Commander-in-Chief of the Joint Armed Forces of the CIS, Marshal Yevgeniy Shaposhnikov, threatened Ankara by saying that Turkish military intervention would lead to "World War Three". In the following years, in an attempt to ensure normal relations with Moscow, Ankara limited itself to supporting Azerbaijan on the international stage, enforcing the economic blockade of Armenia, and sending Turkish military instructors to the Azeri army or teaching Azeri officers in Turkish military academies.

The rapid worsening of Armenian-Turkish relations swiftly revived Armenia's fears of being an "island of Christendom" encircled by hostile Muslim-Turkic powers. In fact, it became clear that Armenia, with fewer than three million inhabitants, sandwiched between Turkey (65 million) and Azerbaijan (seven million), faced uncertain prospects to say the least in the case of a major conflict. In this situation, political and military co-operation (in fact, integration) with Russia appeared unavoidable. As a result, the massive Russian 102nd military base was built near the Armenian-Turkish border. According to information leaked to the media at the end of the 1990s, Armenia received Russian military assistance worth one billion US dollars between 1996 and 1998, including state-of-the-art SS-300 air defence systems, MiG-29 fighters, etc. This trend is said to have continued in subsequent years.

For Tehran, the establishment of an independent Azerbaijan north of Iran's own region of Southern Azerbaijan provoked serious security concerns, as approximately one third of Iran's 70 million inhabitants are ethnic Azeris. Iranians feared that the existence of a powerful and oil-rich Azerbaijan on its north-western borders with close ties to Turkey (and, as Iran saw it, also to the USA and Israel) would strengthen the separatist aspirations of Iranian Azeris. These fears were highlighted by the unfortunate proclamations of President Elchibey, according to whom the "unification of Azerbaijan is a matter of five years at most". This background led to a paradoxical state of affairs in which Shi'a Iran gave *de facto* support to Christian Armenia in the war against Shi'a Azerbaijan, while, under pressure from the Azeri community and the pro-Islamistic public, the pragmatic government in Teheran tried to portray itself as an independent arbiter and mediator. In this way, a strategic Russo-Irano-Armenian triangular alliance was formed in the 1990s with the intention of isolating Azerbaijan, containing Turkey, and minimizing US influence in the Caucasus-Caspian region.

US policy during the first third of the 1990s was characterized by a lack of interest in the war-torn region, which was perceived as a legitimate domain of Russia. The powerful Armenian (and Greek) lobby was thus able to substantially shape American policy-making in relation to the Karabakh conflict and Azeri-Armenian relations in general. In October 1992, section 907 of the Freedom Support Act passed by the US Congress identified Azerbaijan as the aggressor in the conflict and banned the provision of aid to Azerbaijan until it raises its blockade and ceases from the use of force against Karabakh and Armenia. However, since 1994, when the repeatedly postponed "deal of the

century” was finally signed in Baku with substantial participation on the part of American and British oil companies, Washington’s approach has gradually been changing. In the same year, the South Caucasus was also declared a “zone of vital US interests”. Throughout the 1990s, the Clinton administration improved its ties with Azerbaijan, Turkey, and Georgia, in order to build up an alternative route for the transport of Caspian hydrocarbons that would avoid Russian territory (the Baku-Tbilisi-Ceyhan oil-pipeline project). In an attempt to ensure the uninterrupted flow of oil from the Caspian Sea and to limit Russian influence in the region, the USA now principally aims at achieving a rapid solution of the Karabakh conflict.

### *The Peace Process*<sup>13</sup>

Immediately following their formal proclamations of independence, Armenia and Azerbaijan joined the Conference on Security and Co-operation in Europe (CSCE), as it was then. The CSCE thereupon formed the Minsk Group consisting of 13 participating States, whose task was to deal with the settlement of the Karabakh conflict. This was the first conflict in which the UN delegated a mediation mandate to a regional security organization. Although the efforts of the CSCE/OSCE can be considered a failure in retrospect, it is clear that it, more than any of the individual mediators – Russia, Iran, Kazakhstan, the USA, etc. – succeeded in providing the necessary forum for ongoing negotiations. The OSCE’s failure can be explained by its initial lack of knowledge of the region and the absence of an appropriate conflict resolution framework, on the one hand, and by the radically different standpoints of the conflict parties – Armenia, Karabakh, and Azerbaijan – on the other. A further negative factor was the policy of non-co-operation with the Minsk Group pursued at times by Russia in an effort to promote its own interests.

Although the various parties to the conflict were repeatedly close to reaching a compromise in the course of thirteen years of negotiations, rapid developments on the battlefield (1993) and internal political changes in one country (1998, Armenia) eventually prevented its implementation.

Armenia’s baseline in the negotiations is the right of a nation to self-determination. It claims that since the conflict is between Azerbaijan and the Republic of Nagorno-Karabakh,<sup>14</sup> the negotiations should be carried out be-

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13 This brief chapter makes no pretence of containing a complete chronological portrayal of the OSCE’s peace efforts in the Karabakh conflict, but aspires rather to present an overview of the key OSCE-mediated negotiation efforts.

14 This proclamation conflicts with the well known facts of Armenia’s military mobilization and the direct participation of the Armenian army in the Karabakh conflict. Given Yerevan’s strategic interests, it is curious that Armenia has never recognized the independence of Nagorno-Karabakh and has not sought unification, though the ruling of the Supreme Soviet of the Armenian SSR of 1989 on the incorporation of the Nagorno-Karabakh was never repealed.

tween Baku and Stepanakert. Officially, Yerevan claims that it merely represents the Karabakh side in the peace talks and stresses that any final settlement of the conflict must be approved by Karabakh; Armenia itself assures that it will agree with any solution accepted by Stepanakert.

In 1998, President Robert Kocharyan established the basic principles of the negotiations: a) the right to self-determination of the people of Nagorno-Karabakh; b) security guarantees for the Armenian population of Nagorno-Karabakh, which entails the maintenance of a strong army and close ties with Armenia; c) the necessity – a consequence of b) – of permanent Armenian control of the strategic Lachin corridor.

In contrast, Azerbaijan evokes the principle of territorial integrity and points to the fact that the Armenian nation has already realized its right for self-determination in the form of the Armenian state. Baku insists that it was at war with Armenia (the cause of the war being Armenian military aggression and the occupation by Armenia of Azerbaijani territory), and categorically refuses to recognize Stepanakert (meanwhile restored to its original Azeri name of Khankendi) as a subject in negotiations, since doing so would mean recognizing the legitimacy of the self-proclaimed Republic of Nagorno-Karabakh and hence the legitimacy of its demands. Being a multi-ethnic state, Azerbaijan also fears that any substantial concessions to the Armenians would serve as a bad example that would encourage other ethnic minorities inhabiting the areas adjacent to the Russian and Iranian borders (Lezgins, Avars, Talysh) to mobilize their separatist tendencies and might eventually even lead to the disintegration of Azerbaijan as such.

In 2001, the position of the majority of the Azeri population, as well as apparently of Baku itself, was summarized by the representatives of the main political parties as follows: a) Nagorno-Karabakh should be granted (potentially extensive) self-government within the framework of the Azerbaijani state (ensuring the vertical relationship between Baku and Stepanakert/Khankendi); b) the seven occupied Azerbaijani districts must be returned; c) the secure return of Azeri refugees to those districts and to Shusha must be ensured; d) Baku seeks a peaceful resolution of the conflict. However, should the negotiations fail, it insists on its right in accordance with the UN Charter and international law to preserve its territorial integrity, using force if necessary.

The success of the negotiations is hampered to a large extent by the discrepancy between the short-term optimistic expectations of Azerbaijani diplomacy and the reality. Baku quite correctly sees Caspian “oil diplomacy” as a means of creating an international environment favourable to the Azeri position in the negotiations with Yerevan. Key components of this are to limit the influence of Russia, Armenia’s key ally, on developments in the South Caucasus and to ensure Washington’s goodwill, for Washington has the power to make the position of Armenians more flexible. The (partial) success of this approach can be seen in the fact that Yerevan and Stepanakert were

forced by the international community to withdraw their initial demand for the full independence of Karabakh. Together with the vision of billions of dollars in oil profits, this success reduces the willingness of Baku, even though it is the defeated party, to recognize the bleak situation on the ground and the necessity of compromise. For its part, the Armenian side, which achieved a clear military victory and is currently in control of Karabakh and the neighbouring occupied territories, is generally unwilling to make concessions of the kind envisaged by Baku, though it understands the need for compromise.

A key obstacle to resolving the conflict is the fact that it is a conflict of values. While conflicts of interest can be resolved by finding a mutually advantageous economic arrangement, value-related conflicts are rooted in the belief systems and identities of the parties involved and a compromise is therefore difficult or impossible to achieve. Against the background of an ongoing security dilemma (although an armistice was agreed, no peace treaty has been signed), both governments are attempting to keep public support mobilized; state propaganda thus revolves around past grievances and cultivates a culture of hostility and obstinacy. This is particularly true of Azerbaijan, where a strong sense of humiliation and dishonour is widespread throughout society in the aftermath of the military defeat in Karabakh. In these circumstances, the willingness to make concessions, an unavoidable aspect of any compromise, could be perceived as defeatism and a betrayal of the national interest, and this could be misused by ambitious populist opposition parties in both countries.<sup>15</sup> Both parties have thus tried to ensure that the negotiations are carried out in the utmost secrecy; since 1999, when Baku and Yerevan began to be involved in bilateral talks, very little information has been leaked to the public. The consequent lack of (reliable) information, however, only strengthens the anxiety and uncertainty in both Azerbaijani and Armenian societies.<sup>16</sup>

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15 The resignation of Levon Ter-Petrosyan illustrates this point. In the face of deepening geopolitical isolation and a catastrophic economic situation, the pragmatic Armenian president was willing to accept the OSCE-mediated proposal for a peace settlement (see the section on the stage-by-stage approach below), but was forced to resign by pressure from the main political parties, important members of the government, the diaspora, and the public in early February 1998. The subsequent presidential elections were won by Robert Kocharyan, a native of Nagorno-Karabakh, a former prime minister and president of the Republic of Nagorno-Karabakh, and the prime minister of Armenia prior to Ter-Petrosyan's resignation.

16 Among other topics, the talks also discussed plans for the exchange of territory, e.g. the 1992 Goble Plan, which proposed the transfer of the Lachin corridor to Armenia in exchange for the Megri corridor, which connects the Azerbaijani "heartland" with Nakhichevan. This plan was rejected by Armenia as "asymmetrical" because it would mean the loss of Armenia's common border with friendly Iran in exchange for territory that it already controlled. Nevertheless this option evidently remained on the table in further talks (in the form of ensuring free communication between Azerbaijan and Nakhichevan or as part of a broader plan). Another scenario was the so-called Northern Cyprus variant, i.e. the establishment of a *de facto* independent or quasi-independent state based on the reality "on the ground" with all the attributes of statehood (territory, inhabitants, an army, a flag, etc.), but unrecognized by the international community. In general, however, proposals of this

*The Military Option*

From time to time, the Azeri side evokes the possibility of a military solution to the conflict, possibly in order to place pressure on the Armenians or to remind its own public of the unsettled issue. The desire for revenge on the part of a defeated state is understandable. Nonetheless, this does not change the fact that such proclamations spoil the atmosphere of mutual trust necessary for the success of any peace talks. Furthermore, one might say that from a purely pragmatic standpoint, the renewal of the war is hardly an option for Baku at present. Advance forces of the Karabakh army are located a mere 30 kilometres from the town of Yevlakh (and not much further from Gyanja, Azerbaijan's second largest city). Yevlakh is a key station on the way to Georgia and the West, and the US-backed Baku-Tbilisi-Ceyhan pipeline, which is under construction, passes through it. The capture of this strategic node – whether provoked by Baku or not – would be the easiest way to compromise long-term Azeri expectations. One also has to remember that the Armenian army remains the most powerful in the South Caucasus.<sup>17</sup>

In the post-war period, Nagorno-Karabakh became a regular fortress, encircled by multiple lines of defence as well as minefields. A first-rate highway was built between Yerevan and Stepanakert using money received from the Armenian diaspora. This allows the immediate transport of military equipment from Armenia and – something that cannot be excluded – from the 102nd Russian military base. Given the quality and quantity of the military equipment that both countries – but especially Armenia – have at their disposal, another war would be a bloody and total one. Stepanakert, Yerevan, and Baku would face a risk of rocket attacks. In all likelihood, Nakhichevan would also be drawn into the conflict, which would lead to the intervention of Turkey and consequently also that of Russia and Iran. The internationalization of the conflict could provoke a dangerous regional war. It seems, therefore, that Baku cannot realistically hope for a military solution in the next ten to 15 years, though it cannot exclude the military option for the more distant future and continues to invest a considerable percentage of its oil profits in armaments.

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kind are seen as likely to lead to instability, militarism, and to make the region more vulnerable to external interference. They are therefore seen as conflicting with the true interests of both Armenia and Azerbaijan.

17 See, for instance, Svante Cornell/Roger McDermott/William O'Malley/Vladimir Socor/S. Frederick Starr, *Regional Security in the South Caucasus: The Role of NATO*. A policy paper produced by the Central Asia-Caucasus Institute, Paul H. Nitze School of Advanced International Studies, John Hopkins University, Washington 2004, pp. 34-49.

### *The Stage-by-Stage Approach*

In the autumn of 1997, the “Minsk Trio” (France, the USA, and Russia) suggested the stage-by-stage approach. Based on the Lisbon principles,<sup>18</sup> it aims at the gradual resolution of the conflict. According to this plan, the Armenian troops were to retreat from all the occupied territories with the exception of Nagorno-Karabakh, and the blockade of Armenia was to be lifted. The Azeri refugees would then be allowed to return to their homes and the security of the region would be ensured by the stationing of international peacekeeping forces. Only then would the key talks on the status of Karabakh be carried out. Azerbaijan declared it was ready to tolerate the continued effective existence of a Karabakh army (which however would be reduced to a national militia following the completion of the talks), constitution, government, flag, and almost all other attributes of statehood, on the condition that the Republic of Nagorno-Karabakh would remain formally part of Azerbaijan. While Baku agreed to the plan, Stepanakert firmly rejected it, as it would entail the loss of its trump card before the key talks on the status of Karabakh had even begun, but also because Stepanakert rejects any proposal that presupposes a vertical relation between Karabakh and Baku. The willingness of the Armenian president, Levon Ter-Petrosyan, to accept this approach led to his resignation. The stage-by-stage approach is generally supported by Baku.

### *The Package Deal*

The package approach aims to reach a single, general agreement on all the issues to be decided in order to enable their immediate solution. Clearly, no such general agreement has been reached so far. One of the best known and most debated of the package-approach proposals was the “common state” approach formulated by Russian diplomats Yevgeny Primakov (the former minister of foreign affairs) and Boris Pastukhov in the autumn of 1998. The advantage of their plan – which was also its weakness – was the way it sought to avoid the use of such key terms as “autonomy”, “independence”, and “territorial integrity” both in the talks and in the text of documents. These terms, which are associated with the question of identity, carry considerable emotional baggage and tend to act as major stumbling blocks in negotiations. For the authors of the project, vagueness about these key concepts was to

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18 At the OSCE’s Lisbon Summit in December 1996, 53 of the OSCE’s participating States including the USA – the exception was Armenia – confirmed the principle of territorial integrity as a basic element of Armenian-Azeri talks on the status of Nagorno-Karabakh. The Lisbon declaration clearly states that “[the] legal status of Nagorno-Karabakh [should be] defined in an agreement based on self-determination which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan”. Organization for Security and Co-operation in Europe, Lisbon 1996, Lisbon Document 1996, Annex 1, Statement of the OSCE Chairman-in-Office, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 419-446, p. 430.

serve the purpose of getting the sides to the negotiating table and focusing more on matters of fact. However, by allowing for multiple interpretations, the high level of abstraction could not provide a firm foundation for negotiations and eventually led to another breakdown in the negotiating process.

The “common state” approach essentially proposes making Nagorno-Karabakh an “associated state”. (The same confederative or quasi-federative principle was proposed by Moscow for the talks between Georgia and Abkhazia and Moldova and Transdnistria). Under this model, a separatist unit may “freely” associate with the centre. However, as a corollary, it must also be equally “free” to secede (horizontal relations between Baku and Stepanakert). Baku therefore rejected this proposal as a serious departure from both the letter and the spirit of the Lisbon Summit, although Yerevan and Stepanakert expressed their willingness to negotiate. Even in the current talks, Yerevan continues to defend the associated states model and the package approach. According to some observers, Moscow’s proposal was motivated mainly by the desire to preserve the status quo of “neither war nor peace”, which served Moscow’s interests in the Caucasus region in general and in Armenian-Azerbaijani relations in particular.

At the time of writing, the Armenia-Azerbaijan talks are in a deadlock. Baku has reproached the Minsk Group for its passivity, repeated its threats of military action, and – with regard to what it alleges amounts to a complete lack of progress – has suggested restarting negotiations “from scratch”. Yerevan rejected this proposal, which it claims would waste all that has been achieved in negotiations so far.<sup>19</sup> According to the limited information that is available on the behind-the-scenes talks, the unwillingness of the Azeri side is caused by the plans currently being promoted by the OSCE to offer Karabakh a level of self-rule virtually indistinguishable from full independence. In fact, the mediators now are facing the extremely difficult task of finding a synthesis between the position taken by Baku, which evokes the Lisbon principles and appears to be refusing to even talk about the “package” and “common state” approaches, and the polar opposite standpoint of Yerevan. The debates naturally centre around the status of Karabakh and the ownership of the Lachin corridor. At present, however, the total veil of secrecy over the talks leaves an analyst with a minimum of concrete information and a glut of often mutually exclusive speculations.

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19 In fact, when Yerevan called on the new Azeri president, Ilham Aliiev, to “accept the agreements from Paris and Key West” [author’s note – in 2001], Aliiev reacted, saying: “There were and there are no agreements. This is yet another fabrication of the Armenian side.” Similar diplomatic duels between Baku and Yerevan have become rather frequent in recent years. This is mainly a result of the fact that whichever side wishes to justify forthcoming concessions will attempt to prepare national public opinion by claiming that the other side is planning its own – as a rule larger – concessions. This results in the government about whom the allegations are made swiftly issuing categorical denials in order to reassure its own public.



## Conclusion

A basic axiom of peace studies says that it is not the recognition of some abstract good that causes the parties in a conflict to seek to resolve their differences peacefully, but rather the realization that there is no alternative to peace. It has recently become evident that both Armenians and Azeris have seen the sense of contributing to the search for a peaceful solution. Indeed, an enduring peace is necessary for long term economic growth and to secure a stable climate for foreign investment in the region, whose geopolitical and global economic importance is increasing. This is becoming particularly clear to Armenia, which has been excluded from a number of ambitious regional projects as a result of the conflict with Azerbaijan and whose current military superiority is not autonomous but largely depends on Moscow's support. In this particular conflict, a peace settlement between Armenia and Azerbaijan is not only an issue for the governments of the two main antagonists, but must also be acceptable to the key external actors, i.e. the USA and Russia in particular. Any agreement therefore has to take into account the often contradictory geopolitical interests of the major powers, which further complicates the process of finding a permanent solution.

Unfortunately, both the Armenian and the Azeri peoples are at present effectively hostage to their respective governments, which, in order to preserve popular support, are pursuing a strategy of cultivating hatred towards the opposite side. This has resulted in raising a new generation of people who refuse to accept any compromise.<sup>20</sup> As a consequence, the governments have significantly reduced their own space for manoeuvre: Were a compromise to be reached, it would be extremely difficult to sell it to the public.

If present trends continue, the public's maximalist expectations entertained by the will continue to rise. The only things that could stop this would be if the balance of power in the region changes dramatically in the foreseeable future (for instance if Russia becomes unwilling or unable to further guarantee the security of its South Caucasian ally) so that one side can achieve its aims regardless the will of the other party, or a substantial shift in value systems.

People's memories of the war and the bloodshed and suffering it brought are still vivid. They have therefore put jingoism behind them, and

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20 According to recent opinion polls, only one per cent of Armenians are prepared to make substantial concessions towards Azerbaijan in the Karabakh issue, approximately 50 per cent of Azeris do not agree with making any concessions towards the Armenian side, and approximately 40 per cent of Azeris support only "insignificant" formal concessions, such as (some degree of) autonomy for Nagorno-Karabakh in the framework of an independent Azerbaijan (in reality, the restoration of the pre-war state of affairs). More importantly, only around 0.7 per cent of Karabakh Armenians accept any form of submission of Karabakh to Azerbaijan. Nevertheless, the overwhelming majority of both Azeris and Armenians would prefer to see the conflict resolved peacefully. Some analysts claim that an effective way for the regimes to prepare the public for major concessions would be to invent a threat of war.

despite the state propaganda the only true wish of the common people is to live in peace, stability, and prosperity. Older people, in particular, can still remember times of peaceful Armenian-Azeri coexistence. Examples of friendly relations and co-operation between representatives of the two nations found everywhere apart from in their home countries (in Russia, Europe, and elsewhere) demonstrate the paradox that, despite “national animosity”, hatred is not the dominant emotion at the level of individuals. In this context, it is important to remember that “only” 30,000 people were killed as a result of the Karabakh war, compared to the 250,000 in Bosnia or the 100,000 in Chechnya. The fact that fewer people are directly involved in the conflict through their blood relations is of considerable importance in the Caucasus.

Public opinion has to be properly prepared for a future compromise deal, and an atmosphere of reconciliation and forgiveness must thus be nurtured. Only true and honest compromise can underpin a stable and lasting peace. A victory for one side – though fairly unlikely at present – would be short lived and volatile, as it would certainly cause the emergence of a new wave of resentment and calls for revenge from the (temporarily) defeated party.

Hence, what is now most needed is consciousness-changing “national therapy”. As Ronald Grigor Suny notes, “The way people think about themselves is a human construction built up over time [...] If [identities] are constructed, they in fact may not be able to be *deconstructed*. We cannot forget everything that has happened. We cannot start all over again. But they can be, if not deconstructed, if not eliminated, they can be *reconstructed*. They can be thought of in new ways.”<sup>21</sup> Clearly, such a process would require dozens of years, and, more importantly, considerable political will, to establish a solid foundation for lasting peace.

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21 Ronald Grigor Suny, transcript of a podium discussion. Suny’s constructivist-modernistic perspective is presented in: *Negotiations on Nagorno-Karabakh: Where Do We Go From Here?*, Caspian Studies Program, Harvard University, summary and transcript of a podium discussion, pp. 4 and 15 (emphasis in original and added).

## The Abkhazia Conflict in Historical Perspective

After a seven-year gap, Georgian independence day was once again celebrated with a spectacular military parade on 26 May 2004. President Mikhail Saakashvili opened the festivities with a speech given in Georgian, Ossetian and Abkhaz: “The interests of each Ossetian living in Georgia will always be taken into consideration by the Georgian state [...] I also want to address the Abkhaz and urge them once again to enter talks in an effort to build up federative relations [with Georgia] that would give them vast and internationally recognized guarantees of autonomy.”<sup>1</sup> The display of military power was thus combined with an olive branch held out by the new government in Tbilisi, raising hopes once more of an end to the entrenched Georgian-Abkhaz conflict, which has seen both sides not only appeal to “historical facts” to justify their claims but also write their own bloody chapters of history in the last 15 years.

Both sides’ belief in the historical legitimacy of their claims, the superiority of their nation, and the uniqueness of their mission have often rendered them incapable of making rational political decisions. The fighting that claimed so many victims, created so many refugees, and destroyed infrastructure and trade links between August 1992 and October 1993 has left deep wounds in not only the Georgian and Abkhazian populations, but also among the other minorities in Abkhazia, such as Armenians, Greeks, and Russians.

The use of historical garb to disguise territorial claims, the combination of “ethnogenesis” and “national consolidation”,<sup>2</sup> and the overlaying of contemporary political conflicts with historical concerns under the new conditions created by the collapse of the Soviet Union and the rise of new national movements mean that an analysis of the background needs to consider many levels. The same factors also make special sensitivity necessary in international efforts to find a solution.

Without attempting the ambitious task of judging between the irreconcilable opinions of the parties to the conflict, the current contribution aims to present the evidence from the pre-Soviet and Soviet periods and to recapitulate the complex history of the conflict since the late 1980s.<sup>3</sup>

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1 Cited at: [www.ncbuy.com/news/2004-05-26/1107832.html](http://www.ncbuy.com/news/2004-05-26/1107832.html).

2 Cf. Alexander B. Krylov, *Religiya i traditsii Abkhazov*, Moscow 2001, p. 5.

3 Cf. for more detail on the origins of the conflict: Alexander Kokeev, *Der Kampf um das Goldene Vlies. Zum Konflikt zwischen Georgien und Abchasien* [The Struggle over the Golden Fleece. The Conflict between Georgia and Abkhazia], HSFK-Report 8/1993, and the comprehensive research carried out by the Research Group on Conflict and Cooperation Structures in Eastern Europe at the University of Mannheim, Germany: Alexander Kokejew/Georgi Otyrba, *Der Weg in den Abchasien-Krieg* [The Road to War in

Abkhazia, which currently has an area of 8,600 square kilometres, had 537,000 inhabitants in 1989, of whom 46.2 per cent were Georgian, 17.3 per cent Abkhazian, 14.6 per cent Armenian and 14.2 per cent Russian. Situated on the eastern shore of the Black Sea, Abkhazia lies within the territory of legendary Colchis (home to Medea and destination of the Argonauts) and has thus been considered a land of wealth and hospitality since ancient times. The golden ram, whose skin entered mythology as the Golden Fleece sought by Jason, became a symbol of the land's many riches and the avarice it aroused in so many powers. Greeks, Romans, Persians, Byzantines, Arabs, Seljuks, Mongols, Ottomans, not to mention the Russians, have all traded with or (for a time) ruled over the region, which has always been closely linked with the North Caucasus (today, Stavropol and Krasnodar Krai) and the Trans- or South Caucasian lands that the Russians call "*za-Kavkazom*" (the lands behind the Caucasus), and which comprise the modern countries of Georgia, Armenia and Azerbaijan. In this classic "transit zone" between the steppes of the Caucasian foreland, the Caucasian highlands, and the Black Sea coast, between the Mediterranean and Central Asia, not only did a great variety of peoples mix with the local population, but external powers exerted political and cultural influence. Ethnic and religious diversity remained characteristic of the region even after the advent of Christianity (in the 4th century) and Islam (in the 7th century).

Political instability and periods of intense rivalry between major powers nevertheless always left space for local rulers. The result was shifting alliances and series of small, short-lived states. In this situation, religions were able to play a role both in identity formation and as indicators of loyalty. Traditional moral codices, customary law, and tribal or clan loyalties were often more powerful than linguistic or religious identification.

The complexity of interrelationships between local, regional, and international factors came to characterize Abkhaz history<sup>4</sup> and was destined to become a problem for the historiography of the modern period as various national movements have laid claim to and politicized their common heritage.

In doing this, Abkhaz and Georgian historians and politicians have had recourse to theories of nation building rooted in Western-European reality, which found their Bolshevik interpretation in Stalin's 1913 definition of nation. Stalin placed particular weight on language, territory, economic life, and "psychological make-up manifested in a common culture", and made these

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Abkhazia], in: *Untersuchungen des FKKS 13/1997*. See also: Bruno Coppieters, *Westliche Sicherheitspolitik und der Konflikt zwischen Georgien und Abchasien* [Western Security Policy and the Conflict between Georgia and Abkhazia], Bundesinstitut für Ostwissenschaftliche und Internationale Studien, Cologne 1999; Tim Potier, *Conflict in Nagorno-Karabakh, Abkhazia and South Ossetia: a legal appraisal*, The Hague 2001.

4 Cf. Oliver Reisner, in: *Studienhandbuch östliches Europa* [Students' Handbook on Eastern Europe], vol. 2, Stuttgart 2002, p. 291.

the criteria for the recognition of nations. This conception influenced not only official Soviet nationalities policy, with all the legal consequences thereby entailed, but also the thought and discourse patterns of a broad section of the population; even today, political elites continue to think within this framework when justifying claims to territory or sovereignty.

This has put a strain on Georgian-Abkhaz relations in particular and meant that the conflict was being fought by historians before the first shots were fired.

One group of related problems that is regularly reconsidered concerns the autochthony of the Kartvelians and the Abkhaz,<sup>5</sup> the independence of Abkhazia, and the nature of the mediaeval monarchy in Abkhazia and Georgia.<sup>6</sup>

The earliest phase of Georgia's official written history is closely associated with the terms "West Georgia"/Egrisi (Greek: Colchis) and "East Georgia"/Kartli (Greek: Iberia), which stem from the 6th and the 3rd centuries BC, respectively.

While some radically nationalistic Georgian authors assume that the population of West Georgia has been largely Kartvelian since ancient times<sup>7</sup> and dispute the very existence of Abkhazian ethnicity,<sup>8</sup> others distinguish between "Abkhaz" (Colchian) and "Apsil" (of North Caucasian-Adyghian origin), and a third group associates the Abkhaz exclusively with the settlement of the Black Sea coast north of Sukhumi by North Caucasian (Circas-

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5 Georgia, the name being derived from the Persian for "Land of the Wolves", known as "Gurjistan" in Russian sources from the 15th century, then "Gruziya" (in English Grusinia), is called "Sakartvelo" in Georgian. The "Kartveli" were originally members of various tribes, such as the Egrians (Laz), Svans, Mingrelians (Megreli in Georgian, Samargalo in Mingrelian). Despite substantial differences, the languages of these tribes all belong to the Kartvelian group, while the Abkhaz, who call themselves "Apsua", speak a language that belongs to the Abkhazian-Adyghian group. Mention of "Abazgs" and "Apsils" can be found as far back as the 1st and 2nd centuries. The oldest fragments of the Abkhaz language were written down in Arabic script in the 17th century by the Ottoman traveller Evliya Celebi. The Abkhaz-Cyrillic alphabet was devised by Baron Peter von Uslar in 1862. Nikolai Marr developed a Latin alphabet with 75 letters, which was used between 1926 and 1928, after which point a new Latin script was used. In 1937, a Georgian-based script was introduced. The current Cyrillic alphabet has been in use since 1954. See, for example, <http://www.omniglot.com/writing/abkhaz.htm> or: <http://www.writingsystems.net/languages/abkhaz/index.htm>. Cf. also George Hewitt (ed.), *The Abkhazians. A Handbook*, London 1998.

6 The question of sources poses a particular challenge. Even subjecting sources to close analysis, it is hard to determine what was meant by terms such as "Georgia" or "Abkhazia", or how designations of dynasties, geographic areas, tribes, languages, and so on were differentiated or used synonymously by ancient and mediaeval authors.

7 The term "Georgian" refers to speakers of Kartvelian languages.

8 This claim was made, for example, in 1992 by Irakli Batiashvili, a prominent member of the Georgian National Independence Party. Cf. Boj na reke Gudauta, in: *Novoe vremya* 35/1992, p. 8.

sian/Adyghian) ethnic groups,<sup>9</sup> which emphasizes their status as immigrants.<sup>10</sup>

Abkhaz historiography places the origins of Abkhaz statehood in the first few centuries of the Christian era. Extant sources document the growing strength of Abkhaz principalities and the expansion of a multi-ethnic and religiously diverse Abkhaz kingdom (in some sources referred to as the “Kingdom of Egrisi”) to cover the whole of West Georgia with its capital at Kutaisi from the 7th century. Under the influence of the Abkhaz princes, Christianity, which had been advancing since the 4th century, gradually freed itself from the influence of Greece and Constantinople, and, in the 9th century, the West Georgian church was placed under the control of the Catholicos of Mzkheta. From then on, Georgian increasingly became not only the language of traditional Georgian culture but also the language of the state and of literature. When the Abkhaz king Feodosi the Blind died without issue, his sister’s son, Bagrat III (a Kartvelian on his father’s side), was named his successor. The year of his ascension to the throne – 978 A.D. – is treated by Georgian nationalists as the key date in Georgia’s claim to the “Abkhaz inheritance”, although subsequent monarchs, from Bagrat IV (1027-1072), via David IV the Builder (1089-1125), to Queen Tamar (1184-1213) were each crowned “king (or queen) of the Abkhaz, Kartvels, Rans and Kakhs”. This period of prosperity was also associated with a concept of a Greater Georgia, which was fully expressed with the birth of modern Georgian nationalism in the 19th century and deliberately revived in the early 1990s.<sup>11</sup> With the expansion of the Mongols in the 13th, the Ottoman Turks in the 15th, and the Persians in the 16th century, both external pressure and the forces of internal disintegration increased. As a consequence, the former empire split into the kingdoms of Kartli, Kakhetia, and Imeretia, and the principality of Samskhe, and, as various Oriental great powers vied for advantage, the Caucasus underwent further waves of Islamization. Military campaigns, especially in Black Sea coastal regions and on the plains, caused mass migration towards sheltered valleys. At the same time, the advance of the Muscovites into the vacuum left by the collapse of the Golden Horde led to a wave of immigration from the North Caucasian steppes and the northern slopes of the High Caucasus. After several wars between the Persian and Ottoman Empires, the Treaty of Peace and Frontiers of 1639 established permanent spheres of influence between the two great powers. While Abkhazia was not annexed by the Ottoman Empire,

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9 Cf. Mariam Lortkipanidse, *Georgien und seine Autonomien: kurzer Abriss der Geschichte Abchasiens, Atscharas und Südossetiens* [Georgia and Its Autonomous Provinces: A Short History of Abkhazia, Ajaria and South Ossetia], in: *Georgica* 15/1992, pp. 34-38.

10 Cf. Eka Sakalashvili, Was sucht Rußland in Abchasien? Die Rolle Rußlands im georgisch-abchasischen Konflikt [What Does Russia Want in Abkhazia? Russia’s Role in the Georgian-Abkhazian Conflict], in: *Kaukasische Post* 39/2003: “Abkhazia is an ancient region of Georgia, in which North Caucasian peoples were settled. These people took the name ‘Abkhaz’ from the region. However, Georgians were always present here in larger numbers than any other ethnic group (Abkhaz, Russians, Greeks, Armenians).”

11 Cf. Krylov, cited above (Note 2), p. 9.

which also tended to leave vassal states to look after their own internal affairs, the Black Sea region as far as Kuban did come under Ottoman rule, and the establishment of fortresses<sup>12</sup> along the Black Sea coast and Islamization increased the Turkish influence.

Politically dependent upon and culturally influenced by different powers, East and West Georgia developed in isolation from each other, and the inhabitants of the two regions became estranged. When, in the late 17th century, the influence of the Oriental great powers waned and local rulers began to grow in power again, the principalities of Guria and Mingrelia freed themselves from the kingdom of Imeretia, and the principality of Abkhazia seceded from Mingrelia. While East Georgia (Kartli-Kakhetia) aligned itself with the growing power of Russia in the Treaty of Georgievsk (1783), Abkhazia remained independent under the rule of Prince Georgi Sheravashidze (Chachba) until 1810<sup>13</sup> and even succeeded in maintaining its status as an autonomous principality until 1864. Relations with Russia nevertheless remained problematic. Rebellions, the participation of Abkhazians in the Crimean war on the Ottoman side,<sup>14</sup> and the wave of emigration, especially among Muslims, that followed the end of the Caucasian War led to a sharp decline in the Abkhaz population, while Russians, Armenians, Greeks, Estonians, and especially Georgians settled in the region. In the 1897 census, there were 72,123 Abkhaz speakers in the Russian Empire.<sup>15</sup> In the district of Sukhumi, they made up slightly less than 50 per cent of the population.<sup>16</sup> At the same time, the ongoing process of consolidating the Georgian nation made it necessary to develop a policy towards the country's various ethnic groups. As the concept of the nation favoured by Georgian activists was

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12 Sukhumi/Sokhumi (formerly Sukhum Kale, Sokhum Kala), the Abkhaz capital, was known in the Roman and Byzantine Empires as Sebastopolis. The Greek colony of Dioscurias was founded at the location of what is now Sukhumi. Although the fortress, which was expanded under Ottoman rule (1578), fell into Russian hands in 1810, it was only officially granted to Russia by the peace of Adrianople in 1829. As a military district (from 1833 the "District of Sukhumi"), it was administered by the governor of Kutaisi or Tbilisi. In 1879, the city had only 1,947 inhabitants. In 1989, the population was 121,406. Up to 1992, it remained a cosmopolitan city in which nine languages were spoken. Sukhumi remained an important centre of tourism and learning in the Soviet Union until the early 1990s.

13 The manifesto of 17 February 1810 that declared Abkhazia a protectorate of Alexander I's Russia was cited by the Abkhaz historian E. Ajinjal in 1992 as providing the legal foundation of Abkhaz-Russian relations. Cf. E. Ajinjal, Vazhnyi akt abkhazo-russkikh otnoshenii, in: *Respublika Abkhaziya*, 23 March 1992.

14 Under Russian rule, Abkhazia was largely Christianized. Enforced conversion and mass migration led to the decline of Islam. Sovietization had a similar effect. In recent years, however, the population has started to rediscover its Islamic heritage. Cf. Khajimba ili Khaji-ogly. Komu nuzhna islamizatsiya Abkhazii, in: *Gubernskie vedomosti*, 2 September 2004.

15 Cf. Henning Bauer/Andreas Kappeler/Brigitte Roth (eds), *Die Nationalitäten des Russischen Reiches in der Volkszählung von 1897* [The Nationalities of the Russian Empire in the Census of 1897], vol. A, Stuttgart 1991, p. 217. The total population of the governorate of Kutaisi was 1,058,000. Of these, 53,600 came from another governorate or state. Cf. *ibid.*, p. 48.

16 According to *Izvestiya*, 21 March 1993, there were 200,000 Abkhaz living abroad.

based on culture, integration on the basis of Christianity, the traditions of the Georgian church, and language played a decisive role.<sup>17</sup> This could be applied more easily to the Mingrelians and the Svans than to the Abkhaz, with their strong Islamic-Ottoman cultural influences and ties. In fact, this period saw the beginnings of an Abkhaz cultural awakening and proto-nationalist movement,<sup>18</sup> which was deliberately contrasted to the Georgian national movement.

#### *Independence or Autonomy: Abkhazia under Soviet Rule*

The revolutions of February and October 1917 and the civil war and war of intervention that followed created completely new conditions for the realization of national ambitions. The numerically small Abkhaz people had a number of potential allies among whom they were able to choose: Russia, Turkey, union with the “Mountain Peoples’ Republic of the North Caucasus”, the “Transcaucasian Federation”, or the Georgian Republic.

Following the failure in November 1917 of the attempt to unite with the peoples of the North Caucasus, the Abkhaz People’s Soviet in Sukhumi signed an agreement on 9 February 1918 on mutual relations with the Georgian National Council. This recognized an “indivisible Abkhazia within frontiers stretching from the River Ingur to the River Mzymta” (later known as the River Psou). However, this did not stop the Georgian Democratic Republic that was declared in May 1918 from sending troops to “meet the Bolshevik menace” in June 1918 with German backing. To this day, Abkhazians consider this the date of their country’s annexation by Georgia, while Georgians speak of the “restoration of Georgian unity”.<sup>19</sup> Following Georgia’s conquest by the Red Army in February 1921, Abkhazia’s legal status came up for discussion once again: A “Soviet Socialist Republic of Abkhazia” was initially declared on 4 March 1921 alongside the “Soviet Socialist Republic of Georgia”. On 21 May 1921, a decision was made on the incorporation of Abkhazia in a Georgian federation, and, in a separate treaty of union, signed on 16 December 1921, the two republics agreed on especially close military, political, and financial/economic co-operation. Abkhazia joined the Transcaucasian Federation as an equal partner of Georgia, Armenia, and Azerbaijan, and, as a member of the Federation, participated in the founding of the Soviet Union as a full subject of international law. “In this way, the sover-

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17 On the development of the Georgian national movement, see Oliver Reisner, *Die Entstehungs- und Entwicklungsbedingungen der nationalen Bewegung in Georgien bis 1921* [The Conditions Surrounding the Origins and Development of the National Movement in Georgia up to 1921], in: Uwe Halbach/Andreas Kappeler (eds), *Krisenherd Kaukasus* [Flashpoint Caucasus], Baden-Baden 1995, pp. 63-79.

18 The development in 1862 of a Cyrillic-based alphabet for Abkhaz promoted not only the creation of Abkhaz literature but also the separate development of the Georgian and Abkhaz national movements.

19 Cf. Kokejew/Otyrba, cited above (Note 3), p. 7 (author’s translation).



eignty of Abkhazia was not limited by the Georgian constitution, but solely by that of the Transcaucasian Soviet Federal Socialist Republic and the USSR. Abkhazia thus retained the formal right to secede from both federations without reference to Georgia.<sup>20</sup>

With not a little help from Georgians Joseph Stalin and Lavrenti Beriia, Abkhazia was transformed into an Autonomous Republic of Georgia in 1931. This represented not only the removal of its status as a republic, i.e. a legal downgrading, but also opened the door to a policy of Georgianization. Restrictions on Abkhaz language education and the introduction of the Georgian alphabet were only one aspect of this. The organized settlement of Georgians (intensified after 1936 and following the deportation of the Greeks in 1949) was much further reaching: The settlement in Abkhazia of some 100,000 Georgians between 1937 and 1956 alone turned the Abkhaz into a minority in their own country. In the most recent official census, taken in 1989, they accounted for less than 18 per cent (105,380), while the Georgian population was around 45 per cent of a total of 537,000.<sup>21</sup>

These developments were problematic in two regards. While the Abkhaz had to come to terms with restrictions to their autonomy, the quota system within the Soviet nationalities policy allowed for the creation and privileging of national cadres. The Georgian majority was thus increasingly brought into conflict with privileges reserved by law for an Abkhaz (minority) nomenklatura.<sup>22</sup> While the Georgian majority looked to Tbilisi for support, the Abkhaz minority turned to Moscow. Calls multiplied for the Abkhaz Autonomous Republic to be placed under the jurisdiction of the Russian Soviet Federal Socialist Republic (RSFSR) – a challenge to Tbilisi and to the Georgian national movement in particular.<sup>23</sup>

#### *The Development of the Georgian-Abkhaz Conflict*

After 1956, a new generation emerged within the Georgian national movement, which was to influence the Georgian political scene until the mid-1990s: the dissidents. They included among their number Zviad Gamsakhur-

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20 Ibid., p. 7 (author's translation).

21 Cf. Abkhaziya. Vojna za suverenitet, in: *Voennij vestnik* 1/1992, p. 15. According to Otto Filep, *Georgien – Lageanalyse Februar 2002* [Georgia – Country Analysis February 2002], Schweizerische Flüchtlingshilfe, Berne 2002, p. 3, the total population of Abkhazia was 506,000 in 1993 and 285,000 in 2001.

22 Of the 15 People's Deputies that Abkhazia was entitled to send to the Supreme Soviet of the USSR, eight were ethnic Abkhaz. Of the 140 members of the Abkhaz Supreme Soviet, 57 were Abkhaz (40.7 per cent), 53 Georgian (37.8 per cent), 14 Russian (ten per cent) and the remaining seven (11.5 per cent) were representatives of the Armenian, Azerbaijani, Estonian, and Jewish minorities. A third of all senior managers and politicians belonged to the Abkhaz minority. Cf. Temur Mirianashvili, *My, abkhazy i drugie*, in: *Literaturnaya Gruzija* 3/1991, cited in: *Nachrichten aus Georgien* 1/1994, p. 4.

23 For a detailed discussion of the political mobilization of the national movements in Georgia and Abkhazia, see Kokejew/Otyrba, cited above (Note 3), pp. 24-34.

dia (1939-1993), who was a professor of English, and the musicologist Merab Kostava. They were active from the early 1970s until the mid-1980s above all via the “Helsinki Groups” and it was they who linked the debate over the Georgian language and cultural heritage to questions of human rights. The attempt of the Supreme Soviet of the USSR in Moscow to amend the constitution to remove the privileged status of national languages and give Russian and other tongues equal status collapsed on 14 April 1978 in the face of mass protests. Starting in 1985, with the arrival of Glasnost and Perestroika and the filling-in of the “blank pages” of Soviet history, a new level of constitutional discussion was possible, which, in the name of “demands for reparations”, was eventually to lead to calls for secession. In 1988 there was already open talk of demanding the restoration of the Abkhazian Union Republic and allegations that the Georgian government was pursuing a nationalistic “great power” policy.

The defining moment in the escalation towards war was a mass meeting held on 19 March 1989 in the village of Lykhny.<sup>24</sup> Some 30,000 people took part and signed what became known as the “Abkhaz letter”, which demanded Abkhazia’s secession from the Georgian state and the re-establishment of the Abkhazian Union Republic. These demands were opposed energetically in Georgia, and protests against the “ungrateful separatists” became an important catalyst in mobilizing mass support for the Georgian national movement. This became obvious in events such as the demonstrations in Tbilisi on 9 April 1989, which were violently put down by Soviet troops with the death of 19 demonstrators. The demonstrations also signalled the start of a “nationalistic reorientation” on the part of the Georgian party and state leadership, who now, in order to preserve their own power – under the watchword of preserving Georgian unity – became increasingly tolerant of the operation of nationalist movements and organizations in the public sphere. The announcement that the Abkhazian University in Sukhumi would be divided along national lines was the trigger for the first violent clashes between Georgians and Abkhaz on 15-16 July 1989, which left 17 dead and 448 injured.

One year later, the conflict was taken up again on the stage of international law. The new law on the delimitation of powers between the Union and its federal subjects of April 1990 and the discussions on a new treaty of union provided Abkhazia with the formal grounds to question the status of the Abkhaz Autonomous Republic as a part of the Georgian Union Republic in April/May 1990. As part of its own struggle for independence from the central government in Moscow, the Georgian leadership had declared all treaties signed after Sovietization in 1921 to be null and void. This included the treaty that established the Transcaucasian Federation and the Treaty of Union. Thereafter, on 25 August 1990 and in the absence of the Georgian dele-

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24 Lykhny has significant symbolic importance. A sacred grove was located here in the pre-Christian era, where assemblies of the representatives of all the Abkhaz settlements were held.

gates, the Abkhaz deputies to the Abkhaz Supreme Soviet passed a “Declaration on the State Sovereignty of the Abkhazian ASSR”. A resolution “On Legal Guarantees for the Protection of the Statehood of Abkhazia” proposed steps for restoring Abkhazia’s constitutional status as it was under the arrangement of 4 March 1921 (i.e. reviving its status as a union republic). However, these activities were accompanied by anti-Georgian propaganda and public calls for the involvement of Moscow in seeking a solution,<sup>25</sup> which the Georgian side perceived as an attack on its sovereignty. In reaction to the unilateral course taken by the Abkhazian delegates, all the decisions of the Supreme Soviet in Sukhumi were treated as in breach of the Georgian constitution and declared null and void.

With the victory of Zviad Gamsakhurdia and his coalition, “Round Table – Free Georgia”, in the elections of October 1990, the demands made by the Georgian nationalists of both the Soviet Union and Georgia’s own minorities and autonomous subjects were radicalized. With slogans such as “Defend Georgian Unity”,<sup>26</sup> “Abkhazia is Georgia”, “Fight the Separatists and Stooges of Moscow’s Imperial Policy” and several conspiracy theories<sup>27</sup> being circulated with the aim of forging a united Georgian front, the conflict between nationalities escalated.<sup>28</sup> In December 1990, Vladislav Ardzinba, a history professor and deputy of the Supreme Soviet of the USSR, was elected head of the Abkhaz Supreme Soviet. Under him, co-operation with Moscow intensified as did interest in joining the RFSFR. A new Abkhaz parliamentary election law earmarked – despite strong criticism from Georgians living in Abkhazia – 28 seats for ethnic Abkhaz, 26 for Georgians, and eleven for representatives of other ethnic groups, such as Russians, Greeks, and Armenians. While, despite numerous incidents, parliamentary elections were held in three rounds on 29 September, 13 October, and 1 December 1991, no arrangement could be found in parliament that could satisfy all interests. With the support of the non-Georgian deputies, the Abkhaz influence grew in every area of

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25 On 26 April 1990, the Soviet law “On the Delimitation of Powers between the USSR and the Subjects of the Federation” was passed, which was intended to deal with the questions of recognition of new Autonomous Republics, the changed status of existing Autonomous Republics, and to resolve disputes between Union Republics and Autonomous Republics, and which gave sole competency for this to the highest organs of state of the USSR. Cf. also Egbert Jahn/Barbara Maier, *Das Scheitern der sowjetischen Unionserneuerung* [The Failure to Restructure the Soviet Union], HSK-Report 2/1992, p. 15.

26 While slogans used by the “Aidgylara” (“Unity”) Popular Forum of Abkhazia (PFA), such as “Defend the Community of Abkhazian Peoples!” or “Equal Rights for All Peoples”, were based on a territorial rather than an ethnic concept of nationhood, the most popular motto of the Georgian Nationalists was the Ilia Chavchavadze Society’s slogan “Homeland, Language, Faith”. This attitude informed their struggle for Georgian “unity”.

27 Cf. the interview with Zviad Gamsakhurdia in *die Tageszeitung*, 18 March 2001, “Hooligans und Banditen” [Hooligans and Bandits], and Christian Schmidt-Häuer, *Erst befreit und dann besessen* [First Freed and then Fixated], in: *Die Zeit* 40/1991, p. 3.

28 Meskhetians were refused re-entry into Georgia, Dagestani Avars and Russian Dukhobors were forced to leave the country. Unrest spread among the Armenians and Azeris living in the southern border regions, while the conflict in South Ossetia had already claimed its first victims and Ajaria took steps to disassociate itself from the central government.

economic, academic, and political life. At the same time, the displeasure of the Georgian majority at the “Abkhaz ethnocracy” increased. Only six months after the parliamentary elections, the Georgian delegates demanded a new ballot based on a reformed and “equitable” electoral law. When this failed, they withdrew their co-operation and removed themselves to Tbilisi.

Unsettled by the growth of Georgian nationalism, the power struggles in Tbilisi, and the radicalizing effect of paramilitary units, virtually all the ethnic groups living in Abkhazia founded their own political associations and started to look for allies both within and outside the region. In June 1992, an alliance was forged between Abkhaz and representatives of the non-Georgian population.<sup>29</sup> Plans for the peaceful resolution of the conflict were proposed as early as the spring of 1992. The Abkhaz Popular Forum “Aidgylara” insisted that the Georgian government make a legally binding statement of the republic’s multinational character and federal structure. It also demanded the creation of a bicameral parliament and a guarantee of Abkhazia’s self-governing status. However, the Georgian side feared precisely that greater autonomy for Abkhazia would lead to the disintegration of the state. Despite statements to the contrary from Eduard Shevardnadze, who replaced Gamsakhurdia in March 1992, following a coup in January of that year, legislation to create a federation remained off the agenda.

### *The Escalation of the Conflict between Georgia and Abkhazia*

Following the collapse of the Soviet Union and the dispute over CIS membership (which Georgia at first rejected), the change of regime in Tbilisi, and the dashing of the hopes of those who thought greater willingness to compromise would be forthcoming on the issue of autonomy, tensions rose in the early summer of 1992. While the Georgian leadership directly confronted Russia and faced a boycott as a result, the Abkhaz stressed their willingness to co-operate. When Georgia claimed a 21 square kilometre strip of coast around the harbour of Ochamchira in order to establish a naval base, it was interpreted as an attack on Abkhaz sovereignty. On 23 July, a narrow majority of the Abkhaz parliament – in the absence of the Georgian delegates – suspended the constitution of 1978 and reverted to the one from 1925. At the same time, the official name “The Republic of Abkhazia”, a coat of arms, and a flag were introduced. The Georgian State Council declared this unconstitutional, although Georgia had, on 22 February 1992, already annulled the con-

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29 Besides parliamentary co-operation, an alliance was formed between “Aidgylara”, the Russian organization “Slavic House”, the Armenian group “Krunk”, the Greek cultural centre and the Ossetian union “Alan”. Representatives of the Abkhaz population also co-operated with “Congress of the Peoples of the Caucasus”, the third meeting of which was held in Sukhumi in early November 1991, and a treaty of confederation was signed on 1 November 1991. Cf. unpublished manuscripts of congress documents (in the possession of the author). This alliance made it possible for a number of armed groups to fight within the ranks of the Abkhaz army in the war of 1992-93 against Georgia.

stitution of 1978, restoring the constitution of 1921, which did not include Abkhazia. This led to an escalation of events, both within Abkhazia, where the various political factions clashed and parliament suspended its work, and in Georgian-Abkhaz relations. Attempts to negotiate failed and were repeatedly postponed – the only success was the agreement with Georgian Defence Minister Tengis Kitovani on the withdrawal of the irregular Mkhedrioni units on 13 June in Sukhumi. Nevertheless, these groups were not willing to subordinate themselves to the central authority but had sworn loyalty to their leader, Jaba Ioseliani. At the same time, the Abkhaz side had begun to arm itself. Alongside attempts to resolve the issues of contention by means of negotiations, both sides were prepared to use military means.

During the night of the 13-14 August 1992, the forces of the Georgian State Council (5,000 national guards, 53 tanks, and four attack helicopters) crossed the Abkhaz border. This represented the escalation of the political conflict between Georgia into a military confrontation, which was only to end after more than a year of bitter struggle and several broken ceasefire agreements.<sup>30</sup> The conflict, which remains unresolved to this day, has already written its own history, key elements of which the following table attempts to represent:

*The Course of the Conflict and Efforts to Resolve It*<sup>31</sup>

1992 14 Aug.	Troops of the Georgian State Council march into Abkhazia. They aim to prevent sabotage and plundering of rail infrastructure and to rescue Georgian government officials who are being held captive there. The president of the Abkhaz parliament, Vladislav Ardzinba, announces a general mobilization and requests support from Russia and the Confederation of Mountain Peoples of the Caucasus (KGNK).
18 Aug.	The KGNK presents Georgia with an ultimatum for the withdrawal of troops from Abkhazia and announces that it is deploying volunteers.
25 Sept.	The parliament of the Russian Federation passes a motion declaring Georgia responsible for the outbreak of war.
October	An Abkhaz offensive captures Gagra and the west of the country.
8 Oct.	Georgia requests NATO and the CSCE to help “defend the territorial integrity” of Georgia.

30 For further details of the course of the civil war, see: Kokeev, cited above (Note 3), pp. 18-26.

31 Cf. also Naira Gelaschwili, *Georgien. Ein Paradies in Trümmern* [Georgia: A Paradise in Ruins], Berlin 1993; Bruno Coppieters/Ghia Nodia/Yuri Anchabadze (eds), *Georgians and Abkhazians: the search for a peace settlement*, Cologne 1998; Helmut Udo Napiontek, *Krisenregion Kaukasus: georgische Entwicklungsperspektiven vor dem Hintergrund von innerstaatlichen Konflikten, russischen Hegemonialansprüchen und „Petropolitics“; eine Situationsanalyse* [Crisis in the Caucasus: Prospects for Georgian Development against the Background of intrastate conflicts, Russian Hegemonic Claims, and “Petropolitics”; a Situation Analysis], Hamburg 1998; Edmund Herzig, *The new Caucasus: Armenia, Azerbaijan and Georgia*, London 1999; Silvia Iacuzzi, *Popular Support for Democracy in Georgia: an empirical research project*, Norderstedt 2002.

6 Nov. – 13 Dec.	The CSCE decides to send a mission to Georgia to help resolve the conflict between Georgia and South Ossetia.
1993 8 May	The defence ministers of Russia and Georgia agree on a timetable for the withdrawal of Russian troops from Georgia.
Late June	Abkhaz forces launch a new major offensive on Sukhumi and the Georgian supply lines.
27 July	Georgia, Abkhazia and Russia sign a third ceasefire agreement in Sochi.
24 Aug.	The UN Security Council resolves to establish a UN Observer Mission in Georgia (UNOMIG).
16 Sept.	An Abkhaz attack on Sukhumi is launched; the city falls on 27 September.
30 Sept.	The Georgian forces in Abkhazia are completely defeated.
1994 29 Mar.	The mandate of the CSCE mission is expanded to “ensure liaison with the United Nations operations in Abkhazia”.
3 Apr.	Abkhazia and Georgia sign an agreement governing the end of hostilities and the return to Abkhazia of some 250,000 Georgian refugees that abandoned their homes during the war.
14 May	Ceasefire in Abkhazia.
9 June	Russian President Boris Yeltsin decrees the establishment of a peace-keeping force for Abkhazia.
4 July	After a brief cessation of hostilities, Georgian forces once more open fire on Abkhaz units in the Kodori Gorge.
21 July	The UN Security Council endorses the deployment of Russian peace-keeping troops in Abkhazia, while also calling for the deployment of additional UN observers in the area. CIS peacekeepers (a 3,000-strong force) occupy a twelve-kilometre-wide demarcation line on the Inguri River. Their operations are to be monitored by UNOMIG.
1 Sept.	During discussions in Geneva under the aegis of the UN, the parties to the conflict agree on conditions for the return of Georgian refugees.
12 Oct.	Refugees start to return. Ca. 50,000 return, 40,000 of whom are driven out once more in 1998.
26 Nov.	The Abkhaz parliament adopts a new constitution declaring the Republic of Abkhazia to be a sovereign constitutional state in accordance with the right of peoples to self determination. The president of the Abkhaz parliament, Vladislav Ardzinba, is elected the first president of the republic.
1 Dec.	The Georgian parliament refuses categorically to recognize the legitimacy of the Abkhaz parliament and constitution and underlines Georgia’s “moral and political right” to use any means necessary to restore its sovereignty.
6 Dec.	Delegates to the CSCE Summit in Budapest fail to agree on a plan to keep the peace in the region.
1995 30 Mar.	Against the background of the war in Chechnya, Abkhazia distances itself from its previous demands for complete independence and declares itself prepared to accept a federation of equals with Georgia.
24 Aug	The Georgian parliament adopts a new constitution; no mention is made of Abkhazia or South Ossetia.
1996	The Abkhaz side proposes the creation of a “Federal Union of Georgia

13 Feb.	and Abkhazia". The proposed union would contain elements of both a federation and a confederation.
6 July	An OSCE mission calls for the investigation of serious human-rights violations in Abkhazia. The victims are largely ethnic Georgians.
22 July	Abkhazia and Georgia reach agreement on the question of Russian peacekeeping troops. The troops, stationed in Gali District, to which tens of thousands of Georgian refugees wish to return, are to be granted police powers.
2 Oct.	The Georgian parliament declares the Abkhaz elections planned for 23 November 1996 to be illegal.
23 Nov.	Despite international protests, the elections to the Abkhaz parliament go ahead. Eighty-one candidates, including 65 Abkhaz and three Georgians, stand for the 35 seats.
1997 27 Jan.	Abkhazia's President Ardzinba calls for an extension of the Russian-led CIS peacekeeping mission in Abkhazia. The pro-Georgian Abkhaz government in exile, in contrast, calls for the troops to be removed.
25 Feb.	The presidents of Georgia and Abkhazia, Ardzinba and Shevardnadze, suspend bilateral talks on the future status of Abkhazia.
19 Nov.	A new forum for negotiations aimed at intensifying the Abkhazia peace process is established in Geneva under the aegis of the United Nations and with the participation of the "Group of Friends of the UN Secretary General" (France, Germany, the Russian Federation, the UK, the USA, and, since 1999, Ukraine) – the "Geneva Process".
1998 May	Severe clashes in the Abkhaz Gali District; around 40,000 Georgians are driven out – some of them for the second time.
1999 31 Oct.	The second "democratic" parliamentary elections are held in Georgia. No election is held in Abkhazia, where the incumbent delegates simply retain their seats.
2000-2001	The Russian forces are withdrawn (9,200 troops from four bases: Vassiani, Akhalkalaki, Gudauta, Batumi).
2001 Oct.	Fighting breaks out once more between Georgian guerrillas and Abkhaz security forces along the Georgian-Abkhaz border. For the first time, Chechen militias join the Georgian side.
2002 July	A resolution on Abkhazia by the UN Security Council proposes that Abkhazia remains an Autonomous Republic within the state of Georgia. "Basic Principles for the Division of Competencies between Tbilisi and Sukhumi" are agreed.
27 Dec.	Clashes between Georgian civilians and Abkhaz security forces.
2003 Feb.	A high-level international meeting to solve the Abkhaz conflict is held in Geneva.
10 Mar.	Georgia offers to establish a federation with Abkhazia; the offer is rejected by Prime Minister Raul Khajimba.
June	The Finnish diplomat Heikki Talvitie is appointed the EU's first Special Representative for the South Caucasus.

2004	The change of regime in Tbilisi in November 2003 leads to new hope that the conflict will be resolved. UNOMIG's mandate is extended. UNOMIG currently comprises 118 military and eleven civilian observers. <sup>32</sup> Transport routes to Abkhazia are opened and extended (Sochi to Sukhumi). The Council of the European Union and the European Commission resolve to include the South Caucasus in the concept of the "New Neighbourhood Policy".
May	First EU expert-level conference on the South Caucasus. In Ajaria, Aslan Abashidze is overthrown. Tbilisi re-establishes the authority of the central government.
June	Renewed tension in South Ossetia.
31 July	After a Turkish ship comes under fire in Abkhaz waters, Abkhazia abandons the process of negotiating a settlement of the Georgia-Abkhazia conflict. The Georgian president no longer rules out stronger measures.
Aug.	The EU announces it will provide four million euros to victims of the Abkhaz conflict. The funds will be used to help displaced persons in Georgia, Abkhazia, and West Georgia.
3 Oct.	Presidential elections in Abkhazia.

In 2003, Abkhazia celebrated the tenth anniversary of the "victory in the struggle for independence". It remains, however, very far from being a success story.

Although Abkhazia has succeeded in establishing its own state institutions and non-state organizations (which are described as functional, despite the high levels of corruption), the status quo is still regularly challenged by acts of violence. The process of separating from the Georgian "motherland", war, and international isolation have condemned the region to a permanent economic and social crisis with no prospect of development. Pursuing a one-sided pro-Russian course has greatly increased Abkhazia's political and economic dependence. The majority of the Abkhaz population have adopted Russian citizenship<sup>33</sup> (mainly in order to receive internationally valid travel documents, work permits or pensions), and out of what was originally an *ad hoc* arrangement in a crisis situation, the Russian influence has come to be accepted as an everyday part of life.

Besides the basic unsolved issue of Abkhazia's status under international law, an ongoing cause of tension is the issue of refugee return and the legal position of the Georgians who were expelled from Abkhazia. Tens of thousands of Georgian refugees have returned to the southern region of Gali

32 As of 31 October 2004, see: <http://www.un.org/Depts/dpko/missions/unomig/>.

33 The population is currently estimated at 214,000 (including 60,000 Georgian returnees in Gali District), of which 64,000 are Abkhaz (before the war, there were over 100,000), 70,000 Armenian, and 40,000 Russian. Abkhaz passports are to be issued as of 1 November 2004, finally replacing the Soviet and Georgian passports that currently remain in use.



and continue to do so in an unorganized fashion and under catastrophic security conditions.<sup>34</sup> These two fundamental problems were the focus of heated debate on internal affairs in the run-up to the presidential election (which was not recognized by the international community) held on 3 October 2004 between followers of Ardzinba and opposition candidates.<sup>35</sup> The possibility of Ardzinba being overthrown by force under the leadership of “Amtsakhara”, the “Organization of Veterans of the War of 1992/93”, had been indicated as early as the spring of 2003.

When, on 11 October 2004, the electoral commission announced the victory of Sergei Bagapsh, the opposition politician and managing director of the state power company Chernomorenergo, who, with 50.08 per cent of the vote, had beaten “Moscow’s candidate” and former Prime Minister Raul Khajimba, the tension between government and opposition came to a head. Under pressure from the incumbent president, the results were declared invalid and new elections called for the end of December. There followed demonstrations, attacks on the supreme court, as well as TV and radio stations, and parliament ceased to function.

The government in Tbilisi reacted with mixed feelings to the political unrest in Abkhazia. Alongside hopes that peace negotiations could be held, which had been revived by the change of regime in Georgia in November 2003, have come fear of a further escalation. It is necessary to wait and see to what extent Russia is prepared to give up its strategic “outpost” of Abkhazia and to accept a government that is more moderate and willing to negotiate. At the same time, the unrest in Abkhazia, new waves of refugees, and an attack on the neighbouring regions of Samegrelo and Imeriti could provide the Georgian side with a pretext to attempt a military solution.

However, all the conflict parties know that a non-violent resolution to the conflict requires time to overcome the estrangement of Abkhaz and Georgian societies and to build trust in the idea of coexisting as equals. In the meantime, hope remains that, with international support, the Georgian government will succeed in proving that it can consistently and reliably pursue a policy of non-violence and can enter into negotiations to end the conflict with an Abkhaz leadership that may be more willing to compromise.

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34 Cf. *Politischer Jahresbericht der Heinrich-Böll-Stiftung 2004* [Annual Political Report of the Heinrich Böll Foundation], Tbilisi 2004, p. 12.

35 The five candidates in the election received a total of 87,442 votes, 44,002 of which went to Bagapsh and 30,815 to Khajimba.



## The Georgian-South Ossetian Conflict

As late as autumn 2003, the discussions involving the parties to the Georgian-South Ossetian conflict and the OSCE Mission to Georgia were still dominated by the danger of growing alienation between the two ethnic groups, war-weariness among the Georgian and South Ossetian populations, and the counterproductive insistence of both sides on maintaining irreconcilable positions. Discussions of how to end the conflict were largely suppressed as a result of South Ossetian demands for economic aid to enable reconstruction, and the insistence of South Ossetian authorities that their primary goal was unification with North Ossetia-Alania, an Autonomous Republic in the Russian Federation. For its part, the Georgian side had never accepted the local rulers of South Ossetia as equal negotiating partners. Nor was the Georgian promise of “the broadest autonomy” for South Ossetia and other separatist regions ever put in writing.

### *Regime Change in Georgia*

The lethargy affecting all sides in the Georgian-South Ossetian conflict-resolution process was finally overcome by the rapidly escalating events that took place in Tbilisi in November 2003. Ballot forging on a massive scale by the government of incumbent President Eduard Shevardnadze in the election of 2 November triggered what became known as the “Rose Revolution”. Thanks to Shevardnadze’s resignation on 23 November, this took place entirely without bloodshed. With the leaders of the “National Movement” (Mikhail Saakashvili) and the “Burjanadze Democrats” (Nino Burjanadze and Zurab Zhvania) electoral alliances in the vanguard – the groups denied victory in the November 2 poll by the official results – the Rose Revolution brought about a regime change that was watched with considerable concern by the separatist regions of Abkhazia and South Ossetia and the Autonomous Republic of Ajaria. The National Movement and the Burjanadze Democrats nominated Mikhail Saakashvili, considered a populist with nationalistic leanings, as their joint presidential candidate in the new elections called for 4 January, which he won with an overwhelming majority.

Shortly before the elections, Saakashvili paid an unannounced visit to the conflict region, which was intended to underline South Ossetia’s status as part of Georgia and was seen as a provocation by the South Ossetians.<sup>1</sup> As a

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1 Cf. Prezident Juzhnoi Osetii nazval vizit M. Saakashvili provokatsiei [The President of South Ossetia Calls M. Saakashvili’s Visit a Provocation], in: *Kavkazkii Uzel*, 5 January 2004, at: <http://kavkaz.memo.ru/newstext/news/id/622291.html>.

result, Georgian-South Ossetian relations were at an all time low as the new Georgian president took office. Positions hardened as Saakashvili made blatantly clear that restoring Georgia's territorial integrity was the primary goal of the new Georgian government, i.e. reintegrating the separatist regions into the Georgian state. In his public speeches, Saakashvili announced that the fragmentation of Georgia could no longer be tolerated. Saakashvili's strategy was to unify the country by offering the separatist regions economic incentives, stability, and further guarantees of the "broadest autonomy".<sup>2</sup> New government departments were created and commissions set up dedicated exclusively to resolving the conflicts with the breakaway regions and working to eventually re-establish Georgia's territorial integrity. The recovery of Ajaria was the first item to be tackled.

Ajarian-Georgian relations had deteriorated considerably following Saakashvili's election. After Shevardnadze's resignation, Ajaria's ruler, Aslan Abashidze, felt his own position was under threat and called for a boycott of the elections to the Georgian parliament that were scheduled for 28 March. At the same time, in March 2004, South Ossetia's *de facto* government began holding military manoeuvres, OSCE observers were denied access to suspect installations and buildings, and unauthorized South Ossetian military exercises were observed.

Saakashvili appears to be following an agenda according to which the conflicts are resolved in ascending order of difficulty: starting with the one believed to be the easiest – the crisis in Ajaria – proceeding to resolve the "differences of opinion" between Georgia and South Ossetia (those are the terms in which the Saakashvili government views this conflict), and finally turning to the conflict with Abkhazia as the strategy's crowning glory.<sup>3</sup> Following mass demonstrations by the Ajarian people in April and early May 2004, a loss of backing by his own supporters, and insistent attempts at mediation by Russia, Abashidze was forced to step down. New elections were called for Ajaria, and the Autonomous Republic became an integral part of Georgia. Although each side had threatened the other by carrying out military manoeuvres that could easily have led to armed confrontation, the resolution of the Ajarian crisis is considered the first great success of Saakashvili's government.

Subsequently, Saakashvili concentrated above all on resolving the conflict with South Ossetia. As with Ajaria, his tactic was to appeal directly to the South Ossetian people. The Georgian government hoped that if it provided incentives, such as the reopening of the Georgian-South Ossetian railway link from Gori to Tskhinvali, paying pensions, establishing a free emergency medical service, and distributing agricultural fertilizer, the South Ossetian

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2 Saakashvili Offers "Broadest Autonomy" for Abkhazia, in: *Civil Georgia – Online Magazine*, 11 February 2004.

3 Cf. Mikhail Saakashvili: „Juzhnoj Osetii net nikakogo konflikta“ [There is no Conflict in South Ossetia], in: *Kavkazkii Uzel*, 13 March 2004, at: <http://kavkaz.memo.ru/newstext/news/id/640952.html>.

population would come to recognize it as their own.<sup>4</sup> The new Georgian government is keen to improve inter-ethnic relations while combating the continuing Russification of South Ossetia. This latter is described by the South Ossetian leadership as the “process of integration” into the Russian Federation and has been underscored by the introduction of the Russian rouble as the regular currency. Russification is also evident in the fact that thousands of South Ossetians are also Russian citizens in addition to their South Ossetian citizenship, which is not recognized abroad. Hence they are exempt from the visa requirements that Russia imposed on Georgian citizens on 5 December 2000. During the Russian presidential election of March 2004, the Russian government even officially declared that it wanted to take over payment of pensions to the South Ossetian population, and to do this at a rate four times as high as that paid by the Georgian government.<sup>5</sup> Russian pensioners, who only receive their pensions irregularly, must also have found this announcement noteworthy.

Georgia’s rhetoric has since changed: Formerly rejected by the Georgian government in favour of “Tskhinvali region”, the name South Ossetia is now used in official statements, upgrading for the first time the status of the breakaway territory. News broadcasts have begun in the Ossetian language, and, on Georgian independence day, Saakashvili addressed the South Ossetian people in their own language. All of these measures are new, and all aim to satisfy sceptics who doubt the feasibility of Saakashvili’s attempts to win back South Ossetians and Abkhazians for Georgia, despite the fact that they, unlike Ajarians, are not ethnic Georgians.

### *The Ossetian People*

The Ossetians, who refer to themselves as *Iron* and to Ossetia as *Iriston*, are considered indigenous to the region as the indirect descendents of the north-east Iranian Scythians and Sarmatians. They are also the direct descendents of the Iranian Alans, a nomadic tribe that ruled the North Caucasus in the first four centuries A.D. before intermixing with other tribes in the area. The modern Ossetian people came into existence between the 16th and the 18th centuries. There are four main groups of Ossetians: Adagi, Kurtats, Tagaurs, and Digors, some of whom have merged with other North Caucasian tribes, as in the case of the Digors, who merged with the Kabards, or have split into smaller tribes, leading to the development of many Ossetian dialects. The Ossetians are thus by no means a homogenous people. Despite close relations

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4 Cf. Giorgi Sepashvili, Saakashvili Sends Reconciliatory Signals to South Ossetia, in: *Civil Georgia*, 1 June 2004.

5 Cf. Jugoosetinskie pensionery budut poluchat’ rossiiskie pensii [South Ossetian Pensioners Will Receive Russian Pensions], in: *Kavkazkii Uzel*, 16 March 2004, at: <http://kavkaz.memo.ru/newstext/news/id/642322.html>. The author was also informed of the same facts during interviews carried out in Tskhinvali in September 2003.

between North and South Ossetia based on kin, both sides stress ethnic and cultural differences. Within the South Ossetian population, there is greater support for territorial independence than for union with North Ossetia, which is the official goal of the South Ossetian government. One thing that this conflict lacks is a religious dimension, for the Ossetians, like the Georgians and unlike the superficially Islamized Ajaris and Abkhazians, are mostly Eastern Orthodox Christians. According to the last Soviet census in 1989, there were 164,000 Ossetians in Georgia, 65,000 of them in South Ossetia, whose multi-ethnic total population was 98,000. Georgian-South Ossetian marriages were quite common. For Georgians, the current territory of South Ossetia remains an important historical and spiritual centre, and its separation from Georgia is unthinkable. The claims to the territory made by the Ossetians, who first settled in the area around Tskhinvali in the 17th century, are dismissed as absurd.

### *Background to the Conflict*

The origins of the Georgian-South Ossetian conflict go back to 1918 and the founding of the Democratic Republic of Georgia, whose territory included the area now known as South Ossetia. At the same time, the northern part of Ossetia was being incorporated into Russia. Georgian troops marched into South Ossetia to put down any possible attempts at securing independence, as these were seen as threatening Georgian territorial integrity. South Ossetia considered this an invasion, also claiming that acts of genocide took place. These events burden Georgian-South Ossetian relations to this day.<sup>6</sup>

On 12 March 1922, Georgia joined the Transcaucasian Soviet Federated Socialist Republic, and, on 20 April 1922, South Ossetia was renamed the South Ossetian Autonomous Region (*oblast*). On 30 December 1922, the Federation joined the Soviet Union. The new Soviet constitution of 5 December 1936 confirmed South Ossetia's autonomy within the newly founded Georgian Soviet Socialist Republic (SSR). On the same day, North Ossetia was recognized as an Autonomous Soviet Socialist Republic (ASSR) within the Russian Soviet Federated Socialist Republic (RSFSR), thus sealing the status of North and South Ossetia as parts of different Soviet Republics.

However, the differences between South Ossetians and Georgians remained. South Ossetia also felt that it was economically disadvantaged in comparison to the Georgian heartland. In the late 1980s, a national movement came together in South Ossetia, largely under the leadership of the *Adamon Nikhas* ("Voice of the People") group. In 1989, the South Ossetian Supreme Soviet announced its intention to turn the South Ossetian Autonomous Region into an Autonomous Republic. This was rejected by Tbilisi, and, in August 1990, the South Ossetians turned to Moscow – again without success.

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6 Interviews carried out by the author in Tskhinvali, September 2003.

Following this, South Ossetia made a declaration of state sovereignty on 20 September 1990.<sup>7</sup> The Georgian parliamentary elections of October 1990 were boycotted by South Ossetia, which held elections to its own parliament in December of the same year. The Georgian Supreme Soviet then voted to remove South Ossetia's status as an Autonomous Region.<sup>8</sup> In January 1991, still prior to the break-up of the Soviet Union, the Georgian-South Ossetian conflict flared up into violence. Both sides suffered considerable military and civilian losses. Starting in February 1991, the South Ossetian capital, Tskhinvali, was blockaded by Georgian troops for several months. In April 1991, around 500 soldiers of the Soviet Interior Ministry were stationed in South Ossetia, where they more or less openly took the side of the South Ossetians before being withdrawn a year later during the break-up of the Soviet Union. Their withdrawal was a further cause of disagreement between the conflict parties, as the departing Soviet army had left the South Ossetian side various weapons, including large-calibre arms. Heavy fighting broke out once again in the spring of 1992, resulting in streams of refugees on both sides heading towards North Ossetia (Ossetians) and the Georgian cities of Gori and Tbilisi (Georgians).

On 17 March 1991, the entire Soviet Union voted on whether to retain a reformed Union. Unlike the Georgians, the population of South Ossetia voted in favour. On 9 April 1991, Georgia declared independence; Zviad Gamsakhurdia was elected the first president of Georgia. Gamsakhurdia failed dramatically to solve the Georgian-South Ossetian conflict by diplomatic means.

The conflict in South Ossetia cost around 1,000 people their lives and created some 60,000 displaced persons. Only when Gamsakhurdia fell and Shevardnadze became president in 1992 did the conflict parties find their way back to the negotiating table. On 10 June 1992, Shevardnadze met the then Russian president, Boris Yeltsin, in Kasbegi to discuss ways of solving the Georgian-South Ossetian conflict. They, along with representatives of South and North Ossetia, signed an agreement on the principles of settlement of the Georgian-Ossetian conflict in Sochi on 24 June of the same year. Known as the Sochi Agreement, this document also provided for the creation of Joint Peacekeeping Forces (JPKF), consisting of Georgian, Russian (including North Ossetian), and South Ossetian units. Russia has *de facto* overall command and assumed the role of chief mediator in the resulting conflict-resolution process. The key task of the tripartite peacekeeping force is to monitor

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7 Declaration of State Sovereignty of the Soviet Democratic Republic of South Ossetia; Declaration of Independence of the Republic of South Ossetia (English versions), in: Tamaz Diasamidze (ed.), *Regional Conflicts in Georgia – the Autonomous Oblast of South Ossetia, the Autonomous SS Republic of Abkhazia (1989-2002); The Collection of Political-Legal Acts in English Language*, Tbilisi 2003, pp. 32 and 92, at: <http://www.rrc.ge/>.

8 Law of the Republic of Georgia on Abolition of the Autonomous Oblast of the South Ossetia; Decree Issued by the Presidium of the Supreme Council of the Republic of Georgia on Introduction of State of Emergency on the Territory of Town of Tskhinvali and the Java District (English versions), in: *ibid.*, pp. 39ff.

the ceasefire, to keep the conflict parties apart, and to guarantee security in the conflict zone. In addition, the ceasefire agreement provides for the creation of a security corridor along the main lines of confrontation, the pull-out of armed groups, and the disarmament of self-defence units.<sup>9</sup>

### *The OSCE Mission in Georgia*

At the Prague meeting of the Ministerial Council of the CSCE (as it still was) in late January 1992, it was agreed to send a *rapporteur* mission to the conflict zone, which visited the region from 17-22 May. In reaction to the mission's report, an OSCE fact-finding mission was dispatched to South Ossetia from 25-30 July 1992. The report they produced was especially important given that Eduard Shevardnadze, Georgia's new head of state, had, on 13 May, just paid his first visit to the South Ossetian capital of Tskhinvali since the outbreak of the conflict. The fact-finding mission was also charged with considering the implementation of the Sochi Agreement. On 3 December 1992, an OSCE mission of long duration was finally established in Georgia. One aspect of its remit was to promote negotiations between the conflict parties, thereby contributing to the search for a speedy resolution.<sup>10</sup> The Mission was also charged with monitoring the work of the JPKF in South Ossetia, and joint OSCE-JPKF projects were set up, e.g. for the collection of small arms and light weapons, or to fund local microprojects in return for the voluntary surrender of weapons. The aim here was to build confidence between the Georgian and South Ossetian populations. Any success, however, was completely undone by the events of summer 2004, which saw South Ossetia flooded with new weapons. A further co-operative project between the OSCE and the JPKF, the establishment of a joint Georgian-South Ossetian police centre in Tskhinvali, is also threatened by the current situation in South Ossetia.

On 29 March 1994, the OSCE's Permanent Council shifted the focus of the Mission's mandate to mediating in the Georgian-South Ossetian conflict.<sup>11</sup> In May 1994, the OSCE Mission's mediation activities made it possible to bring representatives of the Georgian and the South Ossetian conflict parties to the negotiating table for the first time.<sup>12</sup> The Mission presented a first draft plan for the future status of South Ossetia as early as September 1994. This proposal, which envisaged granting South Ossetia territorial

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9 Cf. Agreement on Principles of Settlement of the Georgian-Ossetian Conflict (English Version), in: *ibid.*, pp. 94f.

10 Cf. 17th Committee of Senior Officials, Prague 1992, Journal No. 2, 6 November 1992, Annex 2.

11 Cf. CSCE, Permanent Committee, Journal No. 14/Corr., 29 March 1994, Annex 1, Modalities of the CSCE Mission to Georgia.

12 Cf. CSCE, Communication No. 41, *Report of the Personal Representative of the Chairman-in-Office of the CSCE in Georgia*, Prague, 2 February 1993; CSCE Mission to Georgia, *Activity Report*, 1-15 May 1994.



autonomy within the federal structure of the Georgian state, was, however, rejected by the South Ossetian side. In the spring of 1995, the Mission, with the support of the Russian Federation, produced a new paper on the federal distribution of powers, but this was also rejected by the South Ossetian representatives. Nonetheless, the Mission was not deterred from trying to persuade the conflict parties of the virtues of a federal solution. Both sides, however, criticized the Mission's plans: South Ossetia would not relent in demanding independence and/or union with North Ossetia and rejected all discussion of potential federal solutions within the Georgian state out of hand. In Georgia, sceptics objected that Georgia was too ethnically diverse for the establishment of a functioning federal system.

On 22 April 1997, the Mission opened a new office in Tskhinvali, which aimed to improve the co-ordination of activities on the ground. The new office concentrated on observing and reporting on activities carried out jointly with the JPKF and on the security and humanitarian situation (working closely with the UNHCR). It also worked to establish communication channels on a variety of levels, and to encourage the development of the NGO and media sectors. As well as facilitating high-level official negotiations and accompanying guests on visits to South Ossetia, the Mission is intensively involved in forging links between the slowly developing civil societies of Georgia and South Ossetia. Representatives of various groups in society are regularly invited to meet to discuss divisive issues, and the Mission co-operates in this with ODIHR and other international organizations, including the UNHCR and the Council of Europe. Meetings between Georgian and South Ossetian journalists, for example, have been held since 1997 and are now a regular occurrence. Since dialogue remains possible between Georgian and South Ossetian civil societies (something that is not the case with regard to Georgian-Abkhazian relations), it is easier to arrange meetings and joint activities between representatives of different ethnic groups. There have been no inter-ethnic clashes since the 1992 ceasefire. Nonetheless, the terminology used by the South Ossetians does not differ from that used by other Caucasian peoples who complain of the casualties they have suffered in violent conflicts both before and after the collapse of the Soviet Union. Georgia is accused of "genocide" and "ethnic cleansing", described as a "fascist regime", whose "denazification" is demanded. These extreme words are chosen deliberately to present the South Ossetian situation to a Western audience in dramatic terms, using language tailored to a Western audience, and to justify the refusal to make compromises in the conflict-resolution process that would be seen as a betrayal of those on their side who have died.<sup>13</sup> There can be no question but that giving these factors due consideration in the various conflict-resolution processes will improve their long-term prospects of success.

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13 Interviews carried out by the author in Tskhinvali, September 2003.

From 1996 to 1998, regular meetings took place between Shevardnadze and Ludwig Chibirov, who had been elected president of South Ossetia in November 1996 in elections that did not receive international recognition, and the situation gradually improved. It became possible once again to travel between Georgia and South Ossetia by road. At the same time, South Ossetia, whose economy was in a state of collapse, built up a thriving business in smuggling goods through the Roki Tunnel, which connects South and North Ossetia. The majority of the South Ossetian population continues to profit from this illegal trade today. South Ossetia became a key node in the region's smuggling networks, and, after agriculture, the illegal trade in petrol and agricultural products is local population's second most important source of income. This encouraged the development of criminal structures and a full-blown conflict economy. Armed robbery and car theft are common and help to consolidate the status quo. Resolving the conflict is made considerably more difficult by the fact that actors on all sides gain from the unstable situation by participating in smuggling and corruption and thus have little interest in finding a solution.

On 15 December 1999, the mandate of the OSCE Mission to Georgia was expanded to include the task of monitoring the Georgian-Chechen border, and extra personnel were supplied to enable the performance of this task. The OSCE border monitors are unarmed and may not intervene in events on the ground. Their safety is guaranteed by the Georgian government. On 13 April 2001, the mandate was again expanded to include monitoring of the Georgian-Ingush border and, on 19 December 2002, monitoring of Georgia's border with Dagestan.<sup>14</sup>

### *Negotiating Mechanisms*

Beside high-level meetings, two further negotiation mechanisms have a key role in the negotiating process that aims to end the conflict: the Joint Control Commission (JCC) and the Experts' Group on the Georgian-South Ossetian conflict-resolution process. Both generally meet on the initiative and under the *aegis* of the OSCE Mission to Georgia.

The JCC was established on the basis of the Sochi Agreement. Its key tasks are to keep the peace and to prevent armed violence from flaring up again. It is also charged with facilitating joint activities involving both con-

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14 Cf. OSCE, Permanent Council, PC.DEC/334 Decision No. 334, 15 December 1999; OSCE, Permanent Council, Decision No. 450, *Geographical Expansion of the Border Monitoring Operation of the OSCE Mission to Georgia*, PC.DEC/450 13 December 2001; OSCE, Permanent Council, Decision No. 523, *Border Monitoring Operation of the OSCE Mission to Georgia*, PC.DEC/523 19 December 2002. For further details, cf. also Volker Jacoby, *The OSCE Mission to Georgia*, in: Institute for Peace Research and Security Policy at the University of Hamburg/OSCE (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 163-170. Russia refused to agree to extend the mandate of the border-monitoring operation, which duly ended on 31 December 2004.

flict parties aimed at stabilizing the situation and enabling a political solution to be found, promoting economic reconstruction in the region, and supporting the return of refugees and efforts to secure them a basic standard of living. Leaving aside the question of South Ossetia's status, the JCC should serve as a forum for the conflict parties to discuss questions of current interest. The Russian Federation and North Ossetia are also included in the JCC, where their role is to mediate between the Georgian and South Ossetian sides; the OSCE also participates in this. In 2000, the European Commission was granted observer status in the JCC, and all sides were in favour of involving the Commission in the work of JCC's Economic Committee. Since 2001, the European Commission has taken part in all plenary sessions of the JCC and has been present at meetings of the Experts' Group. The Commission has become the main source of funds for reconstruction projects in the Georgian-South Ossetian conflict zone,<sup>15</sup> although these are generally co-ordinated by the OSCE Mission in the field.<sup>16</sup> On 7 July 2003, the Council of the European Union appointed the Finn Heikki Talvitie to the position of EU Special Representative for the South Caucasus, although his mandate was kept very general.<sup>17</sup> The change of regime in Georgia had a positive effect on relations with the European Union as exemplified by the fact that the three South Caucasian countries were once more included in the EU "Wider Europe – Neighbourhood" initiative.

On the initiative of the OSCE Mission, the first of a series of Experts' Group meetings was held in March 1997. The meetings became a forum for constructive dialogue, with the long-term goal of drawing up a document on fundamental joint principles and guidelines for resolving the conflict. It remained, however, merely a demonstration of good will. There were no signs of significant progress being made in the form of concrete policy suggestions – and there was certainly no jointly drafted agreement between the conflict parties. It took until 31 May 1999 for the experts representing the two sides, who had been holding discussions in Dzhava with representatives of the Russian Federation, North Ossetia, and the OSCE Mission, to even agree on four basic principles in an "intermediary document" that has since formed the basis for the Georgian-South Ossetian conflict-resolution process: 1. Recognition of Georgian territorial integrity; 2. The right of peoples to self-determination and the special status of relations between South Ossetia and North Ossetia; 3. The future recognition of South Ossetia's special politico-territorial status, including a constitution, institutions and emblems; and 4. The establishment of international guarantees to safeguard the first three agreements

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15 Interviews carried out by the author in Tbilisi, September/October 2003.

16 Cf. EU Allocates 28 million Euro to Assist Georgia, in: *Civil Georgia – Online Magazine*, 14 January 2004; OSCE Brokers Funds to Help Rehabilitate the Zone of the Georgian-Ossetian Conflict, Tbilisi, 2 February 2004, OSCE press release.

17 Cf. Official Journal of the European Union, L 169/74, 8 July 2003, Council Joint Action 2003/496/CFSP of 7 July 2003 concerning the appointment of an EU Special Representative for the South Caucasus; interviews carried out by the author in Tbilisi, September/October 2003.

after they have been successfully implemented.<sup>18</sup> At the fourth Experts' Group meeting, held in Baden, near Vienna, from 11 to 13 July 2000, a draft version of the document (since then known as the Baden Document) was presented by the Georgian and South Ossetian delegations. It remains the most recent version and is the basis of ongoing discussions.<sup>19</sup> To this day, there has still been no breakthrough in the negotiations. The main reason for this appears to be the presidential elections that were held in South Ossetia in November and December 2001. These elections, which did not receive international recognition, were won by Eduard Kokoiev, who became the new *de facto* president of South Ossetia. Kokoiev, a businessman with Russian citizenship, reintroduced an anti-Georgian policy and bolstered the trade in illegal goods that is endemic in South Ossetia. He explicitly supports what is called "reunification" with North Ossetia and accession to the Russian Federation. South Ossetia's new *de facto* government played up fear of Georgian military action, described the JPKF as the only protection from potential Georgian attacks, and openly supported military co-operation with the Russian Federation. Nor should the "Abkhaz factor" be underestimated. It plays a decisive role in the South Ossetian position. The South Ossetian side appears to be waiting for the Abkhazian conflict to be resolved before making any compromises as a means of ensuring that South Ossetia does not end up with an inferior status to Abkhazia. This position is appreciated by the South Ossetian population, who like to compare their position with that of the Abkhaz. Perhaps that is another reason why all subsequent Experts' Group meetings were largely unsuccessful, so that the only aspect that can be considered a success is the fact that a meeting was held at all. The 10th Experts' Group meeting, held from 14 to 17 October 2003 in The Hague, was the first to not even succeed in agreeing on a joint closing document. Nonetheless, both sides were quick to make assurances that they remain interested in seeking a peaceful resolution to the conflict.<sup>20</sup>

#### *Violence Breaks Out Once More*

On 23 May 2004, parliamentary elections were held in South Ossetia, from which the Unity movement of *de facto* President Kokoiev emerged the strongest party. The elections were not recognized by the international community. Once more, anti-Georgian resentment grew in volume and was ignored by Tbilisi. Instead, on 31 May 2004, President Saakashvili sent troops

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18 Cf. Organization for Security and Co-operation in Europe, The Secretary General, *Annual Report 2000 on OSCE Activities* (1 November 1999 – 31 October 2000), Vienna 2000, p. 43.

19 Cf. CPC, SEC.FR/421/2000, OSCE Mission to Georgia, Activity Report No. 14/2000, 15-31 July, 2. August 2000 (restr.).

20 Cf. OSCE Chair Hosts Talks in The Hague on Georgian-Ossetian Conflict, The Hague, 16 October 2003, OSCE press release.

belonging to the Georgian Interior Ministry to South Ossetia to establish checkpoints and roadblocks at key road junctions to combat the widespread smuggling. This step was justified by the new Georgian government in terms of its aspiration to achieve regional stability and improve economic performance in the country. After all, South Ossetia may come to play a significant role as a transit region for energy transport (oil and gas). The Georgian manoeuvres led to serious friction with the South Ossetian leadership, who called the deployment of Georgian troops a “pure provocation” and a breach of earlier treaties. There was also a dispute between the Georgian government and General Sviatoslav Nabdzorov, the Russian commander of the peacekeeping force. He threatened to remove the Georgian roadblocks by force if necessary. The Georgian minister of the interior, Georgi Baramidze, warned that the Georgian reinforcements would return fire if attacked. Russia also condemned the Georgian move, and, in a statement made on 31 May, the Russian foreign ministry described it as a blow not only to Georgian-Russian relations, but also to the overall chances of peacefully resolving Georgia’s conflicts. Nonetheless, there was no denying that Saakashvili’s strategic operation had put a stop to South Ossetia’s illegal cross-border trade, at least in the short term. The famous Ergneti smugglers’ market, near the South Ossetian capital of Tskhinvali, has ceased to exist. Because the South Ossetian people live to a great extent from illegal trade, however, the Georgian interior ministry’s coup also did major damage to the authority of South Ossetia’s *de facto* President Kokoev. For his part, Kokoev, announced the mobilization of reserves for the “defence of the fatherland” and began to hold troop manoeuvres. In the late evening of 31 May, during a telephone discussion with the Russian president, Vladimir Putin, Saakashvili was finally persuaded to back down. He announced that the Georgian reinforcements were to be withdrawn from the checkpoints, and this was somewhat reluctantly carried out in August.

On 1 June, Tbilisi expressed its intention to strengthen the Georgian component of the JPKF from 100 to 500 troops, making it equal in size to the Russian and South Ossetian components. In contrast to Shevardnadze’s regime, the new government paid considerably more attention to this matter. Following discussions between the Georgian and South Ossetian conflict parties, the Russian commander of the peacekeeping force was dismissed, but the situation remained tense. Regular reports of heavy military equipment being transported started to be made as of mid-June, most of it going by heavy truck through the Roki Tunnel into South Ossetia. At the same time, the number of border crossings rose sharply. The number of people going to Dagestan grew most rapidly, and many of them were armed. Shortly thereafter, large numbers of Cossack and Abkhazian mercenaries were recorded in the conflict zone. Finally, an increasing number of unregistered flights of helicopters, including military helicopters, were observed in the area around the Russian-South Ossetian-Georgian border. Despite this escalation, Russian

diplomatic efforts continued. On 24 June, Russia's first deputy foreign minister, Valeri Loshchinin, travelled to Tskhinvali to persuade Kokoev to resume discussions with the Georgian side within the JCC framework. A meeting of the JCC aimed at defusing the situation was finally held in Moscow on 30 June and 1 July. At the meeting, the Georgian side's main goal was the establishment of a joint checkpoint at the Roki Tunnel. Because arms smuggling had increased drastically in recent months, the Georgian side supported increasing the number of OSCE military observers in the region to enable the establishment of observation posts at the Roki Tunnel. The OSCE's status as a mere observer had been criticized by both the Georgian and the South Ossetian sides. According to the *de facto* South Ossetian government, the OSCE should have intervened when Georgia deployed troops in the area. Merely by observing and reporting to headquarters in Vienna, it was argued, the OSCE did not contribute to pacification on the ground. The recent military clashes in South Ossetia were repeatedly used by the South Ossetian side to call into question the OSCE's attempts at mediation, which it consistently rejected as pro-Georgian.<sup>21</sup> At the same time, South Ossetia denied all responsibility for the deadlock in the conflict-resolution process and never accepted that it is not the Mission's role to solve the conflict, but rather to help the conflict parties to reach a joint settlement by themselves. Despite this, the Permanent Council resolved on 6 August 2004 to expand the OSCE Mission to Georgia by two further monitoring officers.

In South Ossetia, in the meantime, new ways have been found to acquire weapons. In early July, 50 members of the Georgian police were captured and relieved of their weapons by a 200-strong group of South Ossetians. There followed several outbreaks of fighting in a number of South Ossetian towns, with injuries reported on both sides. The situation escalated when Russian peacekeepers secretly imported unguided rockets into the conflict zone without authorization on several occasions. Georgian peacekeepers confiscated several heavy trucks loaded with rockets, removing them to Gori, the nearest Georgian town. Returning the confiscated rockets to Russia has so far proved impossible, as Russia has insisted they be brought to South Ossetian territory. Russian-Georgian relations reached another low when the Russian Duma released a draft proposal for resolving the situation in South Ossetia in which it made explicit its support for the South Ossetian people.<sup>22</sup> In addition, Georgia accused Russia of deliberately disseminating anti-Georgian opinions in its media and of openly taking the side of the South Ossetian separatist government.

The situation deteriorated considerably on the night of 10-11 August, when Georgian and South Ossetian villages, especially in the area north of

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21 Cf. Valery Dzutsey, South Ossetians fear war. Rebel province is tense as Tbilisi steps up pressure for reunification, in: IWPR's Caucasus Reporting Service No. 238, 16 June 2004.

22 Cf. *Caucasus Press*, Russian Parliamentarians Adopt Statement on South Ossetia, 8 May 2004.

Tskhinvali, came under fire and civilians were injured. Members of the Georgian and South Ossetian components of the JPK are also said to have been involved in the exchange of fire. On 13 August, Georgia's Prime Minister Zhvania and *de facto* South Ossetian President Kokoev agreed on a ceasefire, which has, however, already been breached multiple times by both sides. During July and August, 17 Georgians and five Ossetians were killed.<sup>23</sup> In emergency sessions of the JCC on 17 and 18 August in Tbilisi and Tskhinvali, both sides debated complex ceasefire proposals and demilitarization projects. At the same time, they expected fighting to break out again and used the truce to improve their military positions and strengthen defences. A ceasefire agreement signed on 19 August has for the most part been held, even if occasional exchanges of fire have been reported. This remains true at the time of writing. Whether the Georgian-South Ossetian conflict will once more become "frozen" twelve years after the Sochi Agreement or whether a solution can finally be found will become clear in the coming months.

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23 During the night of 18-19 August alone, seven Georgian peacekeepers were killed and a further seven wounded, see *Caucasus Press*, 19 August 2004.





## Russia's Gridlock in Chechnya: "Normalization" or Deterioration?

While Russian President Vladimir Putin has for several years been arguing that the war in Chechnya is an anti-terrorist operation and that the situation in the war-torn republic is normalizing, the events of spring and summer 2004 provide ample evidence that the official Russian description of the situation is increasingly at variance with reality. The killing of Chechnya's pro-Russian president in May, the subsequent attempt to assassinate his successor, the daring rebel raid on the capital of the neighbouring republic of Ingushetia, and, most recently, the taking of over 1,000 people hostage in a school in the North Ossetian town of Beslan are only the most obvious and spectacular evidence that Russia is failing to win the war in Chechnya. In fact, it is increasingly clear that Russia's strategy of trying to turn the war into an intra-Chechen confrontation is not leading to the desired results. Far from it, instability has become endemic and the war has led to Chechnya's "Afghanization" as the fabric of society has collapsed, providing fertile ground for extremism and militancy. As long as the war in Chechnya goes on and Russia seeks a solution solely via military means and repression, the security situation in the North Caucasus will continue to deteriorate.

### *An Anti-Terror Campaign?*

Since the first Chechen war began in 1994, the Russian government has portrayed the war as one being fought against bandits and Islamic fundamentalists – increasingly referred to, especially after 11 September 2001, simply as "terrorists". Western powers long refrained from accepting the Russian position at face value, instead seeing the conflict primarily as an ethnic war. While recognizing Russia's territorial integrity, both Western and Islamic powers held the Chechen rebels to be more or less legitimate representatives of the Chechen people, considering that Chechen leader Aslan Maskhadov was elected in a ballot deemed free and fair in 1997. Moreover, the international community repeatedly condemned the Russian military's massive human rights violations in the prosecution of the war; Russia was even briefly suspended from voting in the Parliamentary Assembly of the Council of Europe over its conduct in Chechnya.

During the course of the second Chechen war, which began in October 1999 and rages to this day, there has been increasing concern at the radicalization of parts of the Chechen resistance movement and its links to extremist Islamic groups in the Middle East. September 11 brought about a paradigm

shift in world politics, and Chechnya has since been one of the areas most affected by the increased global political focus on terrorism. Immediately after the terrorist attacks on the United States, the Russian leadership began drawing comparisons with the situation in Chechnya. Only hours after the collapse of the Twin Towers of the World Trade Center, Russian state television broadcast a statement by President Putin expressing solidarity with the American people, but also reminding the audience of Russia's earlier warnings of the common threat of "Islamic fundamentalism". This marked the beginning of a strategy that aimed to capitalize on the tragic attacks on America by highlighting the alleged parallels between them and the situation in Chechnya. "The Russian people understand the American people better than anyone else, having experienced terrorism first-hand," President Putin said the day after the attacks.<sup>1</sup>

This turned out to be the harbinger of a diplomatic campaign targeted at Western countries, which was intended to shore up the legitimacy of, if not support for, the Russian army's violent crackdown in Chechnya.<sup>2</sup> This campaign was part and parcel of a five-step strategy to reduce the negative fallout of the war in Chechnya. The first component of that strategy had been to isolate the conflict zone and prevent both Russian and international media from reporting on the conflict independently. The kidnapping of Andrei Babitsky, a reporter for Radio Liberty, served as an early warning for journalists of the consequences of ignoring Moscow's rules. Since then, only a few journalists have actually been able to provide independent reports from Chechnya. Most prominent have been Russian journalist Anna Politkovskaya and French writer Anne Nivat. The second prong in the strategy was to rename the conflict: Instead of a "war", it was an "anti-terrorist operation". Third, and stemming directly from this, Russia sought to discredit the Chechen struggle and undermine its leadership by accusing them individually and collectively of involvement with terrorism. Russia's campaign against Chechen President Aslan Maskhadov's chief negotiator, Akhmed Zakayev, is one example of this. It backfired, however, as first Denmark and then Great Britain refused to extradite Zakayev to Russia, Britain instead providing him with political asylum. Zakayev's freedom to travel nevertheless remains restricted as long as Russia's Interpol warrant on him remains in place. Fourth, Russia sought to "Chechenize" the conflict and turn it into an intra-Chechen confrontation by setting up and arming a brutal but ethnically Chechen puppet regime in Grozny under the former Mufti of the republic, Akhmad Kadyrov. It was hoped that this would reduce Russian casualties and enable the conflict to be depicted as a war between Chechen factions that Russia was helping to

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1 RTR (Russian State Television), 12 September 2001, 1300 GMT (this and all subsequent translations from non-English sources by the author). See also Francesca Mereu, U.S.: Russia Says Chechen Conflict Aids "Understanding" Of U.S. Tragedy, RFE/RL, 14 September 2001.

2 Cf. Janusz Bugajski, Beware of Putin Bearing Gifts, in: *The Washington Times*, 10 October 2001.

bring under control. Fifth, after branding the war an anti-terrorist campaign, discrediting the rebel leadership, and trying to turn the war into a civil war among Chechens, Russia declared that the war was over. As will be seen below, this is increasingly difficult to argue.

Although European countries and the United States have kept up a moderate but noticeable level of criticism against Russia's massive human rights violations in Chechnya during both the first war in 1994-1996 and the present one, Russia has had a certain degree of success in convincing Western observers that it is not fighting a people, but terrorists.<sup>3</sup> The first achievement in this campaign was the statement made by German Chancellor Gerhard Schröder during Putin's state visit to Berlin on September 25 that "Regarding Chechnya, there will be and must be a more differentiated evaluation in world opinion."<sup>4</sup> This was followed by US President George W. Bush's statement in which he demanded Chechen forces sever links to terrorist forces, including Bin Laden.<sup>5</sup> On the whole, the September 11 attacks have given Russia a chance to reshape its relations with Europe and the USA, as evidenced by the new climate of relations between Moscow and Brussels. In an atmosphere of increased co-operation between Russia and the West, with America needing Russian intelligence and co-operation in Afghanistan, a halt to criticism on Chechnya has become the foremost concession Russia has managed to extract from the West in return for its co-operation. As a result of the tacit acceptance of his anti-terrorist agenda, President Putin has, since 2002, moved on to claim that the war in Chechnya is over and that, with the reconstruction of Chechnya, things are in the process of returning to normal. Indeed, for a time Russia did manage to keep down the level of the conflict, which was gradually turning into a low-intensity confrontation. In the meantime, in 2003, Russia tried to physically decimate the Chechen leadership by eliminating some of its leading figures, such as field commander Ruslan Gelayev, the Islamist Mujahideen commander Abu al-Walid, and exiled Chechen former interim President Zelimkhan Yandarbiyev, who was killed by Russian agents in Qatar. However, with the increase of suicide operations during 2003-2004 and the growth of armed clashes inside Chechnya in 2004, the Russian argument that the war is over does not stand up to scrutiny.

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3 The record of Russian violations of laws of war is amply documented by Human Rights Watch, at: <http://www.hrw.org/campaigns/russia/chechnya/>.

4 Roland Eggleston, Germany: Schroeder Hints At Change In Opinion On Chechnya, RFE/RL, 26 September 2001.

5 Cf. Roland Wattson/Vanora Bennett, Bush Sides with Putin against Chechen Rebels, in: *The Times*, 27 September 2001.

### *The War's Human Toll and the Roots of Extremism*

The extremist-terrorist aspect of the conflict in Chechnya is a distinctly alien phenomenon, grafted upon the Chechen struggle. It is a result of the war, and not, as Moscow argues, a cause of the conflict. Foreign Islamic radicals gained ground in Chechnya only after the first war, in the anarchy that followed the total destruction of Chechnya in 1994-96. It is the war that makes it possible for the foreign radical groups, who have no natural support in Chechen society, to thrive in Chechnya. Even during the chaotic period of *de facto* Chechen independence in 1996-99, the radicals were isolated in a small area in south-eastern Chechnya. In 1999, President Maskhadov even warned Moscow of their possible intentions and asked for help from Moscow to combat them, but received no response.<sup>6</sup>

#### *The "Afghanization" of Chechnya*

More importantly, it is the war that is enabling the radicals to attract followers in Chechnya. However minor their following may be at present, it is clearly growing. This process can be termed the "Afghanization of Chechnya". This comparison with Afghanistan in the early 1990s is illustrative as that country provides an example of how warfare leads to the destruction of the fabric of a society. Most civil wars shake society to the core and endanger the lives of citizens as long as the fighting continues. Yet war does not necessarily destroy the possibility of restoring normality relatively rapidly after hostilities cease. The economic and psychological effects of the war may be tremendous, but a basic economy, basic education, health care, social norms of behaviour, etc. normally remain. In sum, the social capital of the society remains in place. Some conflicts, however, due to their brutality and length, do destroy the very foundations of society. Afghanistan is a prominent example. More or less the entire population of Afghanistan was directly affected by 23 years of war. Of a population of roughly 20 million, approximately 1.5 to two million were killed; a similar number wounded or maimed; six million made refugees in other countries; and several million forced into internal displacement. Over 50 per cent of the population was thus either killed, injured, or displaced. Beyond this staggering human toll, the basic infrastructure of society was demolished. Communication systems, from roads to telecommunications, were destroyed; the healthcare and educational systems wiped out. Earning a living was made dangerous or impossible by the ten million landmines that had been laid throughout the country; law and order broke down in the early 1990s, to be replaced at first by anarchy and lawlessness as the "Kalashnikov culture" spread throughout the country. Pillage, killings, and rape were no longer exceptional events. The very emergence of the Taliban

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6 Cf. Brian Williams, Unravelling the Links between the Middle East and Islamic Militants in Chechnya, in: *Central Asia-Caucasus Analyst*, 12 February 2003.

also testified to the destruction of both traditional and modern social norms. The tribal structures of authority were undermined by the war; traditionally tolerant Afghan society was invaded by alien, extremist ideas that gained dominance, a process that only culminated with the Taliban – a group originating in the refugee communities in Iran and especially in Pakistan, young men that never knew peace, that grew up in war and knew nothing but war. Whatever we think of the Taliban's policies or worldview, we cannot ignore the fact that their existence and their way of thinking was a direct product of the war that had devastated their families and their lives, and put them in exile where they were taken care of by extremist militias that inculcated in them their austere and violence-prone beliefs.

The dire picture of Afghanistan unfortunately applies to Chechnya in far too many ways. In terms of the human toll of the war, a similar share of Chechnya's population has been killed – perhaps over 100,000 people. As in Afghanistan, over half of the population has been killed, injured, or displaced. Likewise, the extreme brutality of the Russian military's campaign has destroyed the foundation of Chechen society. People are being killed, maimed, abducted, tortured, and raped at will by the authorities that are supposed to uphold law and order; no one is safe in Chechnya at any time. The foundations of the economy have also been destroyed. The annihilation of Chechnya's infrastructure needs no mention – the extent of the damage becomes clear if one merely compares a satellite picture of Grozny taken in 1994 with one from 2002. In the countryside, agriculture has been ruined by a general absence of livestock and seeds; the bulk of farm animals have either died from the effects of the war or were deliberately killed by Russian forces. The oil economy that once existed has, for the most part, been physically eliminated.

### *The Destruction of a Generation*

A generation of Chechens is growing up either in destroyed villages in Chechnya under the constant threat of mopping-up operations or *zachistkas*, or in refugee camps in Ingushetia. This generation, much like the Afghans in refugee camps outside Quetta or Peshawar, is growing up without any conceivable hope of a normal life in the future. As Anna Politkovskaya puts it, retelling her encounter with one of the hostage takers in Moscow in October 2002:

This is a certain generation of modern Chechens. Bakar is one of those who has known nothing but a machinegun and the forest for the last decade, and before that he'd only just finished school. And so, gradually, the forest became the only life that is possible.<sup>7</sup>

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7 Anna Politkovskaya, *My Hours Inside the Moscow Theatre*, in: Institute for War and Peace Reporting (IWPR), *IWPR Caucasus Reporting Service*, No. 153, 31 October 2002.

The younger generation of Chechens may already be damaged beyond repair. Psychologists have noted the difference between children coming to refugee camps in Ingushetia at the beginning of the war in 1999 and those that left Chechnya during the war. Whereas “it was possible to protect the first group from severe traumatic situations”, the second group tends “to be withdrawn, irritable, quick to take offence or aggressive”.<sup>8</sup> A recent WHO study concluded that 86 per cent of Chechens studied suffered from physical or emotional distress, and 31 per cent from post-traumatic stress syndrome. Whether or not these figures are accurate, it is obvious that the psychological consequences of the war on the adult population, not to mention the children of Chechnya, have long since reached crisis proportions. As a consequence, the percentage that are attracted to radical Islamic beliefs will almost certainly be considerably higher among this generation of Chechens than among the current fighters.

Russia’s “normalization” seems to have little effect on either the war or the civilian population. In April 2004, four human rights groups issued a joint statement concluding that the situation of civilians was worsening, not improving. During the first three months of 2004, 80 people were abducted, mainly by pro-Russian Chechen groups. Russian security services began explicitly targeting the widows of killed Chechen resistance fighters, whom they have come to see as potential suicide bombers.<sup>9</sup>

#### *Anything but Normal: The Resurgence of Violence*

The experience of the past few months shows that the ills affecting Chechnya seem to be intensifying and spreading. Large Chechen refugee populations have been living in refugee camps in Ingushetia for several years, and they are increasingly subjected to pressure to return to Chechnya as a part of Russia’s policy of normalization. In simple terms, Russia needed refugees to return to Chechnya for its claims of normalization to be credible. However, the conditions in Chechnya mean that most refugees adamantly refuse to return. At the same time, repression in Ingushetia grew in the first half of 2004, as increasing numbers of civilians were abducted or disappeared, as in Chechnya, and media censorship intensified.<sup>10</sup>

#### *The Murder of Akhmad Kadyrov*

On 9 May 2004, pro-Russian Chechen President Akhmad Kadyrov was killed by a bomb buried in the concrete under the VIP section of the Grozny sta-

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8 Asiyat Vazayeva, *The Mental Scars of Chechnya’s Children*, in: Institute for War and Peace Reporting (IWPR), *IWPR Caucasus Reporting Service*, No. 165, 6 February 2003.

9 Cf. Jamestown Foundation, *Chechnya Weekly*, No. 15, 14 April 2004.

10 Cf. Jamestown Foundation, *Chechnya Weekly*, No. 16, 21 April 2004.

dium, as Kadyrov was attending a Victory Day parade. The killing was a severe blow for President Putin, whose policy had been to eliminate all possible rivals to Kadyrov and rely on him for Russian control over Chechnya. In fact, Kadyrov's position had become so strong that Russian analysts had begun to worry about a possible future confrontation between Kadyrov and Russia.<sup>11</sup> Indeed, shortly before the assassination, Kadyrov and his son, who headed the dreaded presidential guards, had talked about the need for Russian troops to leave Chechnya. After the assassination, rebel attacks greatly intensified, leading Russian observers to state that the situation had reverted to how it had been two or three years earlier.<sup>12</sup> Attacks were now taking place inside the capital Grozny again.<sup>13</sup> On July 13, rebels narrowly failed to assassinate the interim president of Chechnya, Sergei Abramov, in Grozny, while killing his bodyguard.<sup>14</sup>

#### *The War Spreads: A Daring Raid in Ingushetia*

Finally, on June 21, armed guerrillas attacked the headquarters of the interior ministry in Ingushetia and several other government buildings and official structures in a number of towns. This was the first large-scale rebel infantry attack in several years, and the first on a territory outside Chechnya since 1999. Sixty-two policemen and officials were killed, as well as numerous civilians. Moreover, the fact that this was a direct assault rather than a hit-and-run attack or a bombing proved that the rebel forces possessed planning and co-ordination capabilities that many observers thought they no longer had. Even worse for the Kremlin was the fact that investigations into the raid showed that the majority of those who carried it out were in all likelihood Ingush and not Chechens.<sup>15</sup> While details remain murky, the most plausible evidence suggest that those involved were mostly Ingush that had left to fight in Chechnya – just some of a growing number of young Ingush who have turned to Islamic militancy as a result of the poverty, corruption, and increasingly harsh repression in the republic since the presidency of Ingushetia was taken over by a former Federal Security Service (FSB) officer, Murat Zyazikov. Following the raid, the Ingush authorities have been criticized for their long-term neglect of rising Islamic militancy in the republic. The critics included the Ingush Mufti Magomed-Hadji Albogachiev, who resigned shortly after the events. A Chechen website later reported that Ingush rebels had declared a *Jihad* against the republican authorities, implying that the war

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11 According to Anna Politkovskaya, speaking at the Silk Road Studies Forum, Uppsala University, February 2004.

12 Cf. *Nezavisimaya Gazeta*, 27 May 2004.

13 Cf. Jamestown Foundation, *Chechnya Weekly*, No. 22, 2 June 2004.

14 Cf. Mine Attack Hits Chechen Leader's Convoy, Reuters, 13 July 2004; C.J. Chivers, Chechen Leader Escapes Separatist Bomb Attack, *New York Times*, 14 July 2004.

15 Cf. *RFE/RL Caucasus Report*, No. 29, 23 July 2004.

in Chechnya, far from normalizing, may be turning into a larger Chechen-Ingush war.<sup>16</sup>

### *Conclusion*

The longer the war goes on, and the longer the Russian brutality continues, the more recruits the Islamic radicals will find. Russia would argue that precisely because Chechnya is becoming a hotbed of extremism, it needs to destroy the “terrorists” and restore order in Chechnya. But Russia has been fighting this war for over four years and is no closer to victory than it was at the outset. As long as Moscow does not win the war, it will continue to lose it. It is clear now, in the light of Russia’s defeat in 1996 and the current stalemate, that Russia is unable to win the war, which threatens to spread outside Chechnya as a result of the heavy-handed policies of the Russian government in the North Caucasus. The increase in fighting in 2004 and the ever more daring raids and attacks that the rebels are able to mount indicate that the war in Chechnya is no sense about to abate. As long as it goes on, the spiral of violence will continue, and the Chechen population – and perhaps other North Caucasian populations – will become increasingly radicalized.

The obvious conclusion that can be drawn from an analysis of the situation in Chechnya is that the ongoing war is not an anti-terrorist operation but a brutal war against an entire people, which generates anarchy and chaos in which the criminalization of all fighting forces can take place. In turn, the war allows for Islamic extremists from outside Chechnya to find a base there and in the North Caucasus in general, and to gradually influence a generation growing up with little or no hope for their future. Russia’s war in Chechnya cannot fail to create extremism and sow the seeds of terrorism. Russia’s portrayal of a war on “Islamic terrorism” is hence based on claims that do not stand up to scrutiny. Evidence presented by human rights organizations make it abundantly clear that Russia’s prosecution of the war in Chechnya is exacting a high toll on the local population. The indiscriminate bombings of Chechen villages, the use of non-conventional weapons such as vacuum bombs, the systematic use of concentration camps, and the brutality of the *zachistkas* all indicate that this is not an anti-terrorist operation but a war against an entire people.

Moscow’s response to the crisis in Summer 2004 indicates little acceptance of this reality. It is continuing the same policy of seeking to Chechenize the conflict and support Chechen formations that are to take over the fight against the rebels. The Kremlin simply replaced Kadyrov with the then interior minister of Chechnya, Alu Alkhanov. Credible and more neutral candidates are being taken off the ballot by a variety of administrative measures, and it was clear long before the August 29 elections that the elections would

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16 Cf. Jamestown Foundation, *Chechnya Weekly*, No. 28, 14 July 2004.



be anything but free and fair, but would rather amount to no more than the appointment by Moscow of the next Chechen leader. As a result, Russia will once again have a puppet in Chechnya that may say the right things to Moscow, but it is equally clear that this leadership will not be seen as legitimate by the Chechen population. As long as that is the case, there is no prospect for true normalization in Chechnya.



## The Role of Religion in the South Caucasus – Conflict Prevention and Mediation?<sup>1</sup>

### *Introduction*

The Caucasus is not only where Europe and Asia, the Christian and Islamic worlds, meet, but is also home to competing political models. Secular states with a majority Muslim population, such as Turkey and Azerbaijan, compete with the Islamic Republic of Iran and the highly Islamized project to establish an independent national state in Chechnya over the best means to gain control of the development of their countries. Multi-religious states, whether like Georgia, whose national church enjoys a special status under the constitution, or the Russian Federation, which is religiously neutral – at least in theory – contrast sharply with countries such as Armenia, which is now more or less completely homogeneous in terms of religion and whose national Armenian Apostolic Church is a vital part of national identity.

The complex religious map of the region reflects its situation as a zone of contact between different cultures and long-vanished empires. Large areas of the Caucasus were subject, at least nominally, to Iranian dominance from the south for several centuries both before and during the Islamic era and were thus part of the Iranian cultural area. In contrast, western parts were frequently ruled by powers based in Asia Minor, i.e. the Eastern Roman Empire, Byzantium, and the Ottoman Empire. Although but a few ruins remain to testify to the presence in the Caucasus of Zoroastrianism – the state religion of Sasanian Iran – the religious legacy of the Shiite Safavid dynasty that ruled Iran from 1501 until 1732 is obvious: Some 70 per cent of Azerbaijanis, six per cent of Georgians, and three to four per cent of Dagestanis are Shiites.

Islam arrived in the region with the Arab-Islamic conquerors in 644, only a few years after it had been founded. Among the groups with whom the Arabs came into contact were Christians of various denominations, including Armenians and Caucasian Albanians, adherents of the Apostolic Church, who had been converted to Christianity in the late 200s/early 300s, and the Cartvelian (Georgian) peoples, most of whom had belonged to the Orthodox church since the 4th century. These groups converted to Christianity during their periodic inclusion within the (Eastern) Roman Empire, and the schism that split the 5th-century Council of Chalcedon divides the region's Christians in matters of faith to this day.

The expansion of the Russian Empire in the late 18th and 19th centuries strengthened the Christian presence by encouraging a wide variety of Chris-

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1 The article covers the period up to August 2004.

tian peoples to settle in the region: Orthodox believers fled to this borderland area of the Russian Empire in order to practise their religion unmolested, Armenians migrated to the Caucasus from the Ottoman Empire and Iran, protestant Germans were settled as colonizers in the Caucasus, and industrialization, especially in the Baku area, together with the need for military and administrative personnel, ensured a constant flow of European immigrants from all sorts of backgrounds. With them came Ashkenazi Jews, who were probably no less astonished than are visitors to the region today to encounter the Tats or Mountain Jews, who have lived here since ancient times. Traces of all these groups can still be found in the various republics and regions of the Caucasus.

With the collapse of the Soviet Union, however, the trend towards ethnically and religiously homogeneous territories increased. In some ways, this had already started during Soviet times, as representatives of the so-called "titular nations" had begun to force members of other ethnic groups out of official positions in the state bureaucracy in the 1960s. This process became irreversible following the independence of the three South Caucasian republics of Armenia, Azerbaijan, and Georgia in 1991, as Moscow and the Soviet Communist Party were no longer able to exert a restraining influence. To a certain extent, this process merely mirrored the demographic tendency of the post-War years. During this period, the Muslim peoples in the Caucasus (and the Armenians) have had considerably higher birth rates than the Russians and other Europeans, and this has begun to gradually effect the region's demographics (births per 1,000 inhabitants 1994: Armenia 13.5, Azerbaijan 21.6, Georgia 9.7, Russian Federation 9.5). For the cause of the most significant demographic change, however, we need to turn to the conflicts that broke out throughout the Caucasus following the collapse of the Soviet Union. These led to mass displacement, floods of refugees, and the emigration of many individuals. The result was a strengthening of the dominant religious groups not just in Armenia, Azerbaijan, and Georgia, but also in Chechnya and Dagestan.

#### *Religion in Post-Soviet Society*

In transition societies, religion generally fulfils the functions of identity formation and social stabilization. Religion can give meaning and direction to individuals' lives, it encourages solidarity at the community level, and is an important explicit or implicit element of the new national ideologies. In the late 1980s and early 90s, the number of religious congregations in all three South Caucasian republics grew rapidly, and the importance of religion increased correspondingly. In Azerbaijan, for example, the number of mosques grew from 16 in 1976 to well over 1,000 today. This trend is continuing, even if the pace has slowed down. The emphasis is now on consolidating the con-

gregations that have been formed and establishing effective and sustainable nation-wide structures. It is also important to note that religious sentiment tends to vary strongly by both generation and region. The religion of older people, in particular, tends to be restricted to occasional attendance at religious services and adherence to traditional “national” customs and practices, especially in association with rites of passage such as baptism or circumcision, marriage and death. This must be distinguished from both the worldview of the middle-aged, which tends towards ideological nationalism and is still heavily influenced by the Soviet era, and the beliefs of recent converts, who are generally younger. Although religion plays virtually no role in the everyday lives of many people still influenced by the Soviet experience, these may still see it as an important aspect of their identity, especially in distinguishing themselves from their neighbours and fellow Caucasians. This also shines through in the platforms of most nationalist parties, which tend to ascribe religion with a central role in the definition of the nation, without, however, this having a bearing on their policies, i.e. without making them into “Christian” or “Islamic” parties. In the late 1980s, for example, the Ilia Chavchavadze Society fought its struggle for Georgian sovereignty under the slogan “Homeland, Language, Faith”.<sup>2</sup> The bulk of the population in each of the three South Caucasian republics can still be described as “culturally Christian” or “culturally Muslim”. They must be distinguished from young, religiously active Muslims, who explicitly distance themselves from their parents’ “false” understanding of their faiths and who give religion a central place in their lives. Religious institutions and organizations take their positions on the conflicts in the Caucasus according to which of these groups they draw their support from.

In the post-Soviet period, the Christian church organizations and the spiritual administrations of Muslims that existed in rudimentary form under Soviet rule have significantly increased their power, often with state support. Since these organizations – both churches and Islamic spiritual administrations – were not created from scratch but rather on the basis of Soviet or pre-Soviet institutions – sometimes even under the same leadership – they remain highly integrated with state structures, despite the existence of broadly secular constitutions. The political elites in each country realized quickly that they could use religion to stabilize their own hold on power. The fact that religious elites were morally compromised by their co-operation with Soviet structures, and the KGB in particular, was of little importance. For example, the Sheikh-ul-Islam of (South) Caucasian Muslims, Allahşükür Paşazadä, has had few problems remaining in the office he assumed in 1979 through half a dozen changes of government. Many other dignitaries in the Administration of Caucasian Muslims (*Qafqaz Müsülmanları İdarəsi*) have also held office continuously since late Soviet times. The situation is similar with regard to

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2 Ronald Grigor Suny, *The Making of the Georgian Nation*, 2nd edition, Bloomington/Indianapolis 1994, p. 320.

the Christian churches of Georgia and Armenia, although the Georgian Church differs from the Armenian in having attracted dissidents such as Zviad Gamsakhurdia as early as the 1970s.<sup>3</sup>

The state continues to interfere with the internal concerns of religious communities on a massive scale. A particularly noteworthy example is the intervention of different Armenian governments in the elections of the Catholics of the Armenian Apostolic Church in 1995 and 1999. In both cases, the successful candidate owed his position in large part to state support.<sup>4</sup>

In general, governments and most political parties have no interest in the existence of independent social actors. For their part, the religious elites see close ties with the state apparatus as a means of securing better access to state funds and new opportunities to increase their influence.

### *The “Peacemaking Potential” of the Dominant Religions*

Broadly speaking, there are two aspects to religion’s potential contribution to defusing conflicts in the Caucasus and creating lasting peace, and they should be considered separately: the role played by the dominant religion within each society, and the way each deals with the region’s interstate and inter-ethnic conflicts. As already mentioned, religion has taken on an important role in the formation of national identity in post-Soviet societies, i.e. it serves to delineate ethno-religious groups both within states and along state lines. For that reason, the potential of religion to create peace between states must be approached with great scepticism. This contrasts somewhat with the rhetoric of peace that religious leaders were encouraged to voice during the Soviet period, when their role within Soviet foreign policy was to call for “world peace”. Both the Christian churches and the Islamic religious administrations were instruments of Soviet foreign policy. They helped the USSR present an image to the world of a state in which freedom of religion was allowed, enabled an influence to be exerted on the various national diasporas, which was especially successful in the case of the Armenians,<sup>5</sup> and – particu-

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3 Cf. Suzanne Goldberg, *Pride of Small Nations. The Caucasus and Post-Soviet Disorder*, London/New Jersey 1994, p. 137.

4 Cf. Aschot L. Manutscharjan, Einführung in die Grundproblematik des Tschetschenienkonflikts [An Introduction to the Fundamental Issues in the Chechen Conflict], in: Ernest König/Erich Reiter (eds), *Parameter bewaffneter Konflikt. Die Kriege um das Kosovo 1998/99 und in Tschetschenien seit 1999 im Vergleich*. [Parameters of Armed Conflict. A Comparison of the War over Kosovo in 1998-99 and in Chechnya since 1999]. Studien und Berichte zur Sicherheitspolitik. Schriftenreihe der Landesverteidigungsakademie/ Büro für Sicherheitspolitik 4/2000, pp. 13f., at: [www.bmlv.gv.at/pdf\\_pool/publikationen/manu01.pdf](http://www.bmlv.gv.at/pdf_pool/publikationen/manu01.pdf).

5 After the Second World War, the Armenian church was directly involved in the attempt of Stalin’s administration to win back the regions of Kars and Ardahan, which had been assigned to Turkey in the Treaty of Brest-Litovsk (1918). Cf. Ronald Grigor Suny, *Looking Toward Ararat. Armenia in Modern History*, Bloomington/Indianapolis 1993, pp. 166ff; Suny, cited above (Note 2), p. 285.

larly relevant for our purposes – the Communist Party leadership could make use of “its” religious dignitaries to influence the “struggle for world peace”. Soviet religious leaders represented Moscow’s foreign policy position at the World Council of Churches and in international Islamic and Christian organizations and interfaith meetings, thus strengthening the “anti-imperialist” (read anti-NATO) camp. The Armenian Apostolic and Georgian Orthodox Churches were officially accepted into the World Council of Churches as early as the summer of 1962, and Georgian Catholicos Ilia II even served as one of its presidents from 1979 to 1983. That the decision to join the World Council of Churches was not taken by the clergy itself is illustrated by the Georgian Church’s decision to leave in 1997 as a result of the Council’s alleged secularizing tendencies. Despite this, the tradition of peace rhetoric lives on to some extent thanks to these churches’ involvement in international religious organizations, as these tend to exert a certain pressure on religions to perform a role in defusing conflicts. Not without significance here are the activities of the Vatican under Pope John Paul II, who has repeatedly initiated and supported interfaith peace initiatives. The Pope visited all three South Caucasian states and, with the exception of Georgia, was cordially received by local religious dignitaries in each country.

This quasi-official foreign policy on the part of religions in the region is undermined by the continuing closeness of religious institutions to the state and the use made of them by various governments. This has led to religious leaders changing their positions according to political and foreign policy exigencies. Moreover, as the dominant religions have become indispensable elements of national identity and hence national discourse, they are unlikely to escape nationalistic instrumentalization – at least with regard to domestic policy. In Georgia, for example, membership of the autocephalic Georgian Church was – and to some extent continues to be – used to exclude Armenians and Muslims,<sup>6</sup> and this has occasionally caused problems with the relationship to Ajaris, a majority of whom are ethnic Georgians of Muslim faith. Nevertheless, there are success stories: In the post-Soviet period, Catholicos Ilia II (in office since 1977) maintained a certain distance from the world of politics, thus going against the tendency of the Orthodox churches to retain close relations with the state (although this may be a result of Georgia’s complex political situation). He also opposed plans to “Georgify” an Armenian monument in Tbilisi and continued to refer to the Abkhaz and Ossetians as brothers even after the outbreak of hostilities.<sup>7</sup>

Because of state suppression of religion, the strict monitoring of religious activities, and the general anti-religious discourse in a predominantly secular society, the number of clergy in the Soviet Union was extremely small and their level of theological sophistication tended to be low. While the number of people employed in the administrative structures of the various

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6 Cf. Suny, cited above (Note 2), p. 334.

7 Cf. *ibid.*, p. 401.

religions has exploded, their theological knowledge has not kept pace. This is one contributing reason why the clergy is unlikely to deliberately adopt and represent theologically well-grounded positions against nationalism, war, and the use of force that go beyond the level of platitudes. Were they to do so, they would come into conflict with their national governments and the nationalist-dominated political discourses of the majority populations. This would go against the clergy's interest in stabilizing their own domestic positions.

### *The Domestic Role of the Majority Religions*

Although all three South Caucasian states have secular constitutions, the legal status of the majority religion varies from state to state. Here it is Georgia that differs from Armenia and Azerbaijan, in that the Georgian Orthodox Church is heavily favoured by that country's constitution. Following the amendment of 30 March 2001, Article 9 of Georgia's constitution reads as follows:

1. The state shall declare complete freedom of belief and religion, as well as shall recognise the special role of the Apostle Autocephalous Orthodox Church of Georgia in the history of Georgia and its independence from the state.
2. The relations between the state of Georgia and the Apostle Autocephalous Orthodox Church of Georgia shall be determined by the Constitutional Agreement. The Constitutional Agreement shall correspond completely to universally recognised principles and norms of international law, in particular, in the field of human rights and fundamental freedoms.<sup>8</sup>

The Constitutional Agreement between church and state was signed in October 2002 and has since been ratified by both parties. The very same article that declares the independence of the church from the state also declares that there is a close relationship between the two, resulting in a certain privileging of the majority faith.<sup>9</sup> In contrast, the Armenian and Azerbaijani constitutions make no mention of the Armenian Apostolic Church and Islam, respectively.<sup>10</sup>

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8 The Constitution of Georgia. Adopted on 24 August 1995, Changes and Amendments: 07/01/2004 N306-rs, at: <http://humanrights.ge/files/constitution.pdf>.

9 Cf. Levan Abashidze, *Das Recht der Religionsgemeinschaften in Georgien* [The Right of Religious Communities in Georgia], in: Wolfgang Lienemann/Hans-Richard Reuter (eds), *Das Recht der Religionsgemeinschaften in Mittel-, Ost- und Südosteuropa* [The Rights of Religious Communities in Central, Eastern, and South-Eastern Europe], Baden-Baden 2004, p. 196.

10 See Article 23 of the Armenian and Article 18 of the Azerbaijani constitution.



The various bodies of law dealing with religions in each of the countries in the South Caucasus are of great importance for understanding the relationships between the state and religion, and between the majority religion and other faiths or dissident groups within the majority faith. In Georgia, however, no such law has been passed owing to deep differences of opinion between the various political camps on the role of the Orthodox Church and the rights of religious minorities. Some representatives of religious minorities would rather see this deadlock continue than have a law passed that they fear would place them in a disadvantaged position – as is indeed the wish of certain church leaders and politicians.

In a 1997 amendment to Armenia's law on religions, the Armenian Apostolic Church was declared the national church, and was thus granted privileged status despite the constitutional guarantee of freedom of religion. Consequently, the legal situation regarding religions in Armenia is comparable with that in Georgia, even if the Georgian constitution is more explicit in recognizing the majority faith. Since 1992, Armenian religious communities that want to be granted official recognition have had to possess "historically recognized holy scriptures". Nonetheless, with the exception of the Hare Krishna movement, which was refused accreditation for failing to have the required minimum of 200 adherents, all the religious organizations that have applied for recognition have so far been successful. In Armenia, it has proved difficult to agree a concordat between church and state, in no small part because of the need to find a solution to the sensitive question of the restoration of church property.

In Azerbaijan, by contrast, while the law on religions generally causes no problems for minority religions, it discriminates clearly against Islamic communities that are not willing to co-operate with the official Administration of Caucasian Muslims, whose approval is required before a congregation can be granted official status.<sup>11</sup> Between March and July 2004, a conflict arose during which this regulation was used as a pretext to drive a community out of its mosque in Baku's old town. The real cause of the affair is the fact that the congregation in question and their leader Hacı İlqar İbrahimoglu co-operated with the opposition Mūsavat party.<sup>12</sup> This is a further illustration of the problems that arise from the closeness of state and church organizations/spiritual administrations of Muslims.

The Azerbaijani law on religions discriminates least between faiths and is the only one that does not explicitly favour the majority religion.

Far more problematic than the legal framework – which generally guarantees all the rights and freedoms that also exist in the EU – are the applica-

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11 On this, see: Raoul Motika, *Das Religionsrecht in Aserbaidshan* [The Law on Religions in Azerbaijan], in: Lienemann/Reuter, cited above (Note 9), p. 88.

12 For details of the most recent developments, see: Felix Corley, *Azerbaijan: Juma mosque stolen by police, community refused access for worship, and new imam imposed*, in: F18News, 2 July 2004, at: [http://www.forum18.org/Archive.php?article\\_id=354](http://www.forum18.org/Archive.php?article_id=354). Further information is available on the website of Forum 18 ([www.forum18.org](http://www.forum18.org)).

tion of the law and government policies with regard to religious groups that are considered undesirable. State institutions and the organizations of the majority religions in each country tend to collude in discriminating against so-called non-traditional religious communities. This affects adherents to evangelical Christian groups and the Jehovah's Witnesses, oppositional Islamic communities, the Baha'is and Hare Krishnas alike. The region's much fêted "traditional religious tolerance" thus vanishes rapidly when missionary activities are felt to challenge a majority religion's hegemonic position within its own ethno-religious group. In Azerbaijan, for instance, no one is bothered by the conversion of an ethnic Russian from Orthodoxy to Catholicism; but should an Azeri convert to Christianity, this will be publicly denounced as an act of national betrayal. If an Armenian's conversion to Islam were to become public knowledge in his or her homeland, the individual concerned would probably have to flee abroad. One of the most popular themes in the nationalist press and religious-nationalist circles generally is the "threat to national unity" posed by foreign missionaries. On the whole, the various religious establishments are directly responsible for escalating these fears, even if they themselves generally do not participate directly in acts of violence. In Georgia, the excommunicated Orthodox priest, Basili Mkalavishvili, became notorious as a result of his campaign of violence. Describing himself as the "guardian of Orthodoxy and of the Georgian people", he regularly roused his supporters to violent acts against Jehovah's Witnesses (38 cases in 2000 alone), Baptists, and interconfessional meetings. The evident toleration of his activities by the state security forces was outrageous.<sup>13</sup> Equally troubling is the role played by the state in the restitution of church property belonging to Roman Catholic and Armenian Apostolic congregations, much of which has simply been handed over to the Georgian Orthodox Church.<sup>14</sup> In all three states, it is difficult for religious minorities, especially congregations belonging to the so-called "non-traditional religions", to receive planning permission to build new places of worship. Nowhere have such plans received support from the majority religions.

In the South Caucasus, the missionary activities of foreigners are observed with extreme suspicion and face legal restrictions or even illicit state harassment.<sup>15</sup> Both the laws themselves and the way they are applied contradict to some extent the obligations the three republics entered into on joining the Council of Europe. In Armenia and Georgia, where the national churches are seen as solely responsible for the survival of the Armenian and Georgian peoples during centuries of foreign rule, activities that could challenge the

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13 Cf. Abashidze, cited above (Note 9), pp. 197f. See also an interview with the protestant bishop Gert Hummel in: Georgien News, 11 March 2002, at: [http://www.erkonet.de/georgien-news/archive/issue\\_003\\_1103/interview/interview.htm](http://www.erkonet.de/georgien-news/archive/issue_003_1103/interview/interview.htm).

14 Cf. Georgia – International Religious Freedom Report 2003, US Bureau of Democracy, Human Rights and Labor, at: <http://www.state.gov/g/drl/rls/irf/2003/24358.htm>.

15 For details, see the Annual Reports on International Religious Freedom published by the US Bureau of Democracy, Human Rights and Labor, at: <http://www.state.gov/g/drl/irf>.

dominant role of the majority religions may be viewed as a threat to the nation itself. In Azerbaijan, Christian missionary activities in particular are rejected by most politicians and the Islamic religious hierarchy not only because of Islam's claim to dominance, but also because such activities are associated with the Armenian enemy. Missionary activities are always seen as aiming to undermine the nation's "will to fight". The prominence, during the transition process, of so-called "secondary" topics of political conflict, such as nation, ethnicity, and religion, is a result of the lack of significant socio-structural differences that would tend to lead to political actors pursuing platforms on the basis of genuine issues of "policy".

To summarize: at least as far as domestic matters are concerned, religions are by no means helping to defuse conflicts. Quite the opposite is true.

### *The Role of Religion in the Conflicts of the South Caucasus*

As mentioned above, religion is a significant marker of difference between the various peoples in the region. Where conflicts involve unambiguous ethno-religious dividing lines, as between Azerbaijanis and Armenians, religion always plays a certain role. The idea of a Muslim Armenian is unthinkable to members of both groups, as is the thought of an Azerbaijani who is simultaneously a member of the Armenian Apostolic Church.<sup>16</sup> That is not to suggest that the conflict over Nagorno-Karabakh should be seen as a religious war, but merely that adherence to a particular religion plays an important role in the construction of the self and the act of distancing oneself from the enemy. This can clearly be seen in the use made of religious symbolism and the instrumentalization of religion in general during the recent clashes. Echoing in a way the peace rhetoric of the Soviet era, and sometimes on the initiative of foreign religious organizations, several official meetings were held during the war between the Catholicos and the Sheikh-ul-Islam. Armenian Catholicos Vasgen I was particularly active and sought in vain right up to his death in 1994 to mediate in the Nagorno-Karabakh conflict.<sup>17</sup> At these meetings, it was frequently stressed that the war was not religious in nature and that efforts should be made to resolve it peacefully. But even relatively ineffectual calls for a peaceful settlement of the conflict, such as that made by the religious leaders of the South Caucasian states at the founding of the CIS Inter-

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16 In this regard, the case of the Uden of Vartashen (now Oguz) is interesting. They are a small Caucasian people settled in the north of Azerbaijan, who have probably belonged to the Armenian Apostolic Church since the 18th century and were driven from their homeland in the course of the Nagorno-Karabakh conflict as a result. In this case, it was not ethnicity but religious affiliation (visible in the case of the Uden by the Armenian forms of their names) that was decisive. The Uden who remain in Azerbaijan have since founded their own "Albanian" church. I am grateful to Prof. Wolfgang Schulze of the University of Munich for his expert advice concerning the Uden.

17 Cf. Roland Götz/Uwe Halbach, *Politisches Lexikon GUS* [Political Handbook of the CIS], third (revised) edition, Munich 1996, p. 64.

religious Council in Moscow in March 2004, have met with heavy criticism at home. For example, the chairman of the State Committee for Relations with Religious Organizations, Rafik Aliev, disputes the right of the Sheikh-ul-Islam to make statements of a political nature, arguing that if he does speak on politics, then he should always represent the Azerbaijani interest.<sup>18</sup> Religious leaders generally already do this as well as voicing peace rhetoric, as, for example, when the Sheikh-ul-Islam declares that “if it does not prove possible to find a just resolution of the Nagorno-Karabakh problem by peaceful means, our people and our state are prepared to use all the means at our disposal to win back our territory”.<sup>19</sup> It is hard to judge whether the religious differences between the parties would have come to play a greater role in the conflict had these meetings not taken place. In contrast, there is no known case of a religious leader opposing the war domestically, let alone actively supporting conscientious objectors.

On the international stage, neither conflict party has hesitated to play the religion card. The Armenians represented themselves to the USA, Western Europe, and the Christian world as persecuted Christians and called for solidarity among believers. Armenian propagandists, in a move analogous to that performed by proponents of “Greater Serbia”, argued that the Armenians were defending Christendom against Islamic aggression. They saw themselves surrounded by Muslim Turks, including the Azerbaijanis, hell-bent on annihilating the Armenian people just as in the Ottoman Empire in 1915. At the time, however, the Armenian president, Levon Ter-Petrossian, explicitly rejected the idea that the war was a matter of religion.<sup>20</sup>

Azerbaijan also attempted to use religious arguments to gain the support of Muslims worldwide, for example, within the Organization of Islamic Conferences. Typical of this was the short-lived deployment of Afghani Mujahideen mercenaries against the Armenians. Fortunately, these attempts to instrumentalize religious sentiment proved largely unsuccessful, and religion has remained a minor theme in the Nagorno-Karabakh conflict to this day. Here, it is highly significant that, when dealing with the conflict in its neighbouring state, the Islamic Republic of Iran has been guided by its geopolitical and strategic interests and not by the religious belief it shares with Azerbaijan’s Shiite majority. Iran twice sought unsuccessfully to mediate in the conflict to its north and maintains good relations to Armenia to this day. Nor was any major player among the wider international community interested in a religious war. The main reason the war was not dominated by religious rhetoric was because religion plays a subordinate role in the types of nationalism that dominate in both Azerbaijan and Armenia – two countries that are, in any case, largely secularized.

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18 Cf. *525-ci qāzet*, 6 March 2004.

19 *Bizim Āsr*, 26 July 2003 (author’s translation).

20 Cf. Goldberg, cited above (Note 3), p. 156.

In Georgia's two unresolved military conflicts – in Abkhazia and South Ossetia – religion plays an even smaller role, as both the Abkhaz, who are related to the Circassians and speak a similar language, and the Ossetians, who speak an Iranian tongue, practise a variety of religions. As well as Christian and Islamic beliefs, elements of nature religion are also widespread. Only small groups within these populations place any great importance on religion. Although the Muslim belief of most Abkhaz tends to be somewhat superficial, the level of identification with Islam has grown sharply among those who have lived for years in the Muslim societies of Turkey and the Middle East since migrating or fleeing to the Ottoman Empire during the Caucasian Wars of the 19th century. Returnees were often disappointed by the religious indifference of the “Soviet Abkhaz” and were able to persuade few of their fellows to practise their faith more actively. In the early 1990s, there was some co-operation between Chechen and other North Caucasian groups and Abkhaz fighters, but these were temporary tactical alliances and not based on religion. As was true of many nationalities in the former Soviet Union, Abkhazia experienced a degree of religious revival in the 1990s, affecting Christianity, Islam, and the region's nature religions. Attempts were made to instrumentalize all three faiths against the Georgian enemy. The following example of Abkhaz propaganda vividly illustrates this: “God was with us in the cruel war for our country against the Antichrist. Our Saviour helped us! Let us confirm our faith in him, pray for salvation and the strengthening of the Christian Church in Abkhazia.”<sup>21</sup> The ambivalent role of religion in this conflict is also evident in the fact that, at the start of the war, the Georgians have attempted to portray – especially to the West – the Abkhaz as Muslim extremists, which is ironic given that the majority of Abkhaz are probably not Muslim but Christian. At present, religiously active Orthodox Christian Abkhaz appear to be severing their links with the Georgian Church and turning to Moscow. Nevertheless, it would so far not be true to say that religion has played a significant role in the conflict. Although transnational religious groupings such as the Jehovah's Witnesses are also seen as a threat within Abkhaz society and are therefore banned, this is not primarily an indication of religious fanaticism on the part of the population. It should rather be understood as a symptom of the fear on the part of the governments and official religious hierarchies, common to all Caucasian states, of any religious groups that are not under their control and which could conceivably pose a threat to “national unity” and the nation's “will to fight”. Jehovah's Witnesses are particularly affected in all the South Caucasian states and conflict regions.

Catholicos Ilia II of Georgia was the only church leader who dared to continue to refer to the Abkhaz and Ossetians as “brothers” following the

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21 Cited in Rachel Clogg, Religion, in: George Hewitt (ed.), *The Abkhazians. A Handbook*, Richmond 1999, p. 215; for additional information on the role of religion in Abkhaz life, see *ibid.*, pp. 205-217.

outbreak of hostilities.<sup>22</sup> Politically, however, the Georgian Church takes the side of the state and supports the reintegration of Abkhazia in the Georgian entity.<sup>23</sup>

A potentially explosive issue concerns the repatriation of the Islamic, Turkic Meskhetians deported by Stalin during the Second World War, whose return to Georgia the Council of Europe declared in 1998 to be a condition for Georgia's accession. The areas in the south-west of the country where they formerly lived are now largely settled by Armenians and Ajaris. As far as I am aware, neither the Georgian Church nor the Armenian Apostolic Church are pursuing any initiatives that aim at a humanitarian solution. On the contrary, lower-level church officials frequently subscribe to the notion of an imaginary Islamic danger that would increase with the return of the Meskhetians.<sup>24</sup>

Relations with the largely Muslim but ethnolinguistically Georgian Ajaris are equally problematic, with Christian nationalists believing that they should return to the fold of Christian Orthodoxy – their “ancestral religion”. The Georgian Church is currently carrying out a huge programme of missionary activity, which appears to have recently succeeded in making many converts to Orthodox Christianity.<sup>25</sup>

Attempts at interreligious co-operation in the Caucasus have never progressed beyond the early stages. One initiative was the “Supreme Religious Council of the Caucasus Peoples”, which was convened in Grozny in 1992 and included representatives of all the “traditional” religious denominations of the region. It elected the Azerbaijani Sheikh-ul-Islam, Allahşükür Paşazadə, as chairman. Despite considerable optimism at its start, this forum soon had to be abandoned following the catastrophic escalation of the region's conflicts. Formally, the Council continues to exist and, on 28 July 2003, supposedly with the agreement of Christian and Jewish representatives, elected the Sheikh-ul-Islam chairman for life.<sup>26</sup> The only successful cross-border activities have remained within the bounds of a single religion, and indeed a single religious subgroup. A certain exception can be made for the Administration of Caucasian Muslims in Baku, which, although its influence in the North Caucasus is limited to the Dagestani (ethnically Azeri) Shiites, is at least nominally responsible for religious matters for both Sunni and Shiite Muslims in Georgia. In practice, however, this body has also proved largely ineffective. The extent to which the new CIS Interreligious Council, which was founded in Moscow in March 2004, can contribute to solving social and inter-ethnic conflicts cannot be predicted.

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22 Cf. Manutscharjan, cited above (Note 4), p. 14.

23 For more information, see: <http://www.patriarchate.ge/ne/afxaziae.htm>.

24 Cf. Lela Inasaridze, Meskhetian Return Stirs Georgian Dissent, in: IWPR's Caucasus Reporting Service 163/2003.

25 For details, see Mathijs Pelkmans, Religion, Nation and State in Georgia: Christian Expansion in Muslim Ajaria, in: *Journal of Muslim Minority Affairs* 22/2002, pp. 249-273.

26 Cf. *525-ci qāzet*, 30 July 2003.

The extent to which interreligious co-operation is loaded with conflict potential is shown by the successful protest on the part of the Georgian Church against the conclusion of a treaty between Georgia and the Vatican in September 2003, which would have improved the legal situation of the country's Catholics. Ilia II, the head of the Georgian Orthodox Church, made the following official declaration: "The Orthodox Church of Georgia is a traditional church having its historical merit. It is determined by the State Constitution and its equalizing to other confessions will provoke religious objections."<sup>27</sup>

Perhaps precisely because of the tension between the Orthodox Church and the other religions in the country, Georgia appears to be the only country in which there is a certain degree of interfaith activity among the non-Orthodox denominations. Elsewhere, such activities are restricted to official meetings between the highest representatives of the "traditional" religious communities, largely at state-sponsored events. Nonetheless, it would be unrealistic to expect that interreligious dialogue and co-operation between religions would be a central concern of believers after years of repression.

### *Conclusions*

In general, it can be concluded that the most important religious powers in the three states of the South Caucasus have so far played no independent role in the region's inter-ethnic and local conflicts and will not do so in the future. At best, they could contribute to *rapprochement* within the countries in transition, thus creating a more peaceful climate and increasing the acceptability of non-violent and compromise-oriented strategies for conflict resolution. Standing in the way of this, however, is the role of religion in nationalistic discourse, which makes antinationalism virtually unthinkable, especially in the case of the "national churches" of Armenia and Georgia. Among the region's Muslims, on the other hand, transnational tendencies argue in favour of their closer integration in the global Islamic community or – at least in the case of the Shiites – closer ties with Iran, something that is equally unlikely to improve the prospects of regional or domestic peacemaking efforts. A positive first step would be for the religious hierarchies in the countries in question to deal with both dissident voices within their own communities as well as so-called "non-traditional" religions with arguments instead of force, defamation, and calls for them to be outlawed.

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27 Official statement of Ilia II at a press conference on 18 September 2003, at: <http://www.patriarchate.ge/ne/shetanx.htm>.





## Oil and the Great Game in the Caucasus

### *The "Caspian Region" as the Geopolitical Rediscovery of the 1990s*

The Caucasus and Central Asia were the hottest geopolitical discovery of the first decade following the collapse of the Soviet Union. The regions on either side of the Caspian Sea and the world's largest lake itself emerged as sources of and transit regions for hydrocarbons and hence as a zone of economic, political, and strategic competition. If, prior to the collapse of the Soviet Union, the two regions had largely been absent from Europeans' mental maps, their prominence is now ensured by international disputes over the routing of new pipelines and by the rivalry between Russia and the USA over the stationing of military forces in the area between the Caucasus and the Pamir mountains. Two historical precedents have frequently been invoked in relation to this process: Discussions of east-west transport corridors out of the Caspian region, security matters, and the effect external actors have on the region have tended to speak of either a new "Great Game" or a new "Silk Road". The transport routes north and south of the High Caucasus connect the Caspian to the Black Sea, thus providing access to the world's oceans. They define the place of the Caucasian isthmus in the larger context of the region as a whole.

### *Oil and Pipelines*

The Caspian Basin has not been explored on a scale comparable to the Gulf region, and estimates of the region's energy potential have tended to vary considerably. Some of the figures quoted have been completely unrealistic.<sup>1</sup> Towards the end of the 1990s, these estimates, which had been distorted by political influence, were corrected downwards. At the same time, the falling price of oil on world markets dampened the euphoria at the Caspian finds. Nevertheless, new discoveries and the return of steadily rising oil prices gave a new boost to hopes concerning the order of magnitude of resources in the region and the revenue they are likely to generate.

The region is estimated to contain around five to six per cent of the world's hydrocarbon reserves. According to the latest US figures (from the US Energy Information Administration), the proven reserves of the Caspian

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1 In December 1995, the American Petroleum Institute estimated the region's reserves to be as high as 659 billion barrels, which would have represented two-thirds of the Earth's total known reserves. Later, the figure of 200 billion barrels – also an exaggeration – did the rounds. US officials admitted in 2002 that earlier estimates were far too high. For further information, see: International Crisis Group (ICG), *Azerbaijan: Turning Over a New Leaf?* Europe Report No. 156, Baku/Brussels 13 May 2004, p. 2, Note 7.

oilfields comprise some three per cent of the world's total.<sup>2</sup> With reserves of this size and considering current petroleum and natural gas output levels, oil-producing countries such as Kazakhstan, Azerbaijan and Turkmenistan are very far from providing a "strategic alternative" to today's leading exporters, such as the Gulf states and Russia. The Caspian region has around a tenth of the oil and a fifth of the gas reserves of the Gulf. Nevertheless, as an emerging net exporter of hydrocarbons, the region does promise a certain reduction in the dependence of global oil supplies on the unstable Middle East – even if it has not so far itself demonstrated that it offers a convincing alternative in respect to stability. Caspian energy resources are of growing importance to at least some (European and Asian) import markets.

The only significant oil producer in the *South Caucasus* is Azerbaijan. After Kazakhstan, it is the second largest oil producer in the Caspian region. In the last three years, Baku has seen oil profits generated by its main fields in the Caspian Sea (Azeri-Chirag-Guneshli) grow, and they are expected to continue to rise rapidly over the next decade. On this point, however, there is disagreement between the figures of the Azerbaijani oil company, SOCAR, the international production consortium, AIOC, and independent experts. Even today, it is still a matter for dispute whether Azerbaijani reserves will by themselves deliver enough oil to financially justify a new main export pipeline to the west. With estimated reserves of seven billion barrels (proven-reserves estimate, 2002), Azerbaijan is one of the 20 oil-richest countries in the world – roughly on the level of Angola, Brazil, Algeria, and Oman. In the form of the Shah Deniz Field, a significant source of offshore gas has also recently been explored. The energy sector represents by far the most important factor in Azerbaijan's economic development. In 2003, income from oil made up 90 per cent of Azerbaijan's export earnings, and the energy sector accounts for 40 per cent of Azerbaijani GDP and 60 per cent of investments (and as much as 90 per cent of foreign inward investment). It is clear that a strong dependence on the energy sector has developed. The Azerbaijani economy can increasingly be divided into a dynamic energy sector and a stagnant non-energy sector. The country is also divided in socio-economic terms between Baku, on the one hand, and the provinces, on the other.<sup>3</sup>

Georgia is the most important transit country for Caspian resources in the South Caucasus. It is also the only country in the entire Caspian region with access to the open sea, linking the Caucasus region to the Black Sea. It thus plays a key role in the transit of (crude) oil and gas to Turkey and Europe.

The *North Caucasus* contains long established oil-producing areas in Chechnya, Stavropol, and the Kuban region. In the second half of the twentieth century, their importance declined considerably in comparison to other oil-rich regions (Siberia, the Volga-Ural region). A main export pipeline for

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2 Cf. *Eurasianet Business & Economics*, 9 March, 2004, at: <http://www.eurasianet.org>.

3 Cf. ICG, *Europe Report No. 156*, cited above (Note 1), pp. 2-4.

Caspian crude runs through this unstable section of Russia's southern periphery to the Russian Black Sea Port of Novorossiysk.

The major development of recent years in the South Caucasus is a pipeline project backed politically by the governments of Turkey and the USA: a 1,730-kilometre-long conduit from Baku, via Georgia, to the Turkish Mediterranean port of Ceyhan – BTC (Baku-Tiflis-Ceyhan) for short. It runs through 468 kilometres of Azerbaijani and 225 of Georgian territory and is due for completion in 2005. Some 65 per cent of the pipeline is said to have already been completed. No other oil transportation project in the entire Caspian region – such as the projects to transport oil and gas to China or via Afghanistan to South Asia – has received as much publicity as the South Caucasus pipeline. The groundbreaking ceremony for the BTC was held in Baku in September 2002. When it goes online in 2005, the three-billion-US-dollar pipeline will be the first serious alternative to the existing network of pipelines out of the Caspian region, which largely cross Russian territory and serve to connect producers with the CIS markets, with their limited ability to pay. It will represent the end of Russia's monopoly in the transportation of Caspian Sea energy resources, which is why the project had been opposed by Moscow until recently. The project has been explicitly designed to bypass transit routes crossing Iranian territory. For a while, a number of investors supported the shorter route through Iran to the Persian Gulf. In the coming years, parallel gas transport infrastructure is also to be established in this east-west corridor, including a pipeline from Baku to Erzerum.

Nevertheless, Russia and Iran cannot be completely written off yet. Iran is pursuing its own pipeline projects in competition with the US-led bid and is enhancing its position in the marketing of Caspian oil and developing its infrastructure on its own Caspian coast.<sup>4</sup> China, which is set to catch up with the USA as the world's largest consumer of oil and gas in the near future, has also made efforts to strengthen its position in the Caspian region. China's efforts are largely concentrated on its Central Asian neighbours, and on Kazakhstan in particular. But Beijing's Caspian strategy reaches as far as Azerbaijan, where the second-largest Chinese oil company, Sinopec, is participating in the exploitation of deposits off the Caspian coast.<sup>5</sup>

In recent years, Russia has pursued a deliberate policy of acquiring industrial assets in its Caucasian and Central Asian neighbours that possess both economic and geostrategic significance. In this it has targeted key sectors such as electricity and gas provision (Georgia, Armenia), fuel export and gas- and oil-field development (Turkmenistan), and hydro-electric power (Tajikistan). Since the start of Vladimir Putin's presidency, Russian policy in the Caspian Sea region has gone under the slogan "pursuing the national in-

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4 Cf. Iran durchkreuzt Pipelinepläne der USA [Iran Thwarts US Pipeline Plans], in: *Handelsblatt*, 3 May 2004.

5 Cf. John C.K. Daly, The Dragon's Drive for Caspian Oil, in: *The Jamestown Foundation News*, 13 May 2004.

terest by economic means". The complaint that Russia has been forced out of its "historical dominions" can only be afforded limited credence, despite bitter geopolitical commentaries in the Russian media.

### *The Great Game*

The disputes over the new pipelines contributed to the perception that virtually everything that takes place between the Caucasus and Pamir is part of a new "Great Game". As a result, these primarily economic projects have been reinterpreted as geopolitical objects serving as a means to control territory. In this view, the increased security-related interest of the USA in a country such as Georgia is reduced to a single motive: the desire to protect the BTC pipeline. Russian commentators have described foreign Islamists active in the North Caucasus (known as Wahhabis) as the agents of Western and Middle-Eastern oil interests. American authors, such as Zbigniew Brzezinski, have also invoked the geopolitics of the 19th and early 20th centuries in relation to southern Eurasia, and have found inspiration in views such as Mackinder's "Heartland" theory.<sup>6</sup> In the propagation of such Great Game myths, the Caucasus is ascribed a geopolitical significance quite at odds with its modest economic weight, its low and falling population, and its complex and many-sided array of crises and conflicts.

Before 11 September 2001, this was based largely on the energy potential of the Caspian region. The "struggle for oil" was the key feature in the idea of a "New Great Game" that failed to adequately distinguish between economic and political actors, private and state interests, geostrategy and markets. Since September 11, the main focus has deflected to the area of security policy. The Russian leadership under President Putin was initially willing to accept the deployment of Western, especially American, forces in Central Asia (Uzbekistan and Kyrgyzstan) in connection with Operation Enduring Freedom in Afghanistan, and was, to some extent, even able to interpret this as an improvement in the security situation in the post-Soviet sphere. However, Russia reacted with mistrust to the intensification of US military activities in Georgia and other parts of the South Caucasus, although the USA did not establish military bases there as it did in Central Asia, but rather provided large-scale military aid in the form of training and equipment programmes. Since Saakashvili's assumption of power in November 2003, the South Caucasus has been perceived even more strongly as an international political flashpoint of the post-Soviet area. During the months immediately following the "Rose Revolution", assessments of Russian-Georgian relations and Russian-Western relations on the issue of Georgia ranged from talk of a "new Cold War" to a thaw in relations. For a short while, the new govern-

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6 Cf. Igor Torbakov, Reexamining Old Concepts About the Caucasus and Central Asia, in: *Eurasia Insight*, 4 February 2004.

ment in Tbilisi described its relations with the “large neighbour to the north” as fundamentally improved and relaxed. This was largely the result of Moscow’s constructive mediation efforts during the resignation of Eduard Shevardnadze and the Ajarian leader, Aslan Abashidze. Nevertheless, in summer 2004, as the conflict between the new Georgian government and the separatist region of South Ossetia escalated, Tbilisi was forced to recognize that Moscow had not fundamentally changed its values with regard to post-Soviet secession conflicts. Relations between Tbilisi and Moscow grew more and more strained. Noting the increasing international awareness of events in Georgia, experts have claimed that “A bitter rivalry is going on at Russia’s southern frontiers.”<sup>7</sup> However, this rivalry is only partly concerned with economic interests in the Caspian region.

In the first decade of the post-Soviet era, no other region developed as contradictory or complex a network of foreign policy and security relations as the South Caucasus. Anti- and pro-Russian, anti- and pro-Turkish and anti- and pro-Iranian views clashed, and the various parties in the region’s conflicts looked for external support. Thus, the balance of power came to dominate instead of a regional security system. Armenia’s foreign and security policy, which is based on extremely close strategic and military relations to Russia, was thus starkly opposed to those of Georgia and Azerbaijan, whose orientation to their Western partners in matters of security was considered a provocation by Moscow. In this way, some people even began to speak of rival geostrategic axes: an east-west Baku-Tbilisi-Ankara-Washington axis and a north-south Moscow-Yerevan-Teheran axis.

Of course, the alignment of the various actors is not as clear-cut as this talk of “axes” suggests. Armenia is not entirely focused on Russia. It describes its foreign policy as “complementary” and is also oriented towards Euro-Atlantic structures, even if, as the region’s smallest country, it clearly favours Russia overall. In a survey of academics and public figures carried out by the Armenian Center for National and International Studies in 2004, a majority of respondents were in favour of Armenia joining NATO.<sup>8</sup> On the other “axis”, Azerbaijan has generally been treated as a representative of a pro-Western position, looking for security allies in Washington and Ankara. The foreign policy of Azerbaijan’s late President Heydar Aliiev, however, was characterized by balance between a pro-Western orientation and a pragmatic relationship with Russia – a policy that his son has continued to pursue. In Georgia, the new government that came to power in the “Rose Revolution” and initially appeared to be ultra-Western in orientation had to recognize that a non-violent solution to the most significant domestic problem, namely the restoration of territorial integrity, could not be achieved without the involvement of Moscow.

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7 Igor Torbakov, Russia mulls strategy to stall NATO’s push into post-Soviet Eurasia, in: *Eurasia Daily Monitor* 45/2004, 6 July 2004.

8 Quoted in: *Frankfurter Allgemeine Zeitung*, 8 July, 2004, p. 34.

“Frozen” regional conflicts, which have not yet proved amenable to political solutions, provide entry points for outside intervention. Russia is most commonly associated with this kind of intervention. It remains the most influential external power in the region with a range of political, military, and economic means of affecting conflict zones. With respect to conflicts of secession, Russia has tended to play a questionable role as simultaneously manipulator, beneficiary and mediator, holding several positions at once within mediation structures such as the Joint Control Commission on the resolution of the South Ossetia conflict. Although Russia is itself involved in a war of secession (in Chechnya), it maintains close relations with the post-Soviet secessionist regimes in Transdnistria, Abkhazia, and South Ossetia, provides inhabitants of these regions with Russian passports, actively pursues political, economic, and even military relations with the leaderships of separatist regions, and helped the secessionist regimes to establish contacts and networks of mutual political support. With these actions, Moscow arouses the suspicion that it is undermining the territorial sovereignty of Moldova, Georgia and Azerbaijan. The historically dominant power in the Caspian region retains a particularly strong presence in the South Caucasus and continues to pursue its old methods of divide and conquer. Moscow still has a strong military presence in the region in breach of international agreements. The 8,000-strong “Group of Russian Forces in Transcaucasia” (GRVZ) is stationed at two bases in Georgia (the 12th Military Base in Batumi and the 62nd Military Base in Akhalkalaki). In Armenia, there are some 3,000 Russian soldiers at the military base in Gyumri. In 2000, Yerevan signed an agreement that allowed Russian troops to remain stationed in Armenia until 2025.<sup>9</sup> There are also CIS-mandated Russian “peacekeeping troops” in the conflict zones in Abkhazia and South Ossetia.

From the Russian perspective, American military personnel are implicated in Georgia’s regional conflicts as a result of their work to modernize the miserably equipped Georgian army – or at least parts of it – thus boosting Georgia’s capability to resolve the conflict by military means. Azerbaijan has received training and advice in establishing a national army from Turkey, while Azerbaijan’s rival, Armenia, has received massive military support from Russia.

### *Oil and Conflict*

The political and economic context of the unresolved regional conflicts in the Caucasus is automatically sought in the notion of the “Great Game”, i.e. in the competition between Russia, the USA, and the regional powers Turkey

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9 Cf. Svante Cornell/Roger McDermott/William O’Malley/Vladimir Socor/S. Frederick Starr, *Regional Security in the South Caucasus: The Role of Nato*, Central Asia-Caucasus Institute, John Hopkins University 2004, pp. 34-37.

and Iran over economic and strategic influence in the Caspian region.<sup>10</sup> There is no way of keeping oil and gas interests out of analyses of these regional conflicts, given that one of the conflict parties, namely Azerbaijan, is also one of the main producers. This is the connection between potential earnings from energy exports and the conflict in Nagorno-Karabakh: The promise of future billions in revenue from the BTC pipeline could tip the balance of power between Armenia and Azerbaijan in favour of the oil-producing country, thus making it possible that the material superiority of one of the parties leads to the resolution of the conflict. Oil also plays a role in the case of Georgia, although that country has no reserves of its own and suffers from extreme energy shortages. The strong support of the USA for the new regime in Tbilisi reflects America's interest in Georgia's function as a transit corridor for future energy resources produced in the Caspian region. However, the characterization of Western interests as exclusively concerned with the security of the BTC pipeline – an accusation often made in commentaries on American policy in the Caucasus – is one of the common geopolitical simplifications often applied to the region. American interests in Georgia are far more complex and are closely related to the significance that fragile states have assumed in US security doctrine following 11 September 2001. Of all the states in the former Soviet Union, Georgia was the prime example of fragile statehood at the start of the 21st century.

Were the wars of secession in the South Caucasus in the early 1990s “wars for oil”? From a historical point of view, it is hardly possible to characterize them as such. There is no recognizable link between oil and the outbreak and escalation of the conflicts over Nagorno-Karabakh and the autonomous regions of Georgia. The Nagorno-Karabakh conflict – the oldest and most internationalized in the region – began to develop in 1987 – long before the international Caspian energy boom. Moreover, all the recent conflicts have their roots, if not in the earliest history of the region and inter-ethnic relations in this multiethnic region, at least as far back as the Soviet and pre-Soviet periods.<sup>11</sup> The decisive context that enabled these conflicts to break out is found elsewhere: in Perestroika and Glasnost and the subsequent erosion of Soviet hegemony over the non-Russian periphery of the Soviet Union. This gave impetus to and provided opportunities for ethno-political mobilization on the part of Armenians, Azerbaijanis, Georgians, Ossetians, and Abkhazians. Economic motives are far less important here than cultural, ethno-political and territorial issues.<sup>12</sup> The war between Russia and Chechnya was the first of the post-Soviet conflicts to occur after there was international awareness of the Caspian region's energy potential, which led to the propagation of economic explanations of the conflict.

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10 Cf. Vicken Cheterian, *Dialectics of Ethnic Conflicts and Oil Projects in the Caucasus*, PSIS Occasional Paper 1/1997.

11 On the genesis of the post-Soviet wars of secession, see especially: Stuart Kaufmann, *Modern Hatreds. The Symbolic Politics of Ethnic War*, Ithaca/London 2001.

12 Cf. *ibid.*, p. 100.

Was oil the cause of the bloodiest post-Soviet conflict? When war broke out between Moscow and Grozny, annual oil production in Chechnya was slightly less than one per cent of Russia's total output. A pipeline from Baku to the Russian Black Sea port of Novorossiysk – prior to the BTC, the main route for the transport of Caspian oil through the Caucasus – traversed Chechnya, as did other transport routes, but was bypassed by means of an alternative route through Dagestan. The loss of the separatist republic would hardly have touched Russia's oil industry.

Nevertheless, oil does play a role in the Chechen tragedy – but less in relation to a “Great Game” governed by the oil interests of external powers than as part of the local economy of war and violence. Revenue from illegal oil sales is even more important than other sources of income, such as trafficking in human beings and illicit weapon sales; it links various actors in the Chechen war in a network of illegal business, and upholds their interest in the reign of violence and anarchy. Today, that devastated country contains hundreds of tiny, primitive oil-extraction companies. The oil is distilled to produce petrol and kerosene, and this is distributed by road and sold in the North Caucasus and Russia. The Russian military has a hand in this trade. Entire military units are involved, letting columns of petrol tankers through checkpoints at which everyone else is stopped and plundered.<sup>13</sup> A Russian expert on Chechnya concluded in 2001 that “the [...] shady oil business [...] that brought together the military and the Chechen militants has changed the situation in Chechnya. The Russian military [...] want the war to go on.”<sup>14</sup>

The regional conflicts in the South Caucasus are also characterized by local economies of violence. Centres of smuggling and entire economic zones dominated by criminality are flourishing around the frozen secession conflicts, with their demarcation lines and trade embargoes. The smuggling of oil products played a role in the political economy of the secession conflicts between Georgia and its separatist regions. For example, South Ossetia was, until recently, a major transshipment centre for contraband petrol. Any serious attempt by the new Georgian government to combat smuggling and illegal economic activities will inevitably lead to the borders of the separatist regions. It is thus not possible to completely separate the restoration of statehood in the Georgian heartland from the task of restoring the separatist regions to central control.

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13 On this, see: Mainat Abdulajewa, Goldgrube Tscheschenien [Chechen Goldmine], in: *Süddeutsche Zeitung*, 21 June 2004.

14 Sanobar Shermatova, The Oil Factor in the Chechen Conflict, in: *Central Asia and the Caucasus* 5/2001, pp. 71-77, here: p. 76.



With its fragmented appearance, the Caucasus – both North and South – stands out among all the regions of the post-Soviet area. This state of affairs blocks two of the main options for regional development: First, as the Caucasus is a labyrinth of conflicts, it cannot play the role often attributed to it as a transit corridor between Asia and Europe; second, under these conditions, the essential work of regional co-operation cannot take place. However, all three South Caucasian states – including oil-rich Azerbaijan – are too weak to achieve sustainable autonomy. In the late 1990s, their collective gross national product was less than that of Germany's smallest state: the City of Bremen.

However, barriers to economic development are not the biggest problem. Much more serious are the region's grave security deficits – both national and regional. Thomas de Waal described this in the following way:

Currently the security system [in the Caucasus] reminds me of a house after a moderately bad earthquake. Walls have moved and some floors have fallen in. The owners do not have the money to restore it properly, but they have managed to make it more or less habitable again and they carry on living there. But to an outsider it is obvious that the home is damaged and dangerous – and with another earthquake the whole structure could collapse again.

To make the house properly habitable and respectable again will take repair work on the whole structure, not just some parts of it [...] That repair job is the task not only of the societies of the South Caucasus itself, but of all concerned outsiders who care about the future of this region.<sup>15</sup>

Not the least important of these outsiders is Europe, which is far more directly affected than the USA by both the developing Caspian energy markets and the regional security risks of the South Caucasus. Europe, in the form of the EU, has still produced no binding strategy document on the region – something it has achieved with respect to other regions of the former Soviet Union, such as Central Asia. If the West is perceived as having a strategic position in the region then this is the result of US security policy. NATO is also becoming increasingly involved in the Caucasus. In contrast, the Americans see the EU as “the great absentee from the economic, political and security affairs of this region”<sup>16</sup>. This perception was not essentially changed in 2003 by the EU's appointment of the Finnish diplomat Heikki Talvitie as its

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15 Thomas de Waal, *(In)security in the Caucasus*, at: <http://www.reliefweb.int/w/rwb.nsf/0/f4222934efd3f20cc1256c5d0040a267?OpenDocument>.

16 Vladimir Socor, *Nato Prospects in the South Caucasus*, IASPS Policy Briefings: Geostrategic Perspectives on Eurasia 61/2004.

special representative for the South Caucasus. Although Europe is one of the most generous donors to the economically weak Caucasus region and invested over one billion euros in regional development projects between 1992 and 2002, in strategic matters, its profile in the region is extremely low. The EU has only recently begun to consider strengthening its involvement in the international processes dealing with the unresolved regional conflicts in the South Caucasus. Previously, the EU had willingly left this work to other actors, such as the OSCE, which has been involved in mediating these conflicts – the Nagorno-Karabakh conflict in particular – since 1992 without reaching a political solution.

There are various reasons for the EU's reluctance to become involved. One is the exaggerated perception of a "Great Game" and the overloading of the Caucasus region and its conflicts with geopolitical significance. This had a deterrent effect on Europe, which did not want to get involved in a geopolitical power struggle. As a result, it was encouraged to use the other historical concept to refer to the region: the Silk Road. A decade ago, Europe initiated the TRACECA (Transport Corridor Europe Caucasus Asia) and INOGATE (Interstate Oil and Gas Transport to Europe) projects, which aim at integrating the Caucasian and Caspian regions into wider transportation networks. Today, both projects are virtually unknown to the European public. Although Europe is likely to be the main consumer of Caspian oil and gas and European companies are actively involved in developing the infrastructure that will enable the exploitation of Caspian resources, the EU did not actively pursue the routing of pipelines to Europe. In fact, the Caucasus has so far been of relatively marginal economic importance to Europe, and the region's security problems did not affect Europe's security situation as directly as the conflicts in the Balkans. Nevertheless, the Caucasus is a region in Europe's neighbourhood that urgently requires international stabilization.

In March 2003, the South Caucasus merited only a footnote in the European Commission's "Wider Europe – Neighbourhood" document and was excluded from the concept of "Wider Europe". Finally, it was the new political situation in Georgia that acted as a catalyst for the intensification of European policy towards the region. In 2004, the EU at last resolved to include the three states of the South Caucasus in its neighbourhood concept. The EU has since sent a special rule-of-law mission to Georgia (EUJUST THEMIS), which aims to improve the judicial system and criminal law in a country where corruption in these areas has been seen as endemic. In June 2004, a donor conference organized jointly by the European Commission and the World Bank and attended by representatives of 31 countries and twelve international organizations promised Georgia 850 million euros of financial aid for the period between 2004 and 2006 to support public finances, fight poverty, rebuild infrastructure, and perform other urgent tasks. In recent months, the new Georgian government has made public the full scale of the "bad governance" that had previously been the rule and has called for exter-

nal actors to become involved in pursuing “better governance”. International efforts to promote better governance in the Caspian region would be a good goal for a new “Great Game” in the region. The change of regime in Georgia should provide the impetus for political co-operation between the USA, Europe, and Russia with regard to a region where it should certainly be possible to recognize shared interests in crisis and conflict reduction as well as rivalries. The South Ossetian crisis of summer 2004 revealed the urgent necessity of this once again, while simultaneously deepening existing divisions.



The Human Dimension and  
Democratic Development



## Contradictory Principles in the Helsinki Final Act?<sup>1</sup>

### *The Right of Peoples to Self-Determination versus the Territorial Integrity of States*

In the spring of 2004, following five years of relative peace, severe unrest returned to Kosovo. Nineteen people were killed and 900 were injured. Orthodox churches and Serbian houses went up in flames. Within two days, as many people were displaced as had returned to their original homes during the whole of 2003. Serbs turned to UNMIK for protection, frequently placing UNMIK personnel between the two fronts and exposing them to angry crowds. The unexpected eruption of violence was triggered by the violent deaths – allegedly at Serbian hands – of two ethnically Albanian children. But this was merely a pretext.<sup>2</sup> The real cause of the disturbances is the unresolved status of Kosovo. While the majority population of ethnically Albanian Kosovars aspires to the creation of an independent state, the Serbian minority and the international community have so far rejected this categorically, insisting that Kosovo remains a province of Serbia – even if Belgrade fails to exercise any practical sovereignty.<sup>3</sup>

The parties to the conflict and the international community all justify their contradictory positions in terms of the Helsinki Final Act of 1975 – a document of fundamental importance for the European peace regime. Indeed, they do so with reference to the document's catalogue of principles.<sup>4</sup> Ethnically Albanian Kosovars appeal to Principle VIII, which proclaims the equality in rights and right of self-determination of peoples. According to this principle, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference". The Serbs (and the international community) oppose the principle of self-determination – whose acceptance as a norm is evident in the successful transformation of scores of former colonies into sovereign

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2 Cf. the BBC's analysis at <http://news.bbc.co.uk/1/hi/world/europe/3523884.stm>; or the coverage of the German magazine *Der Spiegel* 19/2004, pp. 24ff.

3 Cf. Michael Bothe/Thilo Marauhn, UN Administration of Kosovo and East Timor: Concept, Legality and Limitations of Security Council-Mandated Trusteeship Administration in: Christian Tomuschat (ed.), *Kosovo and the International Community*, The Hague 2002, pp. 217ff.

4 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 141-217.

states – by appealing to Principle IV of the same document, which calls for states to refrain from acting “against the territorial integrity, political independence or the unity of any participating State”.

One could, of course, argue that the Serbs have forfeited their right to appeal to Principle IV as a result of their oppressive policies towards the Kosovo Albanians. Such a point of view is not so far fetched; after all, NATO disregarded any consideration of the territorial integrity of the former Federal Republic of Yugoslavia in 1999, appealing to the supposed legal instrument of “humanitarian intervention”.<sup>5</sup> At first glance, NATO may appear to have helped to achieve a breakthrough for the right of self-determination of the Kosovo Albanians, thereby elevating this principle above that of territorial integrity. Such an interpretation, however, does not withstand closer scrutiny. The goal of the still controversial humanitarian intervention was to end the violation of human rights in Kosovo – not to establish a new status for the province.<sup>6</sup> UN Security Council Resolution 1244, adopted on 10 June 1999, after the end of the war, explicitly underlines “the sovereignty and territorial integrity of the Federal Republic of Yugoslavia” while demanding that Kosovo be granted “substantial autonomy and meaningful self-administration”. Hence, the war did not serve to bring about any change in territorial status. Consequently, Resolution 1244 was used to establish a complicated “trusteeship administration”, which includes the OSCE.<sup>7</sup> The overall course of events initially appears contradictory. It starts to become comprehensible, however, if one considers the background in terms of international law.

*The Codification of Territorial Integrity and the Right of Self-Determination by the CSCE/OSCE*

The principle of territorial integrity as included in the Helsinki Final Act is derived from the principle of sovereignty. The latter remains – irrespective of well-intentioned but, in the last instance, illusory proclamations of a world state – the essential foundation of universal international law and, as a consequence, is established in both the UN Charter and the CSCE Final Act (Principle I).<sup>8</sup> The protection of state territory is clearly included within this principle and does not, therefore, need to be mentioned explicitly. When, in 1975, the CSCE States nevertheless decided to highlight territorial integrity and the

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5 Cf. Michael Köhler, Zur völkerrechtlichen Frage der „humanitären Intervention“ [On the Question of “Humanitarian Intervention” in International Law], in: Gerhard Beestermöller (ed.), *Die humanitäre Intervention – Imperativ der Menschenrechtsidee?* [Humanitarian Intervention – Imperative of the Human Rights Concept?], Stuttgart 2003, pp. 75ff.

6 Cf. Thorsten Stein, Welche Lehren sind aus dem Eingriff der NATO im Kosovo zu ziehen? [What Lessons Can Be Learned from the NATO Attacks in Kosovo?], in: *Rechtsstaat in der Bewährung*, Vol. 36, Heidelberg 2002, pp. 21ff.

7 Cf. OSCE, *Permanent Council, Decision No. 305*, PC.DEC/305 from 1 July 1999.

8 To stress the equality of participating States, the CSCE Final Act uses the term “the sovereign equality of all states”.



inviolability of state frontiers in the Final Act by making them separate principles (IV and III), this was a result of Europe's particular situation: on the one hand, the fact that Europe simply has more borders than any other continent, but also because the redrawing of borders following the Second World War had left many unanswered questions with respect to Germany's eastern frontier. This led Poland and the Soviet Union, in particular, to press for the explicit codification of the principle of territorial integrity as a way of achieving recognition of their post-War territorial possessions. The expression "codification" has been chosen deliberately to highlight that there is something static about international law oriented on sovereignty. This follows from the fact that states themselves are the originators of international law and that their first priority in its codification is to secure their own existence.

In contrast, the right of self-determination of peoples is by nature dynamic, which is why it can appear as an "antinomy" within the corpus of international legal norms.<sup>9</sup> In the last instance, this right empowers peoples – who are non-state actors – to create facts on the ground that have an impact at the level of international law. In practical terms, this means they have the right to freely decide on their political status, which finally also entails the possibility of creating their own state, thereby elevating themselves to the status of subjects of international law. As a result, it is no surprise that this right has established itself very slowly. It originates with US President Woodrow Wilson,<sup>10</sup> whose 14 Points formed the basis of the international system in 1918 following the end of the First World War and sought to enable each of the peoples trapped within the three great European empires (the Austro-Hungarian, Ottoman and Russian empires) to establish an independent state. It proved impossible to realize this in practice, which led to the creation of a number of artificial states (such as Czechoslovakia and Yugoslavia) that did not respect the right of self-determination of their constituent peoples. Nevertheless, Wilson's 14 Points succeeded in introducing the idea of self-determination into international politics, which led to it being included in the Charter of the United Nations in 1945. The authors of the UN Charter, however – made cautious by the experience of state-building efforts after 1918 – resorted to correspondingly vague formulations. The Charter merely asserts that the UN supports the principle of self-determination. The principle was first given legal recognition on the basis of customary law during decolonization. The legal character of self-determination was confirmed in the UN Human Rights Covenants of 1966, which guaranteed this right to all

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9 Cf. Felix Ermacora, *Die Selbstbestimmungs idee* [The Idea of Self Determination], Vienna 1974, p. 21.

10 "We believe that every people has the right to choose the sovereignty under which it shall live [...]", 1916 Democratic Party Program, p. 3, at: <http://federalistpatriot.us/histdocs/platforms/democratic/dem.916.html>.

peoples.<sup>11</sup> The adoption of Principle VIII of the CSCE Final Act of 1975 did not, therefore, establish a new right. However, the right took on an entirely new significance in Europe in the era of *détente*: If the Eastern Bloc had hoped that the principle of territorial integrity would create a permanently static – or stagnant – situation, the West placed its faith in the dynamic power of the right of self-determination – exemplified by Egon Bahr’s formula “change through rapprochement”. The collapse of the communist regimes clearly demonstrated the power of the “will of the people”, and redrew the political map of the world in the process.<sup>12</sup> However, given the number of ethno-political conflicts that currently exist – from Kosovo via Chechnya to the Basque Country – one is entitled to ask whether the international community should not be compared to the Sorcerer’s Apprentice, who is unable to control the forces he has unleashed. In view of all this, how should one evaluate the current relationship between territorial integrity and the right of self-determination in the OSCE area?

### *Contradictory Norms in Practice: The Superiority of Territorial Integrity?*

The application of the principle of territorial integrity in Europe poses no fundamental problems, as the extent of each state’s territory is known. Where differences of opinion do arise, they are generally dealt with using procedures for the peaceful settlement of disputes, as evinced by the numerous relevant decisions of the International Court of Justice (ICJ).

Applying the norm of self-determination is more complicated, as there is no definition of what constitutes “a people” under international law. It is, therefore, not entirely clear who the bearer of this right is, and, in attempting to answer this question, it can be especially difficult to distinguish clearly between the concepts of “a people” and a “an ethnic minority”. Are the Kurds, for example, a people or a minority? While anthropologists may be able to answer this question, their views have no relevance for international law. In the absence of a definition of the concept of “a people”, international law has to make do with an *ad hoc* solution. It treats groups as peoples when they are considered to be peoples by the nation states within which they live (states which thus see themselves as multi-ethnic).<sup>13</sup> The Soviet Union and Yugoslavia were states of this kind and described themselves as such in their constitutions as federal multinational states. Thus, the peoples of the Soviet Union and Yugoslavia had their own states, which were said to have “freely”

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11 Article 1 of each of the covenants, cf. *International Covenant on Civil and Political Rights* of 19 December 1966 (UNTS Vol. 993 p. 171) and *International Covenant on Economic, Social and Cultural Rights* of 19 December 1966 (UNTS Vol. 993, p. 3).

12 Cf. Bloed (ed.), cited above (Note 4), pp. 45ff.

13 Cf. Bertrand G. Ramcharan, Individual, collective and group rights: History, theory, practice and contemporary evolution, in: *International Journal of Group Rights* 1 (1993), p. 37.

chosen to unite into a larger entity on the basis of their shared socialist ideologies. This formula made it possible for the republics of the former Soviet Union and Yugoslavia to appeal, when declaring their independence, both to their respective countries' federal constitutions and to the right of self-determination of peoples, and to have these appeals accepted by the international community.<sup>14</sup>

Minorities, by contrast, have no right of self-determination, but merely a right to the preservation of their identity. What this entails in practice must be determined in detail in each individual case, leading to different results each time. However, the right to "identity" never includes the right to state-creation. This is why the international community, embodied in the OSCE, grants no such right to either Kosovars or Chechens. Consequently, official documents do not criticise Belgrade's and Moscow's demands for the retention of Kosovo and Chechnya, but only the infringements of international law that have occurred in the application of force against these ethnic groups and the massive violation of their human and minority rights.<sup>15</sup>

A further difficulty in applying the right of self-determination of peoples must be taken into account: Even where a people can make an undisputed claim to their right to establish a state on the basis of self-determination, the norm of territorial integrity must still be taken into consideration. A look at the policy that has generally been followed by the international community demonstrates this. During decolonization, the concept of a people was always applied territorially and never ethnically: The new states were obliged to respect the state boundaries created by the colonial powers, even though these frequently divided ethnic groups and were largely arbitrary. This obligation accorded with the legal principle of *uti possidetis*.<sup>16</sup> Its application was justified by the Organisation of African Unity (OAU) with the argument that not following the principle would have led to an endless procession of border readjustments, bringing considerable instability to the continent. Admittedly, applying the principle of *uti possidetis* led to numerous bloody ethnic conflicts, in which demands for self-determination were repeatedly heard. All these claims, however, were dismissed by the international community.<sup>17</sup>

New heights were reached in the application of *uti possidetis* following the collapse of the Soviet Union and Yugoslavia. The international community and the OSCE insisted with great consistency that the boundaries of the constituent republics of the federations should become international borders. A particularly noteworthy example is provided by Bosnia and Herzegovina,

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14 Cf. Peter Radan, *The Break-up of Yugoslavia and International Law*. London 2003, pp. 160ff.

15 The reaction of the OSCE and the Council of Europe to the Conflict in Chechnya is exemplary; cf. Joint Assessment Mission, *Referendum in the Chechen Republic*, Russian Federation, 23 March 2003.

16 Steven R. Ratner, Drawing a Better Line: Uti Possidetis and the Borders of New States, in: *American Journal of International Law* 90 (1996), pp. 590ff.

17 Cf. Knut Ipsen, *Völkerrecht* [International Law], 5th edition, Munich 2004, para. 29, margin number 3.

where the creation of the Republika Srpska and the Bosnian-Croatian Federation represents a highly idiosyncratic and complex constitutional construct,<sup>18</sup> whose main aim is to preserve the external borders of the former Yugoslav republic in order to counteract all efforts to create “ethnically pure” states in the Balkans. Kosovo is also an interesting example. As it was not a republic of the former Yugoslavia but merely had the status of an autonomous province of Serbia, the international community does not accept demands for the creation of an independent Kosovar state. Individual experts that argue in favour of granting the Kosovars the right of self-determination of peoples find little support.<sup>19</sup> The international community was equally consistent with regard to the successor states of the Soviet Union, even to the extent of establishing the Kaliningrad region as an exclave of the Russian Federation. This strong focus on the territorial aspect of the right of self-determination appears to subordinate the “will of the people” to the principle of territorial integrity, something that has provoked the Swiss philosopher Jörg Fisch to adapt a well-known expression of Marx’s: “The Right of Self-Determination – Opium for the Peoples”<sup>20</sup> If one considers the policy generally followed by the international community during the last fifty years, one has to ask oneself whether the static principle does not in fact preponderate in international law.

This question can with good conscience be answered in the negative. Modern international law has had to abandon its inflexible emphasis on sovereignty under pressure from the imperative to protect human rights. The activities of the OSCE also demonstrate that territorial integrity and the right of self-determination are perfectly compatible.

#### *The Balanced Co-Existence of Territorial Integrity and the Right of Self-Determination*

It makes no sense to construct an absolute opposition between the two principles by viewing them in isolation. It is far more important to see the various individual norms under international law and the ten principles of the CSCE’s Helsinki Final Act in an overall context. This means taking account

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18 Cf. S. Savic, Die Staatsorganisation von Bosnien-Herzegowina [The Constitutional Organization of Bosnia-Herzegovina], in: Wolfgang Graf Vitzthum/Ingo Winkelmann (eds), *Bosnien-Herzegowina im Horizont Europas [Bosnia-Herzegovina in the Context of Europe]*, Berlin 2003, pp. 17ff.

19 For example, Gerd Seidel, A New Dimension of the Right of Self-Determination in Kosovo? in: Tomuschat (ed.), cited above (Note 3), p. 203ff., was sharply contradicted by Christian Tomuschat, *ibid.*, p. 335. Michael Redman, Should Kosovo Be Entitled to Statehood? in: *The Political Quarterly* 2002, pp. 338ff., resorts to new understandings of statehood in order to find a solution for Kosovo.

20 Jörg Fisch, Das Selbstbestimmungsrecht – Opium für die Völker [The Right of Self-Determination – Opium for the Peoples], in: Erich Reiter (ed.), *Grenzen des Selbstbestimmungsrechts [Limits of Self-Determination]*, Graz 1996, pp. 19ff.

of the other eight principles of the Final Act as well as other international legal agreements entered into by OSCE States.

The start of any analysis is the characterization of the OSCE as a community of values, foremost among which are the commitment to human rights and the rule of law. This is also how the principle of the right of self-determination of peoples as laid down in detail in the Helsinki Final Act should be understood. Although this is not explicitly mentioned, the right consists of an *internal* and an *external* aspect. Only in its external aspect is there tension between the right of self-determination of peoples and state sovereignty. It would, however, be wrong to therefore place in doubt the right of self-determination as a whole, as Benjamin Ferencz appears to do. He accurately describes the right of self-determination as “a noble concept that fires many hearts” but goes on to qualify this as follows: “yet to give it full reign would bring it into conflict with the equally hallowed doctrine protecting territorial integrity of states. Almost all countries have large cultural, religious or ethnic minorities [...] If they were all to assert a right of self-determination, no national boundary would be secure and the prevailing anarchy in international affairs would be further aggravated.”<sup>21</sup>

It is precisely for this reason that the right to internal self-determination is becoming more important in practice. This aspect of the right of peoples to self-determination concerns the relationship between a people and its own government and entitles this people to shape the political system under which they live. As the right of self-determination is not exhausted in a single act of state-creation, it exists permanently as a collective human right invested in the population of a state.<sup>22</sup> The right to internal self-determination thus contains a *democratic* element, in that it authorizes peoples to play an active role – as free and equal partners – in determining the affairs of the community in which they live. Moreover, the common origin of human rights and democracy means that self-determination is a prerequisite to any comprehensive realization of human rights.

The democratic turn in international law that arises from the concern with internal self-determination overcomes the traditional neutrality of international law with respect to the various forms of state. The UN Charter, for instance, demands only that the member states be peace-loving, but not that they adopt a democratic political system. The acceptance of undemocratic regimes by international law was again underlined by the ICJ in its 1986 ruling *Nicaragua v. United States of America*.<sup>23</sup>

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21 Benjamin B. Ferencz, *A Common Sense Guide to World Peace*, New York 1985, p. 45.

22 Cf. Allan Rosas, Internal Self-Determination, in: Christian Tomuschat (ed.), *Modern Law of Self-Determination*, Dordrecht 1993, p. 227.

23 “However the regime in Nicaragua be defined, adherence by a State to any particular doctrine does not constitute a violation of customary international law; to hold otherwise would make nonsense of the fundamental principle of State sovereignty, on which the whole of international law rests, and the freedom of choice of the political, social, economic and cultural system of a State”, in: *International Court of Justice: Reports*, The Hague 1986, p. 133.

In Europe, at least, the legal situation has changed fundamentally since then. With the end of the Cold War, the CSCE assembled, in the Copenhagen Document of 29 June 1990,<sup>24</sup> an extensive catalogue of criteria for determining if a given political system is democratic and obliged participating States to uphold them. These commitments were strengthened in the Charter of Paris for a New Europe of 21 November 1990.<sup>25</sup> “Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person. Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.”<sup>26</sup>

Although the Charter of Paris is not a treaty under international law, since it was signed, the democratic legitimation of governments has been seen as a “normative rule of the international system”<sup>27</sup> and has found its way into political practice. The EC, for example, made recognition of the states created from the collapse of the Soviet Union dependent upon their respecting the UN Charter, the CSCE Final Act and the Charter of Paris. In this way, the adoption of democratic constitutions became, to all intents and purposes, a precondition for the international recognition of the new states in Europe. This advance in the field of international law, which was initiated by the CSCE, had a global impact. In its Millennium Declaration of 1999, the UN General Assembly declared that the member states “[...] will spare no effort to promote democracy and strengthen the rule of law”.<sup>28</sup> They also reasserted their commitment to democratic procedures and “genuine participation by all citizens in all our countries”. For the UN, this was a clear step in the direction of value-orientation, which may also account for German Foreign Minister Fischer’s view that the “question of democracy [is] the central topic of the future”.<sup>29</sup> That the UN is doing more than paying lip service to democracy is demonstrated by the many practical measures it has taken in the name of promoting the *democratization* of states and post-conflict societies.<sup>30</sup>

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24 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Bloed (ed.), cited above (Note 4), pp. 439-465

25 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (ed.), cited above (Note 4), pp. 537-566.

26 Ibid., pp. 537-538.

27 Thomas M. Franck, The Emerging Right to Democratic Governance, in: *American Journal of International Law* 86 (1992), p. 46.

28 *Millennium Declaration of the United Nations*, adopted by the General Assembly at the conclusion of the Millennium Summit held in New York from 6-8 September 2000, at: <http://www.un.org/millennium/declaration/ares552e.htm>.

29 German Foreign Minister Fischer in: “Viertes Forum Globale Fragen” [Fourth Forum for Global Issues], Berlin 2000, p. 14 (author’s translation).

30 Cf. Samuel H. Barnes, The Contribution of Democracy to Rebuilding Postconflict Societies, in: *American Journal of International Law* 95 (2001), pp. 86ff.

Finally, of course, the democracy principle must be reflected in states' institutional structures. Arrangements involving the granting of autonomy, in particular, are frequently seen as a possible method of realizing the right of self-determination.<sup>31</sup> Autonomy, in international law, refers to regional self-government, which thus entails partial independence from the influence of the national or central government. The essence of autonomy is the granting of specific rights to a section of a state's population that possesses some features that distinguish it from the majority population. This group requires special protection and is interested in ensuring that the state and the majority have no influence over its traditions and specific way of life. The *de jure* and *de facto* degree of independence enjoyed in these matters may at the same time be considered the yardstick for measuring autonomy.<sup>32</sup> As a rule, decisions concerning the international status and the political unity of the state remain outside the sphere of competence of the organs of self-government, as do matters of foreign, defence, and monetary policy. There is no standard model of autonomy, but rather a variety of *ad hoc* arrangements. Consequently, autonomy must be considered a legal term without a precise definition – a concept that requires concrete determination whenever it is applied. Nevertheless, it is possible to generalize on the basis of the various examples of state practice. Considered in this light, autonomy is primarily an instrument for group protection under international law and is thus closely related to the rights of minorities and of peoples.<sup>33</sup>

Despite the general acceptance that there are positive aspects to arrangements involving autonomy, states are not prepared to consider autonomy as a generally applicable principle for the organization of the international order. It is therefore not possible to assume that groups or minorities possess a legal right to autonomy. In 1993, this led to an acute disagreement between Russia and the Ukraine over the self-administration of the Crimea – one that was only settled through the mediation of the OSCE.<sup>34</sup> Slovakia's withholding of ratification of its Treaty on Good Neighbourly Relations and Friendly Co-operation with Hungary also shows that there is no legal right to autonomy. The Treaty assumed the contrary inasmuch as it contained a reference to the legally binding nature of Recommendation 1201 of the Parliamentary Assembly of the Council of Europe. Article 11 of Recommendation

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31 Cf. Gnanapala Welhengama, The Legitimacy of Minorities' Claim for Autonomy through the Right of Self-Determination, in: *Nordic Journal of International Law* 60 (1999), p. 413.

32 Cf. Hurst Hannum/Richard B. Lillich, The Concept of Autonomy in International Law, in: *American Journal of International Law* 74 (1980), p. 860.

33 Cf. Javaid Rehman, The Concept of Autonomy and Minority Rights in Europe, in: Peter Cumper/Steven Wheatley (eds), *Minority Rights in the "New" Europe*, The Hague 1999, p. 227.

34 Cf. John Packer, Autonomy Within the OSCE: The Case of Crimea, in: Markku Suksi (ed.), *Autonomy: Applications and Implications*, The Hague 1998, p. 295.

1201 established a “right to have at their disposal appropriate local or autonomous authorities or to have a special status”.<sup>35</sup> Slovakia rejected this reference to autonomy and delayed ratification as a consequence. The conflict was resolved by means of an interpretative declaration on Article 11, the incident as a whole making clear that the topic of autonomy can still cause feelings to run high. No doubt even in the Council of Europe itself, “some member states remain very sensitive in questions of autonomy – no matter what form it takes”.<sup>36</sup> This is even more clearly the case in other regions, where there is not such a highly developed system for the safeguarding of human rights.

It is obvious why some governments reject arrangements involving autonomy. The delegation of state authority to institutions of self-government representing minorities or peoples is seen as a first step along the road to secession. That is most clearly the case with respect to *territorial autonomy*, whereby a region is granted a special status. However, depending on local conditions, virtually the only way to integrate in the political process a group that exists within a circumscribed geographical area and has a historically defined group consciousness is via a policy of regionalization and the decentralization of state institutions.<sup>37</sup>

It is very hard to separate the positive aspects of autonomy from those that are conceived as potentially dangerous. It was thus necessary for organizations committed to democracy, the rule of law, and human rights to reassure states that had reservations concerning autonomy. Once more, the OSCE was in the vanguard. It made the most significant contribution towards ensuring the acceptance of arrangements involving autonomy as a potential solution to the contradiction between Principles IV and VIII of the Helsinki Final Act. It is particularly notable that, in 1998, the OSCE High Commissioner on National Minorities charged an international expert committee with examining possible means for the effective participation of national minorities in public life. The result, 1999’s Lund Recommendations on the Effective Participation of National Minorities in Public Life, explicitly names autonomy arrangements as an instrument for the resolution of conflicts between groups.<sup>38</sup> No objections were raised when these recommendations were presented to the participating States, a signal that was broadly welcomed.

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35 Council of Europe, *Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights*, at: <http://assembly.coe.int/Documents/AdoptedText/TA93/EREC1201.HTM>

36 Heinrich Klebes, Rahmenübereinkommen des Europarats zum Schutz nationaler Minderheiten [The Council of Europe’s Framework Agreements for the Protection of National Minorities], in: *Europäische Grundrechte-Zeitschrift* 27 (1995), p. 266 (author’s translation).

37 Cf. Lauri Hannikainen, Self-Determination and Autonomy in International Law, in: Suksi, cited above (Note 34), p. 79.

38 Cf. Hans-Joachim Heintze, The Lund Recommendations on the Effective Participation of National Minorities in Public Life, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 257-270. The recommendations are likewise printed in: *ibid.*, pp. 445-469.



Autonomy arrangements naturally require a minimum of trust between the various population groups in any state. In the case of Kosovo, it has recently become clear once more that this condition has not been met. The winners of the elections to Kosovo's second Provisional Assembly, which were held on 24 October 2004, were the parties of the Kosovo Albanians, all of which support independence. The head of the UN Interim Administration (UNMIK), Sören Jessen-Petersen, praised the way the elections were held and spoke of "a successful test of political maturity",<sup>39</sup> on the basis of which discussions on Kosovo's future status may be held in 2005. Whatever form these talks take, they will first need to deal with the major contradictions and ambiguities of the mandate based on resolution 1244.<sup>40</sup> In the second place, they will need to take into account the responsibility for rehabilitation that is incumbent upon those who undertake humanitarian intervention<sup>41</sup> and, third, they will need to be based on the applicable international law. Taking all these factors into account, a solution must therefore be found that includes international guarantees of the province's autonomous status and the protection of human and minority rights. Following lengthy negotiations, similar guarantees were found for the autonomy arrangements in South Tyrol<sup>42</sup> and Åland,<sup>43</sup> for example. Ultimately, the international community must succeed in settling even the highly complex conflicts in the Balkans by this means. Independence for Kosovo will not remove the ongoing problems in relations between Serbs and Albanians. They will still be neighbours, and, as such, even if they cannot live *with* each other, they will need to live *next to* each other. However, good relations between neighbours are only possible on the basis of mutual acceptance and co-operation. Establishing a new state would not only breach the principle of *uti possidetis*, but would also have a significant destabilizing effect on other states – not only in the Balkans. There is therefore a need to look for alternative solutions. The OSCE, which has so often been responsible for unconventional initiatives that have brought new movement to deadlocked situations, will surely play a key role in the search for a solution to the conflict between self-determination and territorial integrity in the Balkans.

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39 Cited in: <http://www.unmikonline.org/press/2004/mon/oct/lmm241004.pdf>, 24 October 2004.

40 A concise overview of these was recently published by Alexandros Yannis: The UN as Government in Kosovo, in: *Global Governance* 1/2004, pp. 67ff.

41 Cf. Philipp A. Zygojannis, *Die Staatengemeinschaft und das Kosovo* [The International Community and Kosovo], Berlin 2003, pp. 125ff.

42 Cf. Karl Rainer, The Autonomous Province of Bozen/Bolzano – South Tyrol, in: Kinga Gal (ed.), *Minority Governance in Europe*, Budapest 2002, pp. 89ff.

43 Cf. Allan Rosas, The Åland Islands as a Demilitarised and Neutralised Zone, in: Lauri Hannikainen and Frank Horn (eds), *Autonomy and Demilitarisation in International Law: The Åland Islands in a Changing Europe*, The Hague 1997, pp. 23ff.



## Reconciling Europe and Islam in the OSCE's Euro-Asiatic Regions

### *Summary*

Currently prevailing anti-terrorist strategies are counterproductive in two ways: They overemphasize military intervention, and they strain relations with the Islamic world. This latter entails the risk of the much debated "clash of civilizations" becoming reality.

When it comes to Islam, Europe has to reassess its basic political strategy. Avoiding a confrontation between the civilizations of Eurasia is not enough for Europe; it needs to achieve co-operation and co-existence.

Europe must abandon its traditional conception of political Islam as a purely negative factor, a "problematic carrier of conflict", and a source of terrorism. The key to reaching this goal is to cultivate awareness that Eurasian stability can only be guaranteed via a common acceptance of the integrity of different cultures and civilizations. This should by no means be understood to entail the giving-up of principles, but rather as aiming towards forming relationships based on co-operation and co-existence. This is an area where Europe has considerable historical experience that remains valuable today.

In order to achieve co-operation and co-existence, it is necessary to approach Muslim dignitaries and politicians to try to gain them as partners in co-operative efforts to create stability and security in the OSCE region. The best opportunity to reach this objective lies in Central Asia with its unique mixture of a Soviet legacy and a Muslim past, present, and future. The key tasks consist in overcoming traditional stereotypes and a fixation on antagonism when conceptualizing relations between Islam and secularism and Islam and the West.

In December 2003, secular and Islamic politicians signed a document on confidence-building measures in the Tajik capital, Dushanbe. This is the preliminary result of an informal dialogue on two central questions: How can problems in relations between secular and Islamic politicians be prevented from coming to a head? And: How is it possible to manage the structural causes of conflict that could lead to a "clash of civilizations" on a Eurasian scale.

With regard to fundamental indices of development in Central Asia, what new challenges does the Islamic factor<sup>1</sup> pose for the project of establishing Europe as a zone of stability?

First: The participation of the Central Asian countries in the OSCE means that, politically, Europe stretches to the borders of China and Afghanistan. More than 40 Islamic peoples, comprising over 57 million individuals, live in the southern republics of the former Soviet Union. They are most concentrated in the Caucasian country of Azerbaijan and in the five states of Central Asia. The Russian Federation also has a sizeable Muslim population, estimated at between eleven and 22 million members of more than 40 ethnic groups and accounting for between eight and 15 per cent of Russia's total population. Russia's Muslim population is expected to rise to between 30 and 40 million in the next 30 years.<sup>2</sup>

More than 20 Islamic political organizations operate in this region.<sup>3</sup> The best organized and most politically active include the Party of the Islamic Revival of Tajikistan (PIRT), *Hizb ut-Tahrir* (which is banned in Germany), and the Islamic Movement of Uzbekistan (IMU, recently renamed the Islamic Movement of Turkestan), whose members have gone underground since the fall of the Taliban regime. New groups, operating illegally, are constantly being formed,<sup>4</sup> as the bomb attacks in Tashkent and Bukhara at the end of March 2004 show.

At the start of 2002, US Central Command reached an agreement with Tajikistan on demining the border to Afghanistan.<sup>5</sup> New bridges were built over the Pyanj, the river that marks the border between Tajikistan and Afghanistan. Road links to Iran and via Pakistan to the Arabian Sea are also planned. Afghanistan has been an OSCE partner for co-operation since the start of 2003. If Central Asia is a bridge between Europe and Asia, it is becoming increasingly passable in both directions. It is not yet possible to say what consequences this will have for the face of Islam in Central Asia and, beyond that, for Europe and the CIS area as a whole.

One thing is certain: Islam and the various peoples, elites, and powers that adhere to Islam are, and will remain, major cultural and political forces in the Euro-Asiatic area. Recognizing that Europe now has its own Euro-Asi-

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1 "Islamic factor" is used here in the special sense of the totality of factors related to Islam.  
2 Cf. Aleksei Malashenko, *Islamskoe vozroshdenie v sovremennoi Rossii*, Moscow 1998, pp. 7-8.  
3 Cf. Aleksei Malashenko, Islam i politika v gosudarstvakh Tsentralnoi Azii, in: *Tsentralnaya Aziya i Kavkaz*, 4/1999, p. 59.  
4 Cf. International Crisis Group, The IMU and the Hizb-ut-Tahrir: Implications of the Afghanistan Campaign, in: *Central Asia Briefing*, Osh/Brussels, 30 January 2002, p. 14, at: [http://www.crisisweb.org/library/documents/report\\_archive/A400538\\_30012002.pdf](http://www.crisisweb.org/library/documents/report_archive/A400538_30012002.pdf).  
5 Cf. isn-daily-news, *Security Watch*, 24 January 2002, isn-daily-news@sipo.gess.ethz.ch.

atic Orient and its own Euro-Asiatic Islam makes it necessary to acknowledge that dealing with Islam has become a matter of European security.<sup>6</sup>

*The Politicization of the "Islamic Factor" Is Inevitable.*

This politicization is brought about by structural development processes, linked, in the first instance, to the fact that state- and nation-building in Central Asia are far from complete, as well as to the hardships of economic and socio-political transformation. The way the problems listed below are dealt with will determine whether stable relations between secularists and Islamists prevail in the secular states of Central Asia or whether both sides will turn to confrontation:

- *First*, national identity and Islam cannot be separated in Central Asian state- and nation-building processes.
- *Second*, the economic transformation will remain complicated for a long time to come, and this will inevitably lead to social tensions.
- *Third*, the dispute between politics and religion is primarily one between secular government leaders and the followers of political Islam.
- *Fourth*, the dissatisfaction of the population due to the rapid deterioration of the social situation is already being exploited by radical Islamic opposition movements that strive for the replacement of the region's secular regimes by Islamic "caliphates".
- *Fifth*, secular leaders have not shown much commitment to strengthening democracy and the rule of law. This also plays into the hands of the Islamic opposition.

As a consequence, Europe will not be able to escape Islamic social opposition in the OSCE area.

*A Change in Traditional Western Patterns of Thought towards Political Islam Is Required*

If strategic stability is to be maintained in Central Asia – something that is vital in geopolitical, economic, and energy-policy terms – social and ideological conflicts must be prevented from turning into political antagonism. Europe must therefore make a new start in its relations with Islam within its own political area. This will only be possible if Europe perceives Islam and Islamic political movements in the Asian part of the OSCE area as an organic element of the societies there and not as an alien force. Only if they can perceive secure religious and socio-political opportunities in their own states and in the Euro-Asiatic context as a whole will the followers of Islam adopt na-

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6 For more details, see also: Arne C. Seifert, *The Islamic Factor and the OSCE Stabilization Strategy in Its Euro-Asian Region*, CORE Working Paper No. 4, Hamburg 2001.

tional political platforms rather than embracing extremist pan-Islamism. It would thus be better for Europe to reach out a hand to “its own” Islamists rather than leaving them to come to the conclusion that they have to fight for their beliefs with the assistance of foreign extremist forces.

*Europe Cannot Afford a Profound Crisis in Its Relations with Islam.*

Unfortunately, European security policy lacks a strategy for dealing with political Islam. The issue is treated primarily in the context of the fight against terrorism and is thus dominated by military and “hard-security” measures, in short: repressive means. What is required is a many-sided diplomatic and political initiative towards Islamic movements and politicians that goes beyond this one-dimensional approach and deals with the socio-political and economic environment in which the radicalization of Islam takes place. The danger is not represented by the politicization of Islam as such, but from its radicalization. It is the latter that must be prevented.

In facing this challenge, it is necessary to reformulate the fundamental questions of Europe’s relationship to Islam: How can the stigmatizing fixation on terrorism be overcome? Can the Islamic factor be integrated in co-operative strategies for security and stability in the OSCE area? Can it play a constructive role both within and outside the Euro-Asiatic area? Can Muslim populations, Islamic activists, and secular politicians develop a political consensus based on the intelligent adaptation of modern principles as well as the norms and values of the OSCE?

The best opportunity and probably the most productive testbed for forging such a new relationship lies in Central Asia. A constructive approach to Islam, Muslim populations, and the political representatives of Islam could quickly bear fruit in the OSCE’s own Euro-Asiatic space, where the potential for action and the prevailing conditions are still favourable. Secular lifestyles and secular government continue to enjoy considerable support among the population. Politically, Islamic elites continue to support the development of the nation state and close relations with Europe. The politicization of Islam as a whole is in an early stage, which limits its potential to be abused for political purposes. Young people do not yet have extensive knowledge of the Koran and Sharia, and their links with Islamist organizations generally remain weak. Central Asian Islamists also differ from those in other areas of the Islamic world. In the Soviet Union, they were educated in European philosophy and culture, rationalism, and dialectics. It should be possible to take advantage of this exceptional situation. In just one more generation, this opportunity will be greatly diminished or will have vanished altogether.

### *Dimensions of Confidence-Building*

One can distinguish between three main levels on which co-operation between Europe and Islam has to be achieved:

#### *The Global Dimension*

European states have joined the anti-terrorist coalition and are participating in military operations. However, co-operation with Islamic political organizations, both local and international, is also indispensable if the situation in countries such as Afghanistan and Iraq is to be stabilized. Western military intervention has thus unintentionally linked the potential for the political and economic restructuring of these two countries to co-operation with Islamic political representatives and organizations. Furthermore, since the US and some other Western countries have publicly linked the question of global security with stabilization in those two countries, the whole Islamic world, including terrorist organizations, will be watching the outcome of this attempt. For that reason alone, the West cannot afford to come out of this situation as the loser. It therefore has to develop a new strategy for co-operation with Islamic organizations on a national and regional level.

#### *The European Dimension.*

Although the European dimension is not the main subject of this contribution, it cannot be ignored. A challenge to European security is posed by the fact that large groups of immigrants have only adapted to the European environment in a superficial way. European states today contain large non-indigenous Muslim populations (as high as 14 per cent in France). Most European Muslims are not integrated into their European communities; their ethno-confessional isolation is increasing, and this makes radicalization more likely. A dormant sense of ethnicity, often closely linked to religion, can awaken and act as a powerful instrument to mobilize radical forces creating a dividing line between "them and us".

This kind of dividing line has existed in Europe for some time, and various ethnic and confessional groups are acutely aware of its existence. While Muslim newcomers enjoy the benefits of Western liberalism, the latter's true nature, which is associated with values different from their own, remains alien to them. Because of their marginal position in their host states, they are more aware of their differences and tend to emphasize them. Liberal legislation makes it easier for extremist Islamic groups to organize. Radical Islamists win supporters among migrants who feel they are socially disadvantaged compared to the local population. It is by no means certain that tougher legislation is the best way to solve these problems. Furthermore, the core problem is not simply the influx of new Muslim immigrants, but rather

the growth of extremism among those who already live in Europe. Against this background, the most important political and practical tasks for Europe are to combat long-established stereotypes and to prevent conflicts from developing into crises.

#### *The Euro-Asiatic Dimension*

The Euro-Asiatic dimension emerged with the accession of the newly independent states of Central Asia to the OSCE. Political leaders in the region generally consider the preservation of secular regimes to be a necessary condition for maintaining political stability. Although a Muslim majority among the population does not automatically lead to an Islamic state, the secular elites cannot guarantee the secular character of these states forever. As long as the question of social and political orientation remains open, it will be a locus of political struggle. Resolving this struggle will take time, perhaps a generation, but there is also the risk of rapid and unexpected developments leading to social and political crises. In order to prevent this, it is necessary to take into account not only the impact of political Islam but also its heterogeneity. Focusing solely on radical and extremist Islamists is extremely non-productive. In reality, radical religious organizations – whether globally active or merely national – remain marginal in the Muslim world. Paying insufficient attention to or attempting to isolate mainstream Islamic organizations and parties risks strengthening radical elements, thus worsening opportunities for dialogue between Islamic and secular forces.

Against this background, basing an anti-terrorism strategy on a repressive conceptual and political foundation is revealed as a cardinal error. Rather than taking account of Islam's significance as a permanent factor of central socio-political importance, this approach reduces relations with political Islam to the single aspect of using force to combat individual Islamist groups (the "extremist fringe"). Based on this error, this strategy does not deliver where it counts: It cannot replace the repressive approach that has tended to predominate with a constructive strategy that could lead secular-Islamic relations out of the intellectual and political impasse they find themselves in.

#### *Goals, Nature of Involvement, Policies, and Instruments*

In view of the three levels mentioned above, one can define the main goals for co-operation between Europe and political Islam as follows:

- To sustain the European space of stability and extend it beyond the geographic borders of the EU;
- To initiate a process of mutual accommodation between political Islam and Europe;



- To overcome the “dilemma of distrust” between political representatives of Islam and ruling secular elites in the Asian regions of the OSCE, and to create a new model for relations based on political argumentation rather than the use of force.

These goals determine the nature of the OSCE’s further involvement and the choice of policies and instruments.

#### *Nature of Involvement*

In seeking to promote accommodation between political Islam and the European stability zone, we have to take into account profound differences in conceptions of social development and organization. It is also necessary to deal with both the national and the European dimensions. The OSCE thus requires two separate strategies of accommodation: one for peacefully integrating the Islamic factor into processes of national transformation and state-building, and a second for integrating it into the common political space and its institutional framework (in our case the OSCE). Charles William Maynes, the president of the Eurasia Foundation, Washington, writes on this issue:

During the Cold War, the United States developed long-run policies that took years to bear fruit. [...] It was cautious in the use of force and developed programs to reach out to local elites. The time has come to adopt a similar approach toward Islam, particularly in Central Asia. [...] Western countries should reach out not only to secular forces with which they are comfortable but also to leaders who are likely to rise to positions of influence in the religious parties. [...] Such an approach might enable the United States to manage its engagement in Central Asia more happily than it has managed its presence in many other parts of the Muslim world. It may well permit the United States to accomplish through cooperation and diplomacy what it will find difficult to achieve by force. Finally, it might provide lessons for reconciling the West and Islam more generally, one of the critical issues of the age. Now it is the time and Central Asia is the place for the United States to develop a set of policies appropriate to the new challenges of the post-September 11 world.<sup>7</sup>

Maynes’ far-sighted views are still far from being taken up in the political practice of the OSCE participating States, which exhibit shortcomings in their dealings with the Islamic factor in general as well as specifically with regard to its role in the state-building process in Central Asia. European security policy does not take account of either of these, leaving several funda-

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7 Charles William Maynes, *America Discovers Central Asia*, *Foreign Affairs* 2/2003, p. 132.

mental issues that need to be addressed, including the need to recognize that achieving coexistence between secularism and Islam in Central Asia is an essential aspect of stabilization and security strategies, both internally, in the state-formation process, and externally, in relation to the West. The politically relevant questions that arise from this are: How can different systems of values and social policy be kept from coming into conflict? What needs to be done to stop religion from being politicized and resulting in the growth of radical Islamist movements? And finally, once such movements exist, how can they be transformed in a peaceful, reformist direction?

So far, the need for a specific approach to these questions has not even been recognized. "Islam" has tended to be seen only in the context of efforts to ensure freedom of religion in line with the Western understanding of human rights, and not in a complex socio-political and cultural sense.

Conflict prevention in relation to the Islamic factor in the OSCE's Asian regions needs to deal both with the objective conflict material and with elites that appropriate Islam for their private ends. The latter is clearly a task for the OSCE's democratization strategy, and the Organization is thus to some extent directly linked with – even dependent on – political Islam. If it does not proceed in this manner, it risks a fate similar to that of the West in Afghanistan and Iraq: Without co-operation with Islamic organizations, movements, and parties, there can be no hope of achieving stability. Furthermore, the more the OSCE democratizes the political environment in the Central Asian states, the more it opens the political arena to Islamists. In attempting to deal with this "contradiction", the current reduction of the problem to "combating terrorism" clearly falls short.

#### *Discrepancies Between Secular and Islamic Concepts of State- and Nation-Building*

When thinking about strategies of accommodation, it is certainly important to be sensitive to the deep discrepancies that exist between secular and Islamic concepts of state- and nation-building, democracy, rule of law, human rights, the equality of women in society, education, and in many other areas. To deal with those discrepancies constructively, the strategies must be based on a combination of co-operation and co-existence. They have to define the fields where compromise is vital. In order to forge a common political culture, principles of conduct and mutual respect have to be developed.

Europe's priority should be encourage the development and realization of measures aimed at building trust between secular and Islamic forces and organizations. This is relevant for the whole OSCE area and for Central Asia in particular. A high level of mutual distrust is the result of the absence of guarantees from either side that it will not attempt to eliminate its unwanted partner from the political process after gaining power. Secular leaders fear that if Islamic parties gain power through democratic means, they will start to

establish a theocratic state in which there will be no place for the secularists. Islamic leaders, on the other hand, are concerned not only that, under secular rule, their organizations may be prohibited as terrorist groups, but that even the political legitimization of their parties cannot guarantee that they will continue to exist in a political structure that has not solved the question of co-existence with political Islam.

This “dilemma of distrust” also has a European dimension. The question remains as to whether European OSCE States would agree to legitimizing a democratically elected Islamic government that they fear might initiate a radical change of existing constitutional norms.<sup>8</sup> It is also unclear whether, if moderate Islamic parties gain power, they will guarantee the stability of the constitutional order or will be tempted by more radical Islamic forces to act in an undemocratic way.

Thus far, neither side has offered the other acceptable guarantees of its likely magnanimity in victory, and the process of mutual estrangement and distrust continues. The Islamic elite wants to be confident that it will indeed continue to enjoy political, religious, and cultural equality in the various states and on the Euro-Asiatic stage as a whole. The secular parties want to be sure that the recognition of OSCE principles and commitments by moderate Islamist leaders is more than just a tactical manoeuvre.

### *Strategies and Instruments*

What is required in the first instance is efforts to stabilize relations between secularists and Islamists, as the tension that currently characterizes them is – alongside socio-economic factors – a major potential source of conflict. Mechanisms, instruments, and methods should be tailored to meet this goal. Ideally, religious and cultural enmity should be nipped in the bud. Where this is not possible, the strategy should be one of containment. To achieve this, it is necessary to reduce hostility and the contradictions on which it is based to their substantive core, thereby identifying the areas where consensus or dissent prevail, and making it possible to find appropriate solutions. This approach could be summed up as follows: co-operation where common ground can be found, peaceful coexistence where disagreement runs more deeply.

While this will be a long-term process, there is a practical requirement for some rapid progress. This is true especially with regard to the OSCE’s Euro-Asiatic area, but also applies to Europe’s increasingly heterogeneous towns and cities. A few early successes would send positive signals both to the Islamic world and to Europe’s own multicultural and multi-confessional

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8 How will the OSCE states react to the growing influence of Islamic political parties and to the fact that they could win a considerable number of seats in national parliaments? If this happens, will the OSCE states recognize the results of legitimate elections or, because they are apprehensive of the Islamists, will they prefer to close their eyes to violations (as has occurred before) in order to weaken political Islam and strengthen secular regimes?

societies, which still face the challenge of working out cultural differences in the far-reaching and profound integration processes of the enlarged EU.

Various strategies, methods, and instruments that have proven themselves in Tajikistan are available to help achieve the initial successes required.

Dialogue with moderate Islamic political organizations and with those radical groups that do not reject *a priori* the possibility of developing contacts with secular forces and do not consider violence to be the only means of achieving their political goals can be viewed as the prime instrument for creating a new political reality in the context of secular-Islamic relations. This implies a need to work with both Islamic political organizations and secular forces in Central Asia, as the possibility of providing stability throughout the entire OSCE area depends on the positions of both groups and their interaction.

The main task of the dialogue is to search for means and mechanisms that can support the co-existence of secular and Islamic forces. The dialogue should initially take the form of talks with groups of moderate Islamists who already have the experience of operating within a secular state, as is the case in Tajikistan. At the same time, factors that encourage Islamists to fight to create an Islamic state must be minimized.

This general task can be divided into a number of more specific steps:

- Encouraging the secular state to reassess its attitude towards Islamic institutions such as mosques, madrassas, and universities as well as political parties or movements. To quote Maynes once again: “The West should urge the region’s leaders to open local governments to electoral challenge and to allow all parties seeking peaceful change to take part. Perhaps it will turn out that more radical Islamists enjoy little support. Even if they do garner electoral support, however, Islamic forces may gradually develop a stake in the system, so that when they do finally enter national government, it will constitute an act of inclusion, not revolution. In all these efforts, Washington must show patience.”<sup>9</sup>
- Confidence-building measures. “Sustainable internal and external stabilization requires measures to build confidence between the representatives of the state power and religion and in civil society as a whole.”<sup>10</sup> The goal of confidence-building is to initiate a process of understanding that will remove the danger of escalation, to identify common ground, and to overcome divisions and misunderstandings wherever possible. In the short term, steps should be taken to prevent the radicalization of the political representatives of Islam, and joint initiatives should be under-

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9 Maynes, cited above (Note 7), p. 132.

10 Centre for OSCE Research (CORE)/Program for the Study of International Organisation(s) (PSIO), *Confidence-Building Measures adopted by the participants of an informal secular-Islamic dialogue in Tajikistan*, CORE Working Paper 12, Dushanbe 2003, p. 13.

taken to develop Islam's integrative potential. In the long-term, efforts should be made to ease tensions permanently and create a situation of self-sustaining stability.

- Adapting the prevailing concept of "the separation of religion and state" to the specific social and religious conditions under which state-building is taking place in Central Asia. For the Tajik Islamists in the PIRT, the original secular concept of the "separation of church and state", interpreted as separation of religious institutions and state, proved to be more acceptable than the old Soviet concept of the "separation of religion and state" that was defended by the ruling secular elite.<sup>11</sup> In fact, the incumbent secular regime must realize that it cannot separate the state from the religion of its society under conditions where the majority of population are Muslims. This indicates a further fundamental problem with the principle of the separation of religion and state: that the secular state becomes disconnected from its own population. As a result of this unpopular principle, the word "secular" is becoming synonymous with "hostile" and, even worse, "anti-Islamic".

In their declaration on "Confidence-Building Measures" from December 2003, Tajik secular and Islamic representatives concluded correctly that "Circumstances of nation-state development change the parameters for understanding relations between state and religion. Islam as a religion of the absolute majority of the citizens of Tajikistan is an organic constituent of Tajik society and national culture and has a real influence on socio-political processes. Nor can the state separate itself from the dominant religion in Tajik society. It becomes apparent from this interdependency that constructive relations, mutual understanding, and mutual concessions between the ruling circles of power and religious leaders are important factors for maintaining the internal stability of both state and society."<sup>12</sup>

- Encouraging the secular state to redefine its policy in relation to Islam. Harmonic relations between state and religion are a vital precondition for the preservation of the national, political, and moral unity of all the young Central Asian states, and the maintenance of stability in the course of their further development. At the same time, they are also an important component in preventing the development of religious extremism.

In concrete terms, this involves "[creating] flexible means for co-operation and [establishing] mutually beneficial relations between the state power and the representatives of religion". The secular state "must find means of relating to religion, and to Islam in particular, that convince the religious representatives of the sincerity of the state's intentions to co-operate. The core of this intention consists in providing full

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11 Cf. *ibid.*, p.11.

12 *Ibid.*, S. 8.

freedom of religious belief to citizens and in granting religious institutions independence from state power.”<sup>13</sup>

- Encouraging the development of a mutual code of conduct between secular and Islamic forces. The Dushanbe document on confidence-building measures recommends the creation of a consultative forum under the Tajik President to “ensure a permanent dialogue between the representatives of state and the representatives of religion, religious parties, and organizations. Its tasks should be to discuss the priorities for co-operation, open questions and ways to overcome misunderstanding. An important goal is to create a climate of trust and harmony, a culture of constructive exchange, co-operation and coexistence, and to prevent political and religious radicalization.”<sup>14</sup>

This document also represents the first time that an agreement has been reached in Central Asia on principles of non-violent relations. These are contained in the “Principles of co-operation and coexistence” elaborated by the Tajik dialogue partners. They begin by stating that “The basic philosophy of the dialogue [author’s note: between secular and Islamic participants] is to exercise tolerance and to look for specific ways to achieve the common goal of stable conditions for the processes of national development. Defining the common ground does not exclude identifying contradictions and vice versa. Priority should be given to the commitment of all parties to seek solutions – both independently and jointly – that could provide security and stability in each country, in Central Asia, and in the Eurasian space as a whole.”<sup>15</sup> The first and most basic principle of non-violent coexistence is “to acknowledge that constructive and ongoing dialogue is the main principle of co-operation and the only legitimate method of *stating, discussing* and *solving* controversial issues”.<sup>16</sup>

- Dialogue on the co-operation and co-existence of civilizations and cultures in the OSCE’s Euro-Asiatic space. Willingness on the part of Europe to recognize political Islam as an integral part of the political process in Central Asia would be a key element in overcoming the above-mentioned “dilemma of distrust” on the part of the Europeans. However, European willingness alone cannot create an atmosphere of trust. Europe will require some assurances of its own before it can provide Islamists with certain guarantees. Consequently, a process of confidence-building should also be initiated with the aim of agreeing on a Euro-Asiatic mutual code of conduct. The following mutual assurances should be discussed:

The Islamic representatives assure that:

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13 Ibid., p. 14.

14 Ibid. p. 9.

15 Ibid.

16 Ibid. (emphasis added).

1. They recognize the secular character of the state and its constitution.
2. They are prepared to share responsibility for the formation and development of their state. They are prepared to participate in consolidating the nation state, resolving serious social and economic problems, supporting democratic processes and safeguarding the political rights of citizens, upholding domestic and regional stability, and reducing the influence of extremist groups while preventing the formation of new ones.
3. They are ready to participate in the process of democratizing their society; in return, the secular government guarantees freedom of religion and religious expression, democracy, and the rule of law as a basis for removing those factors that encourage Islamists to perceive the secular state as anti-Islamic.
4. They are capable of restraining the growth of radicalism.
5. They are prepared to work to ensure the stability and security of the entire Euro-Asiatic area of the OSCE.

Moderate Islamists, who aspire to co-operation with Europe as a means of enhancing their legitimacy, are likely to see the mere existence of this dialogue as giving them the recognition they desire. Of primary importance for the Islamists at the current juncture is the possibility that with European assistance they may be recognized by the Central Asian regimes.

At the same time, they also need to receive certain assurances from Europe, which should also be reflected in the mutual code of conduct. The European side should therefore make the following commitments:

1. Muslims and Islamic politicians have an accepted place within the OSCE's Euro-Asiatic area. Europe has an interest in co-operation for the sake of mutual security and prosperity.
2. Europe shall use the OSCE framework to ensure that the official consent of the state authorities to include Islamic parties in the political process is upheld in the long term.
3. Europe shall support the democratic participation of religious representatives as equals in the state-building process, including their assumption of administrative positions alongside representatives of the secular side.
4. The European powers will not apply double standards in responding to acts of repression carried out in the guise of combating extremism but in reality aimed at weakening of Muslim organizations and institutions, including political representatives of Islam.

5. The principle of free elections is universal and applies to representatives of Islam along with all other groups.
6. If Islamic parties gain power through democratic parliamentary means, Europe will be willing to recognize the legitimacy of the new government.
7. A state with an Islamic government will remain a part of the OSCE if it can guarantee basic human rights (taking into account the differing Islamic concept of human rights).<sup>17</sup>

Within the framework of the dialogue and the mutual code of conduct, both sides will have to develop rules of behaviour that will make their actions predictable in certain political situations: i.e. where a secular regime has to co-exist with political Islam; where there is a division of power between secular and Islamic forces; and where there is a change of regime from secular to Islamic. The dialogue with Islamists will definitely be conducive to reforming political Islam by making it more tolerant and more moderate.

*Learning from the First Islamic-Secular Compromise Process in Central Asia*

The project of mediating a confidence-building effort between Islamic and secular groups in Central Asia was a pragmatic attempt to achieve an early success within the OSCE area. The dialogue process, which was moderated by German and Swiss research centres and funded by the German and Swiss ministries of foreign affairs<sup>18</sup> made it possible for Islamic and secular politicians to sign the aforementioned document on confidence-building measures in Dushanbe, the Tajik capital, on 11 December 2003. The Tajik participants, of whom there were more than 20, included not only the moderates, but also the radical wing of the PIRT. The document was delivered to Tajikistan's President Rakhmonov, who read and countersigned it.

The document consists of a summary, recommendations for the president, principles for co-operation and coexistence, a more detailed analytical section with findings and conclusions, and an appendix in which various problems are classified as either easy or difficult to solve.

The dialogue process provided an insight into the forces that have led to the recent escalation of problems in secular-Islamic relations (a further escalation in Central Asia cannot be ruled out). It also generated conclusions use-

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17 There is a fundamental question as to whether Europe will maintain its relations with a state in which a change of regime (from secular to Islamic) has occurred, thereby preventing its isolation and eliminating a key reason for radical groups to become more militant.

18 The Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) and the Graduate Institute of International Studies, Geneva.



ful for pursuing a political and diplomatic course with regard to the “Islamic factor” based mainly on tackling the causes of conflict. The value of both these aspects is apparent in light of the fact that the confrontation with violence-prone extremist Islamism can only bring about lasting and stable positive results when the work of alleviating the structural causes is consistently placed centre stage.

Together with economic and social causes of conflict, tension between secular and Islamic forces in Central Asia is of particular concern. Hence, both the Tajik secular-Islamic compromise process, the first of its kind in the OSCE area, and the knowledge gained in the course of the mediation process provide a vital insight into specific details of the process of resolving the conflict between secularists and Islamists. Both impressively demonstrate that it is vital to achieve peace and compromise *precisely* with the *radical* forces.

Although Tajikistan’s civil war makes it a special case, the country offers a unique insight into how former radical Islamists and secularists were able to transform an armed conflict into a co-operative relationship (however fragile it may remain). Among the questions into which the Tajik experience provides insights are the following: How can the escalation of conflicts between a secular government and an Islamic movement be prevented or stopped? What are the principles that form the basis for a self-sustaining compromise process? And finally: What questions does Europe have to answer?

The central insights developed as a result of moderating the secular-Islamic dialogue process are as follows:

*First:* Compromise, co-operation, and coexistence between a secular government and Islamic politicians and parties can be achieved. It is also possible, under certain conditions, for political relations between the two sides to be framed in terms of non-violence rather than repression, which reduces the risk of civil war. Furthermore, peace-building efforts must include a willingness to compromise with the radical groupings. These exist on both sides.

*Second:* The positions of the Islamic and the secular parties do allow for a certain amount of political manoeuvring and there is a degree of common ground in terms of motives and strategic intentions. Democracy and the shared nation state are basic factors that connect the two sides. These connecting factors are interesting for Europe inasmuch as they provide a suitable foundation for a dialogue with Islamists and secularists in Central Asia. The mere fact that Central Asian Islamists and secularists have recognized such commonalities and agreed to make them the basis for confidence-building, co-operation, and coexistence is remarkable progress by itself. Recognizing these shared factors also helps to counter the fear, widespread in Europe, that the involvement of Islam in state-building processes in the OSCE area represents a risk to the core values of Western civilization and is therefore not in the European interest. If it can repeatedly be demonstrated that this fear is un-

founded until it is finally overcome, it will open completely new prospects for an open-minded European relationship to the Muslim regions in Europe's own backyard.

## The OSCE Anti-Semitism Conference in Berlin<sup>1</sup>

It is happening right under our noses. In the oppressive heat of the summer, in 2003, in the Berlin district of Reinickendorf. The windows of the “Israel-Deli” grocery are smashed, and not only once. Youths spit into diners’ food. Neo-Nazis curse the owner as a “*Judensau*” (Jewish pig) and slash his car tyres. Nights of fear. The owner is in a state of despair. His neighbours support him at first. But as they too are intimidated, they increasingly fall silent. The owner sees no alternative – resigned, he closes his shop.

Did we not hope that we had been successful in shutting anti-Semitism away, sealing it in and rendering it harmless? But now, like the vampire it is, it has returned from the dead. After all the horrors unleashed by anti-Jewish hatred, how can it gain a hold in people’s minds once again, destroying their ability to think? Are we no longer aware of how it seeks to spread? How could we have forgotten? It comes like an assassin in the night. It attacks the emotions. It poisons them. The conscience languishes until there is finally nothing left.

“Anti-Semitism, a Social Disease”, was the title of the book published in 1946 by members of the Frankfurt School of Social Research, including Theodor Adorno and Max Horkheimer. In his introduction, the book’s editor Ernst Simmel, wrote the following: “The anti-Semite hates the Jew because he believes the Jew is the cause of his own misfortune. He persecutes the Jew, because he believes that the Jew persecutes him.” “The most powerful force,” writes Simmel, “that threatens to destroy civilization,” is found “in the hearts of men.”<sup>2</sup> If it is not kept in check, this force corrodes the basic rules of human society from within. That is how it destroys democracy. The despotism of violence triumphs. Hitler branded the name of Germany with the mark of the Shoah – until the end of days. And now? Anti-Semitism is now no longer restricted to attacks on Jews as individuals. Mortimer Zuckerman, Bill Clinton’s Special Envoy to the Middle East, wrote in the US News and World Report in November 2003, in an article entitled “Graffiti On History’s Walls”, that Israel “is emerging as the collective Jew among nations”. Zuckerman finds anti-Semitic journalism throughout Europe – in the Guardian, the Observer, *le Nouvel Observateur*, *La Stampa*, and *L’Osservatore Romano*. Mikis Theodorakis recently claimed that the Jews are “at the root of evil”. Rolf Hochhuth once said “I can think of nothing historical without at the same time thinking of Auschwitz.” This insight must not be forgotten. Where Jews are threatened, no other minority is safe.

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1 The author would like to thank Arie Rabfogel for his dedicated support in preparing this contribution.

2 Author’s translation.

The OSCE area includes the old Western democracies on both sides of the Atlantic. Their circle has been expanded to include successful new democracies that regained their sovereignty following the dissolution of the Warsaw Pact. These two groups of states present an opportunity for the new states that emerged from the collapse of the Soviet Union, those whose democratic character remains precarious, displays occasional flaws, or may even regress temporarily.

Anti-Semitism is present in every OSCE state. It establishes itself under a variety of disguises and its intensity, aggressiveness, and social power differ from place to place. Anti-Semites have long globalized their activities, taking advantage of the latest communications technology. However, whatever new form the old demon anti-Semitism takes in its new incarnation, one thing is constant: the allegation of a worldwide Jewish conspiracy. Jews are said to control global finance, to dominate the media, to secretly influence political leaders, and to manipulate world events. This fundamental anti-Semitic trope “explains” a vast range of diverse events and developments. Holocaust denial seeks to rewrite history by reversing the role of the historical victims. The “Auschwitz lie” aims to eliminate the basis of the right to exist of the Jewish state of Israel. At this point, we can see where the old far right meets the new Islamism: “Arab anti-Zionism” meets with a favourable response wherever it uses global communications technologies to colonize the minds of younger Muslims. Another group with a key role is that section of the political left that, mainly out of naivety, aligns itself with the Palestinian “struggle for freedom”. The “new” anti-Semitism absorbs critical views of Israel and tries to make them acceptable to the majority. The result is no different from old anti-Semitism: hatred of Jewish life.

Current strains of anti-Semitism assemble around three main archetypes: anti-Jewishness, modern anti-Semitism, and anti-Zionism.

1. Anti-Jewishness spreads the slander of Jewish ritual murder as made by Christian ideologues. It often refers to the Protocols of the Elders of Zion and the claim that Judaism seeks to conquer the world.
2. Modern anti-Semitism culminated in the Nazi dictatorship, which aimed to destroy all Jews and all that is Jewish and ended in the monstrosity of industrialized genocide.
3. Anti-Zionism feeds on the conflict between Israel and Palestine. Mistaken solidarity with the “weaker party” and excessive criticism of the “stronger party” encourage Jews in the OSCE area to take sides and can feed the potential for anti-Jewish prejudice.

An explosive mixture of all three forms of anti-Jewish hatred – the traditional, which has declined in importance, the most virulent 20th century

form, and the most recent variant – has emerged against the background of the second intifada. Each form restates the prejudices of those that went before it and allows them to give vent to the aggression they inherently contains.

Every society contains a certain freely floating potential for violence. The more strongly integrated a society is, the weaker this potential. Modernization produces points of uncertainty that allow violence to enter a society at the flanks. The faster the rate of modernization, the greater the need to ensure social stability. Societies undergoing modernization become susceptible to destructive violence when they lose their ability to continually rediscover and strengthen democracy as the form of universal self governance. Organized groups that attack the universal character of democracy represent the ultimate threat to the humanity of modernizing societies they are able to infiltrate. The brand of Islamism that has declared the Western way of life to be its mortal enemy has forfeited its right to tolerance.

Older forms of anti-Semitism are associated with right-wing extremism. The social democratic movement and the democratic left have been fighting anti-Semitism in the OSCE area for as long as they have existed. Pursuing liberty, equality, and fraternity also means ending the hunting of human beings. In the early years of the 20th century, the Socialist International still entertained the hope that it was preparing the way for a culture that would end the oppression of individuals. In the age of extremes, this hope was dashed. The left was too slow to realize the danger of new forms of anti-Semitism. Michael Lerner speaks of the “socialism of fools”, referring to those parts of the left that confuse Palestinian terrorism with the struggle for freedom. The real confrontation with the reincarnated anti-Semitism still lies ahead. It will affect the democratic foundations on which the institutions of coexistence in European societies rest. We need to reconsider whether we have the strength to ensure that globalization is a force for good, and to ask what new powers we can mobilize to ensure that modernization succeeds. Finally, we need to ask ourselves if our reserves of tolerance suffice in providing space for alternative cultures and ways of life to thrive? Have we truly recognized that if societies want to remain stable in the future they need a new politics of cultural and social recognition? One that is capable of continually rediscovering the courage needed for the work of integration. In this, tolerance cannot be given merely a passive role.

### *Integration versus Xenophobia*

But more is required: The claims of different cultures cannot simply co-exist in isolation. That would be a false understanding of multiculturalism. Tolerance must become active. I want to accept the otherness of other cultures on its own terms, as that is the only way I can escape the prison of identity.

Whoever pursues modernity needs to abandon the error that a person's identity is tied up with their place of origin. Globality means living in a civilized community – a community of civilizations. The walls that protected each little world have been removed. Borders become transparent. The other becomes present in my life and in my feelings. As long as he was separate from me, I could ignore him if I didn't want to reject him. The stranger, however, is "the person who comes today and stays tomorrow". Hatred of him is the counterpart of self-hatred. He succumbs to hatred, who has himself been humiliated. Who has given in to the compulsion of a never-ending purification of his identity. Who does not want to acknowledge how his identity would be enriched if allowed to open beyond the barriers of nationhood, until the limits of identity are transformed into bonds of solidarity, linking all people with each other.

Germany has always been a destination for immigrants, as have all the EU countries, and will be even more so in the future. The westernmost OSCE States, the USA and Canada, became what they are today as a result of immigrants. The eastern OSCE States have also experienced immigration. The OSCE area has been fundamentally shaped by the imperialism of conquering immigrants. Rare cases where immigrants were invited in by a territorial ruler have been the historical exception.

However, the most recent form of immigration is a product of politics. Western European societies need to fill the population gap that their reproductive deficit has left. In recent years, the call has been answered by people whose sense of cultural identity we experience as new. They want cultural, social, and political recognition. Are we really doing our best to accept them into our midst? The answer to this question determines whether our societies are capable of managing the challenges ahead. If we do not improve our efforts, we fail to tackle what is increasingly the fundamental problem of modern societies: their ability to successfully integrate their immigrant populations. We face a great danger if all those struggling for social recognition suddenly come together and place responsibility for all their suffering on one individual, just because he belongs to a minority. In this way, the old lie could be reinvented: It is all the fault of the Jews.

Anti-Semitism is our problem, in all the OSCE States. It seeks to break through every barrier placed in its way – decency, religious belief, civilized values. Its violence affects us all: Christians and Muslims as well as Jews. Terrorism is its most deadly offspring. It knows no bounds. Its aim is to destroy our humanity. It is so acutely dangerous right now because of the ambivalences that arise from the social conflicts inherent in accelerating modernization processes. Wherever premodern cultural behaviour patterns harden along the lines of supposed traditional certainties in an attempt to save themselves from the fluid and ever-changing demands of modernity, wherever the attempt to find a new balance between colliding value systems has failed, backward-looking utopias have a chance. In such precarious phases of trans-

formation, concepts of identity that deny complexity can assert themselves. Once ideologically charged, they can intensify their inherent potential for violence and mobilize it against other, equally simplifying concepts of identity. Contrary to the view of a Samuel P. Huntington, however, the front lines in the clash of civilizations do not take the form of territorial confrontations on a grand scale, but rather subsist within individual societies. Reductionistic concepts of identity need to find enemies, because they falsely assume that every other (equally reductionistically defined) group must necessarily be seeking to destroy their own. The simplest form of reductionism is ethnicity. All those trapped within its sphere of influence are subject to the sempiternal compulsion for ethnic purification. In the end, the barriers previously capable of holding back the flood of violence are opened. Wherever local-linear identity tries to resist what it perceives as the onslaught of universal modernity and fabricates a stylized enemy out of a minority group, co-existence is in grave danger. This can only be averted when universal values are renegotiated. Procedural fairness must be guaranteed for all parties, so that all can embrace the negotiated settlement.

The context will vary, but, in their substance, the values must always remain within the horizons of enlightened modernity. Anything else would be an admission of defeat by Western thought.

To this extent, therefore, the processes that lead to social self-understanding remain irrevocably aspects of modernity. However, the intensity of the work of integration is increasing. Without a firm basis in mutual respect and active tolerance built on reciprocal recognition, integration will fail. The work of integration will place great demands on all the societies within the OSCE. They may collapse under the strain – collectively or as individuals. But they can also – again collectively or individually – learn from each other and with each other how conflicts that threaten to break out can be successfully managed.

#### *Preparations for the Berlin Anti-Semitism Conference*

The OSCE is presented with a unique opportunity. It can identify the problems that exist in its region and weigh up their relative importance. The OSCE participating States can then forge a mutual commitment to tackle them. Beforehand, they can share their various points of view and carry out time-consuming multilateral negotiations to formulate the consensus that can best contribute to dealing with each problem. However, before a problem can be recognized as requiring attention, awareness must be raised by political means. This was also necessary before the OSCE was able to adopt the topic of anti-Semitism as its own.

Since the start of the second intifada, new forms of anti-Semitism have mushroomed in many societies. In several Western OSCE participating

States, the number of events that could clearly be considered anti-Semitic has been increasing: in Germany, France, the United Kingdom, the Netherlands, Belgium, and Greece. Older forms of anti-Semitism have come to public attention in Hungary, Poland, Ukraine, and Russia. The OSCE first became aware of the alarming increase in occurrences of this kind through members of its Parliamentary Assembly, who are frequently among the first to become aware of tectonic shifts within their societies. In the run-up to the Annual Session of the OSCE Parliamentary Assembly in Berlin in 2002, the delegations of the USA and Germany agreed that the Organization should take up the struggle against anti-Semitism. At the same session of the Parliamentary Assembly, a fringe discussion meeting was organized by the US Congressman, Christopher Smith, and German Parliamentarian, Gert Weisskirchen, which aimed to decide how to proceed.

Following the collective commitment to the fight against anti-Semitism made in the Berlin Declaration of the OSCE Parliamentary Assembly, the Parliamentarians concentrated on persuading the representatives of their governments to take collective action in pursuit of their goal. Considerable resistance needed to be overcome at both parliamentary and governmental levels. In Germany, the concern at first was that it could itself end up in the dock – a worry that was shared by many participating States. It was frequently argued that the fight against anti-Semitism was a matter best pursued at the national level. And it was claimed that public discussion could in fact serve to increase anti-Semitism. A final attempt was made to reject the topic of anti-Semitism on the grounds that dealing with it could encourage crude “anti-Islamism”.

However, the impasse was overcome by the compromise formulation presented by the USA and supported by Germany at the OSCE Ministerial Council Meeting in Porto. At two conferences held in Vienna in 2003, government representatives discussed a range of closely related topics that formed the basis for the Berlin Conference in 2004. The German government invited the OSCE to the Conference, thereby leaving no alternative for the other participating States but to take part.

The starting point was the rebirth of anti-Semitism. Parliamentarians were alarmed at this and persuaded their governments to take collective action to oppose it. Christopher Smith and Gert Weisskirchen also began to seek close co-operation with non-governmental organizations in the run-up to the Berlin Annual Session of the Parliamentary Assembly, believing that, from now on, these will have a vital strategic role to play at the interface between state, parliament, and society.

Winning the fight against anti-Semitism is easiest when a society's immune system is strong enough to fend off its attacks. In the last instance, it is the civil courage of individuals that decides whether violent acts can be prevented where they threaten to occur. There must be individuals prepared to stand up and oppose those who are willing to use violence at precisely the



moment when it becomes apparent that violence may explode. The state certainly has a role to play in creating the conditions that allow civil courage to thrive. It needs to pass laws that condemn anti-Semitism in all its forms. It also bears responsibility for the political climate – whether it retains the openness necessary to ensure that social conflicts are worked out fairly, or whether minorities are marginalized.

The task of civil society, for its part, is to maintain and sharpen public vigilance. It should observe local conflicts closely, monitor developments, and perform an early-warning function.

The role of parliaments is to mediate between the local, the regional, the central and – in the case of the OSCE – the transnational level. In doing so, they have a great degree of freedom to act independently, extensive supervisory powers, and – in conjunction with governments and civil society actors – can set the political agenda in a way that can optimize the abilities of each actor.

Although it is their combined effect that is important, the functions of these three levels should be kept strictly separate. The autonomy of civil society must not be subject to political restrictions. That is not only necessary to ensure their effectiveness. It is essential that civil society groups retain the ability to criticize.

Governments and parliaments may tire, and there is a danger that they hand over vital tasks to the consensus-driven machinery of the OSCE, thereby weakening the fight against anti-Semitism.

The run-up to the Berlin OSCE Conference in 2004, the preparation, the Conference itself, and its results allow for hope that the fight against anti-Semitism in the OSCE region may be won more easily than if it had not taken place. A final assessment cannot yet be made. Nonetheless, one thing can be stated with certainty: Both the form and the content of the Conference were convincing.

### *The Conference*

In the Decision of the Maastricht Ministerial Council of December 2003 on Tolerance and Non-discrimination, the OSCE “decides to follow up the work started at the OSCE Conference on Anti-Semitism, held in Vienna on 19 and 20 June 2003 and welcomes the offer by Germany to host a second OSCE conference on this subject in Berlin on 28 and 29 April 2004”.<sup>3</sup>

Interest was tentative at first, but grew to a rush as the Conference approached. The participation of considerably more than 600 delegates from

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3 Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, Decision No. 4/03, Tolerance and Non-discrimination (MC.DEC/4/03), pp. 78-80, at: <http://www.osce.org>.

governments, parliaments, and international and non-governmental organizations demonstrated how important the topic had become. As did the fact that speakers included not only the OSCE's Chairman-in-Office, Bulgarian Foreign Minister Solomon Passy, and the Conference's host, German Foreign Minister Joschka Fischer, but also US Secretary of State Colin Powell, and several other foreign ministers. Israeli President Moshe Katzav also used the opportunity presented by the Conference to make a visit to Germany.

The Conference opened with speeches from Simone Veil, Paul Spiegel, Max Jacobson, and Elie Wiesel. They effectively defined the mood of the proceedings as one of seriousness – a *basso continuo* that was to underlie the Conference's two days, and which was also taken up by Germany's Chancellor Gerhard Schröder in his closing *coda*. At a reception for the delegates held in the Chancellery, he stressed the central message of the Conference: "Anti-Semitism is a threat to democracy." German President Johannes Rau used the occasion of the Conference to look back over his time in office, stating that all his political efforts should be considered as a work of reconciliation. He also commented on a contemporary controversy, arguing that criticisms of the actions of the Israeli government are acceptable when they remain fair and honest, but noting that "in my opinion, it is important to ensure they take an appropriate form".<sup>4</sup> It is vital that old stereotypes are not "reaffirmed or even recreated". It is not sufficient for human dignity and human rights to be enshrined in constitutional law, they must be constantly explained and taught both in theory and by example to new generations. "From time to time, the struggle must be recapitulated. That requires commitment on the part of many citizens."<sup>5</sup>

The central topics of the Conference were tackled in four sessions, framed by the opening and closing plenary sessions. They were accompanied by workshops dealing with specific topics.

(1) Session 1 debated legislative and institutional mechanisms and governmental action, including law enforcement. Delegates presented best practices from their own experience and called for the development of a comprehensive strategy that would effectively combine the various approaches to fighting anti-Semitism. Hate-crime legislation is an indispensable element of this. All relevant actors should be involved in formulating this strategy: the state and representatives of society, including, in particular, representatives from education, the media, and the churches. The Spanish delegation made a key contribution by offering to host the next Anti-Semitism Conference in Cordoba in the spring of 2005, if the OSCE Ministerial Council in December 2004 should resolve to hold one.

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4 Speech by Federal President Johannes Rau on the Occasion of the Opening of the Anti-Semitism Conference of the Organization for Security and Co-operation in Europe on 28 April 2004 in Berlin, at: <http://www.bundesregierung.de/Anlage647609/attach.ment> (author's translation).

5 Ibid.

(2) Session 2 dealt with the role of governments and civil society in promoting tolerance. Several delegates began by emphasizing that intolerance is partly a consequence of the failure to remember the atrocities of the Holocaust. Remembering the Holocaust should teach us to be vigilant so that, among other things, we are always ready to act, for anti-Semitism is always reappearing. Fighting anti-Semitism is therefore part of the struggle against intolerance in all its forms. Governments and civil society need to be open to one another and work together to oppose any attempts to dismiss anti-Semitic crimes as an inevitable side-effect of inter-ethnic conflicts. Tolerance and hatred were described as learned behaviour, which is why education is so vital. All schools must teach their pupils knowledge of other cultures, while encouraging mutual respect. The OSCE must use the instruments at its disposal to fight anti-Semitism more effectively – especially ODIHR, the HCNM, and the Representative on Freedom of the Media. ODIHR should help states to gather data on hate crimes systematically, to promote dialogue, and to provide information to support the political work of national parliaments. One delegate also called on the OSCE to establish the office of a High Representative as a means of intensifying the Organization’s struggle against anti-Semitism.

(3) Session 3 dealt with the role of education. The participants agreed that more attention needs to be paid to teacher training, as a higher quality of teaching is a prerequisite for effective education against anti-Semitism. It is equally important to promote research in order to develop better ways to educate about the Holocaust. Proposed measures include developing special curricula and screening schoolbooks for anti-Semitic content. Religious communities were called to intensify interfaith dialogue and to work together towards the mutual recognition of all cultures. The importance of civil society in educating to combat anti-Semitism was underlined. Different civil-society groups can help to create a climate of mutual respect at the local level. The key role the media can play in this was also noted. In several OSCE participating States in which Arab television can be received, programming with an anti-Israeli bias has led to a revival of anti-Semitism. A key conclusion was that teachers themselves should never stop learning how prejudices come into being and how this process can be fought.

(4) Session 4 focused on the role of the media in disseminating and fighting prejudice. Anti-Semitism can be “industrialized” by the media. The sensationalist presentation of information by the mass media can increase people’s willingness to turn to violence. Journalists and publishers should develop a code of conduct for the responsible presentation of news events. Media organizations should provide professional training opportunities for journalists serving minority communities. The OSCE Representative on Freedom of the Media should be supported in continuing to actively promote tolerance. Civil society groups should make more use of the internet to post information on anti-Semitism more effectively. Education should provide learners with the

skills they need to be critical of what they view, hear and read in the media. Young people need to be encouraged to examine what is presented by the mass media and to stand up against abuses.

(5) The closing session took stock of the Conference's achievement. The responsibility and the commitment of the delegations to actively continue the fight against anti-Semitism after the close of the Conference were reaffirmed. Practical suggestions were discussed on the role of governments, parliaments, civil society, and the institutions of the OSCE. It was resolved to establish networks that would enable these various bodies to work together more effectively; e.g. it was proposed that ODIHR should co-operate closely with bodies such as ECRI and EUMC that are also involved in gathering data.

Solomon Passy summed up the results of the Conference in the "Berlin Declaration", from which the following is taken:

[...] the OSCE participating States,

[...] Recognizing that anti-Semitism, following its most devastating manifestation during the Holocaust, has assumed new forms and expressions, which, along with other forms of intolerance, pose a threat to democracy, the values of civilization and, therefore, to overall security in the OSCE region and beyond,

Concerned in particular that this hostility toward Jews – as individuals or collectively – on racial, social, and/or religious grounds, has manifested itself in verbal and physical attacks and in the desecration of synagogues and cemeteries,

1. Condemn without reserve all manifestations of anti-Semitism, and all other acts of intolerance, incitement, harassment or violence against persons or communities based on ethnic origin or religious belief, wherever they occur;
2. Also condemn all attacks motivated by anti-Semitism or by any other forms of religious or racial hatred or intolerance, including attacks against synagogues and other religious places, sites and shrines;
3. Declare unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism;

In addition, I note that the Maastricht Ministerial Council in its Decision on Tolerance and Non-Discrimination, tasked the Permanent Council "to further discuss ways and means of increasing the efforts of the

OSCE and the participating States for the promotion of tolerance and non-discrimination in all fields.”

1. The OSCE participating States commit to:

- Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;
- Promote [...] educational programmes for combating anti-Semitism;
- Promote remembrance of and, as appropriate, education about the tragedy of the Holocaust, and the importance of respect for all ethnic and religious groups;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet;
- Encourage and support international organization and NGO efforts in these areas;
- Collect and maintain reliable information [...] report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR), and make this information available to the public [...]
- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problem of anti-Semitism;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

2. To task the ODIHR to:

- Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available;
- Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance; and
- Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism [...]

In the form of the “Berlin Declaration” and the other results of the OSCE Conference of April 2004, the participating States have established a firm foundation from which to pursue the fight against anti-Semitism. If the OSCE Ministerial Council succeeds in December 2004 in translating this success into a precise plan of action that commits participating States to measurable norms of behaviour, this will optimize both the instruments that are to be used in this struggle and their application.

A single criterion can be used to measure whether today’s success continues in the future: If it proves possible to establish the position of a High Representative with the power to undertake largely independent examinations of anti-Semitic incidents in the OSCE area and who is placed in a position where he can promote appropriate policies, then the decisive step will have been taken.

### *Conclusions*

To defeat anti-Semitism in the OSCE area requires a great collective effort on the part of states and international organizations, civil society and parliaments. In April 2004, they came together at the initiative of the OSCE’s Parliamentary Assembly. The goal of this collective endeavour is to banish anti-Semitic prejudice from society. The easiest way to reach this goal is for social and political actors to work together. The Berlin Annual Session of the Parliamentary Assembly and the OSCE’s government-level Conference in Berlin have played their part in this respect. Civil-society groups participated actively in the conferences, making a significant contribution.

The superior strength of democracies means that anti-Semitism and intolerance in general will finally be defeated – because tolerance has the power to overcome prejudice.

Hannah Arendt looked evil in the eye. It was the face of Adolf Eichmann. She was shocked by what she recognized: Evil had taken the form of the banal. That is how evil begins: in banality. Anyone may be the death list. And then the murders start: of people, civilization, democracy.

We do not only pursue the fight against anti-Semitism to protect those of Jewish faith. We also undertake this fight because we want to save ourselves from a new descent into barbarity. Thankfully, democracy is stronger than hatred. Because: “Politics is the applied love of life.” (Hannah Arendt)

## Education in Central Asia – Current Developments and Opportunities for Comprehensive Security

The Bulgarian Chairmanship declared education to be one of the OSCE's top priorities for 2004. On 5 April, 2004, the OSCE Chairman-in-Office, Bulgarian Foreign Minister Solomon Passy, opened a day-long conference in Tashkent on the topic of "Education as an Investment in the Future". The conference was attended by the education ministers of Afghanistan, Kyrgyzstan, Tajikistan, and Uzbekistan,<sup>1</sup> representatives of international organizations, such as the World Bank (WB), the Asian Development Bank (ADB), the International Organization for Migration (IOM) and the United Nations Children's Fund (UNICEF), and of research institutes, such as the Centre for OSCE Research (CORE) in Hamburg and the OSCE Academy in Bishkek. The aim of the conference was to provide politicians, donor organizations, and education experts with a platform to discuss problems and opportunities for education in Central Asia and to develop joint projects.

The aim of this contribution is to describe and analyse the most important recent developments in the education systems of the Central Asian states and to present the options available to the OSCE in this specific field. The focus will be on the immensely important interface of education and the job market.

### *Education and the Concept of Comprehensive Security*

One of the OSCE's key aims is to establish equal and undivided security throughout the entire area covered by the Organization. The OSCE adheres to the concept of comprehensive and co-operative security, based on the equal rights of all participating States. This concept touches upon a broad range of security-related matters: from conventional arms control and confidence-building measures, via preventive diplomacy, human rights and election monitoring, to the promotion of security in economic and environmental matters. But the promotion of comprehensive security also aims at integrating national and international security through co-operation and shared normative values. The Charter of Paris calls upon the participating States to co-operate more intensively to find solutions to economic, social, environmental, and humanitarian problems in order to create and sustain social stability and security.

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1 Central Asia includes five states: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Kazakhstan and Turkmenistan were not represented at the conference. Afghanistan was included as an OSCE partner for co-operation.

Case studies from around the world demonstrate a close relationship between education and the creation of lasting security. On 12 December 1997, a resolution of the General Assembly of the United Nations confirmed “that basic education for all is essential for achieving the goals of eradicating poverty, reducing child mortality, curbing population growth, achieving gender equality, and ensuring sustainable development, peace and democracy”.<sup>2</sup> In the Action Programme of the “Bishkek International Conference on Enhancing Security and Stability in Central Asia”, organized in December 2001 by the OSCE and the United Nations Office for Drugs and Crime (UNODC), educational initiatives are mentioned as an important instrument for combating and preventing terrorism.<sup>3</sup>

Education is extremely important for ensuring a secure future. The ability of a government to meet challenges in the security sector depends to a great extent on the quality of available human capital. To promote a comprehensive understanding of security and to encourage the use of non-violent means of conflict resolution, it is necessary to rethink both the content and the methods used in teaching and learning about communication, co-existence, and co-operation.

So far, the Central Asian states have not succeeded in connecting security matters with long-term educational goals. Existing education systems do not prepare school leavers to make a lasting, positive contribution to economic development that would combat poverty and enhance stability. The gap between the demands of the market and the skills taught in schools is growing wider every year. The number of unemployed teenagers and young adults is also increasing steadily. This “lost generation” represents a potential source of conflict and thus a threat to national and regional security that needs to be taken seriously. As the political scientist Henrik Urdal demonstrated in an analysis of armed conflicts between 1950 and 2000, young adults are far more likely to take part in rebellions when they have no alternative to unemployment and poverty and see in such activities an opportunity to secure an income.<sup>4</sup>

Investments in education frequently do not bring immediate results, but their impact is profound in the long-run. Education affects ideas and norms, and thus reshapes thinking, values, and behaviour. The improvement of education systems and their alignment to the demands of democratic societies is thus a long-term process that requires an intensive commitment over many years.

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2 United Nations General Assembly, Resolution 52/84 *Education for All*, 12 December 1997, at: <http://www.un.org/ga/documents/gares52/res5284.htm>.

3 Cf. *Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening Comprehensive Efforts to Counter Terrorism. Programme of Action*, 14 December 2001.

4 Cf. Henrik Urdal, *The Devil in Demographics. The Effect of Youth Bulges on Domestic Armed Conflict, 1950-2000*, New Orleans 2002, at: <http://www.prio.no/files/file40641/youthbulgesurdal.pdf>.



In the early 1990s, a number of publications concerned with social factors in the five Central Asian states highlighted the positive fact that these countries had virtually no illiteracy. These relatively high educational standards were seen as a source of hope for a future of dynamic development. As early as 1993, however, Uwe Halbach pointed out that “[...] Potemkin Villages consisting of figures and teacher-pupil ratios were also constructed with regard to the education system and veiled real problems”<sup>5</sup>.

To varying degrees, the problems already inherent in the Soviet-era education systems have intensified and become entrenched during the last decade. Within ten years, the Central Asian states, which all had broadly similar education environments at the time of independence, have developed in sometimes extremely different directions. The political and economic systems of all five states are undergoing drastic changes. The simultaneous transformation of these two areas is a major challenge for the region’s governments and administrative apparatus – not to mention its people. As each country has chosen its own path to developing and implementing reforms, the region can by no means be considered a homogenous bloc. Nevertheless, there are a number of developments that can be considered typical for all five states, and which have led to similar problems in each country’s education system:

- Government expenditure on education programmes has been significantly cut over the last decade.
- The number of children of school age has remained consistently high. In four of the five countries, a third of the population is under 14; in Kazakhstan, the proportion is one quarter.
- Adults are confronted with the need to prepare their children for a constantly changing world, which they themselves find hard to understand.
- The gap between what is taught in schools and what is demanded by the market is growing ever wider.
- Syllabi and schoolbooks are not oriented towards the acquisition of flexible knowledge that can be applied to different situations. Children are taught what they need to pass exams – not the skills they actually need for life.
- Although citizens of all five countries have the right to a free secondary education, access to education is increasingly determined by family income and place of residence.

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5 Uwe Halbach, Die zentralasiatischen Republiken [The Central Asian Republics], in: Dieter Nohlen/Franz Nuscheler (eds), *Handbuch der Dritten Welt* [Handbook of the Third World], Bonn 1993, p. 143 (author’s translation).

Before treating these and other problems in more detail, it would be helpful to take a brief look at the education systems in the five countries of Central Asia.

### *Primary and Secondary Education*

As part of the educational reforms carried out in the Soviet Union in 1989, compulsory schooling was extended from eight to nine years. University entry was possible following eleven years of schooling or nine years of school and a course at a vocational or technical college (Russian: *tekhnikum* or *uchilishche*). A standardized syllabus was used in all republics, with only the language of instruction differing from case to case. Besides Russian, classes were taught in the language of the main ethnic group of each republic and those of other large population groups. Nevertheless, "Russian schools" were considered superior, and those who attended them found it easier to gain access to higher education.

The education systems of the Central Asian states were nationalized following the disintegration of the Soviet Union. Restructuring meant that many textbooks became unusable as neither the language they were printed in nor their content corresponded to the new reality. The emigration of the Russian-speaking population led to the loss of many qualified school and university teachers. At the same time, all five states were confronted with the challenge of developing their own syllabi and establishing the requisite institutions and personnel capacities. During the Soviet era, syllabi had been developed centrally in Moscow.

The current state of the education systems of Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan is as follows: Children start school at the age of six or seven. Four years of primary and five years of secondary school make nine years of compulsory schooling in total. University entry is possible after eleven years of schooling. Senior high schools (*litsei*) and colleges, many of which have been established in the last few years, offer a two- or three-year programme of study that can also lead to university entrance. There is also a growing number of private education providers, and places at such "elite institutions" are highly sought after and expensive.

The education sector in Turkmenistan has been subject to particularly severe cuts in recent years. The attempts of President Saparmurat Niyazov to nationalize the education system took their most radical turn so far on 1 June 2004. On that day, a law came into effect denying recognition of university qualifications acquired outside Turkmenistan. Anyone possessing such a qualification is now faced with the threat of being made redundant.<sup>6</sup>

Although the duration of compulsory schooling has not officially changed in Central Asia since the Soviet era, there are a number of *de facto*

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6 Cf. [http://www.eurasianet.org/departments/rights/articles/eav050504\\_pr.shtml](http://www.eurasianet.org/departments/rights/articles/eav050504_pr.shtml).

differences. For one, a growing number of pupils are leaving school after ninth grade to take up unskilled work in bazaars or the agricultural sector. In Tajikistan, in particular, there is a growing discrepancy between boys and girls after the ninth year of school. Many families are not prepared to invest in the education of their daughters beyond the minimum level necessary, as girls generally leave the parental home following marriage. From the point of view of the family economy, therefore, investment in education beyond the bare minimum is only justified in the case of boys.

In general, none of the Central Asian states is any longer in a position to enforce and monitor compulsory schooling, which has led to falling levels of enrolment and declining attendance figures. Although enrolment rates vary according to the source consulted, it is clear that Tajikistan has seen the greatest decline since the Soviet era.<sup>7</sup> Moreover, especially in urban areas, children often fail to attend school to take up casual work increasingly offered by the larger bazaars. Finally, there is also the state's own encouragement of child labour: In both Uzbekistan and Turkmenistan, children and young people are employed in the cotton harvest from the start of September until at least the end of November. While smaller children are allowed to return home in the evening, older boys and girls are expected to remain at campsites located in the fields and must pay for their own food.

### *Vocational Education*

Representatives of numerous international organizations agree that improving the system of vocational training is one of the most urgent issues for education reform in Central Asia. A report recently published by the World Bank argues that: "The implications of a market economy for education are radically different from those of a planned economy, but they are fairly easy to see."<sup>8</sup> What are these implications?

A market economy requires both university graduates and skilled workers. A look at the states of Central Asia reveals that the number of people attending vocational colleges is far lower than those attending university. There is also a shortage of jobs for the latter. This imbalance results from the fact that certain occupations enjoy a much higher social standing than others. While a growing number of graduates in law, economics, and business subjects compete in a saturated job market, there is an increasing shortage of qualified and experienced farmers, medical personnel, office workers, trades-

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7 In an interview, Iveta Silova, USAID advisor on educational issues, estimated attendance rates in Tajikistan at 84 per cent, compared to 88 per cent in Uzbekistan and 89 per cent in Kyrgyzstan. See: [www.eurasianet.org/departments/insight/articles/eav090703a\\_pr.shtml](http://www.eurasianet.org/departments/insight/articles/eav090703a_pr.shtml).

8 The World Bank, Europe and Central Asia Region, Human Development Sector, *Hidden Challenges to Education Systems in Transition Economies. Education Sector, Strategy Paper 14*, at: [http://lnweb18.worldbank.org/eca/eca.nsf/Attachments/Hidden+Challenges+to+Education/\\$File/ECA.layout.pdf](http://lnweb18.worldbank.org/eca/eca.nsf/Attachments/Hidden+Challenges+to+Education/$File/ECA.layout.pdf).

people, service workers, and so on. One consequence of this is that foreign-made products far outnumber items produced domestically in the bazaars and markets of the entire region.

In order to enhance the ability of small and mid-sized enterprises to compete in local markets, it is urgently necessary to improve vocational training in general, and to gear it more closely to the needs of the market. As in Soviet times, vocational training in Central Asia remains dominated by classroom-based teaching methods, and there is little on-the-job training. The establishment of new types of educational institutes – e.g. “vocational colleges” – in countries such as Uzbekistan cannot disguise the underlying problem. For instance, the lack of communication between employers and vocational colleges is reflected in syllabi that focus more on theoretical than practical knowledge. There is also too little value placed on the teaching of skills that enable lifelong learning – crucial if the workforce is to adapt to the needs of the market. Lifelong learning is one of many preconditions for active participation in the life of society. One way of reshaping syllabi would be to set up an intensive dialogue between employers, consumers, and the colleges themselves.

### *Troubling Developments*

The problematic trends in the education systems of Central Asian countries are being exacerbated by ongoing economic restructuring. Three main developments characterize the situation of the adult population.

- (1) *Unemployment and labour migration*: Economic reforms and structural changes in all five Central Asian states have increased the number of people who are unemployed or without regular employment. A large proportion of the population work as seasonal labourers in the agricultural sector or migrate to other countries in search of work. Hundreds of thousands of people migrate seasonally each year from Tajikistan to Russia, from Uzbekistan to Kazakhstan and from Kyrgyzstan to China to earn money. In the early morning, both men and women can be found near the large bazaars looking for work as day labourers. Public-sector employees are frequently unable to live from their salaries and rely on secondary sources of income. Many of them have a second job in the informal economy, which they need to make ends meet.
- (2) *Growing gender inequality*: While the percentage of girls attending school decreases with age, a contrary trend can be observed in adult education: Women show far greater interest in enhancing their vocational qualifications than do men. According to representatives of international organizations, men do not appear to see the connection between vocational training and lifelong learning, on the one hand, and improved

job prospects, social mobility, and higher income, on the other. In interviews, representatives of local NGOs have stated that women adapt more easily to changing social and economic conditions, while men remain attached to traditional role models. It is therefore especially important to raise the population's awareness of the connection in market economies between "the quality of human capital" (i.e. educational achievement) and individual and family income. People need to learn that lifelong learning is an important means of reducing and avoiding poverty.

Of course, one cannot ignore the fact that in Central Asia the concept of lifelong learning conflicts with gender norms. Men primarily see themselves as the providers for their families. Even in their youth, they are expected to contribute to the household budget, and child labour is effectively a means of survival for many families. The school drop-out statistics for boys show that education is losing more and more ground to economic activities that do not require formal qualifications. This trend continues when boys grow up and start families of their own. It is thus important that international organizations not only concentrate on improving girls' access to educational institutions, but also pay attention to the situation of boys.

- (3) *Increasing illiteracy*: A third alarming trend is increasing illiteracy among the adult population. Both Uzbekistan and Turkmenistan have adopted new alphabets without providing sufficient opportunities for adults to learn them. Young people, for their part, often have an inadequate mastery of the Cyrillic script, which gives them problems reading newspapers, filling in official documents and accessing (older) literature. The need for bilingual education is one of the greatest challenges facing the education systems of all Central Asian states; it is also a crucial prerequisite for the establishment of regional markets.

If it does not prove possible to harmonize the education sector and the labour market in Central Asia, current trends are likely to intensify and to become serious causes of instability. Examples from around the globe show that the unemployed are far more likely to take part in violent conflict as a means of improving their economic situation. On the other hand, well-educated people – to the extent that they are well integrated in society – are more liable to seek peaceful means to solve conflicts and are more capable of developing alternative strategies in difficult situations. When people see that learning can improve their future prospects, they are more willing to invest time and money in their own education and that of their children.

## *Recommendations*

International agencies such as UNESCO, UNICEF, the European Commission, and the Asian Development Bank are supporting the reform of education systems in the Central Asian states. Organizations including the German Agency for Technical Co-operation (GTZ), the Aga Khan Foundation, Save the Children, CARE International, and many more are also active in the field of education. Working together with education ministries, local communities and parents, these organizations have already helped to bring about improvements in the education sector in Central Asia.

To further improve the quality of education in the Central Asian states and to ensure that these improvements are sustained in the future, reforms are urgently needed in the following five areas:

### *1. Education Planning and Management*

There is an extremely urgent need to train staff in education ministries and regional and education departments so that they can adapt the way they administer education to the needs of modern societies. Strengthening regional education departments would lead to decentralization of management structures in the education sector. This would make it considerably more attractive for local government and local communities to participate in education planning, thus making their own contribution to improving the education system.

### *2. Funding Education*

Both national governments and international organizations need to use the resources they have available in the education sector more effectively and to establish appropriate structures to support this. This requires, in the first place, the creation of a realistic overall financial plan for the medium term, based on expected income and expenditure. National governments should be supported in their efforts to implement education sector reform.

### *3. The Learning Environment*

A congenial learning environment is a key aspect of ensuring learner motivation. It is thus important to continue efforts to renovate and repair school buildings in Central Asia. Furthermore, to improve the efficiency and sustainability of investments in educational infrastructure, new types of school building should be considered, especially those that promise improved energy-efficiency and lower maintenance costs.

### *4. The Quality and Content of Education*

Central Asia's national institutions of teaching and research should be provided with more support in bringing both the quality and the content of education up to international standards. Workshops and the exchange of experts on an international level can make a lasting contribution to the successful im-

plementation of international standards. In this, a special role can be played by young academics returning from abroad, and efforts should be made to make full use of their knowledge resources.

##### *5. Adult and Out-of-School Education*

More support should be given to educational initiatives outside the official school system, such as those organized by NGOs or local self-help groups. These provide learners with more control over both the goals and the methods of their learning, which generally improves the relevance of learning activities undertaken. Educational programming and related activities undertaken by the mass media should also be supported.

With its unique experience in the areas of dialogue and negotiation, the OSCE provides participating States with a framework that allows all relevant actors to discuss issues of education and security and develop solutions on equal terms. The Organization can act as a catalyst for a range of international, national, and local entities in the education sector. With Centres in all five Central Asian states, the OSCE possesses a well-established network that allows it to observe developments and to work with national governments to develop joint proposals for future co-operation. In addition, OSCE institutions are already involved in the education sector and in various training activities. To contribute to the long-term improvement of Central Asia's education systems, the OSCE should pay more attention to the following:

- More teachers should be invited to attend workshops and seminars.
- The OSCE should continue and expand its work with young people in areas such as the environment, conflict management, civil courage, and confidence-building measures.
- The OSCE should continue to support young people and adults in their self-directed work of creating an active civil society.

Only when the populations of the five Central Asian states are given the opportunity to take advantage of lifelong learning will the OSCE be able to implement its concept of comprehensive security in the region. Lifelong learning is one of the most important resources enabling active participation in the social, economic, and political life of a country and a prerequisite for a politically mature citizenship. The promotion of education can help ensure that – alongside national priorities – Central Asia develops shared values and norms that will contribute to fully integrating the region into the OSCE area.





## Building Co-operative Security



## A Dense Policy Space? The Police Aid of the OSCE and the EU

### Introduction

The eastward enlargement of NATO on 2 April 2004 and of the European Union on 1 May 2004 prompted concern among OSCE practitioners and observers over the Organization's future. Does the geographical and functional expansion of these two powerful institutions render the OSCE less relevant for the governance of European security?<sup>1</sup> In this article, we want to extend this line of analysis by inquiring into the impact on the role of the OSCE of the recent expansion of the EU into a new field – that of civilian crisis management. To keep the analysis manageable, we focus on the EU's most advanced civilian capabilities, namely police missions.<sup>2</sup>

At first, the development of police capabilities by the EU triggered concerns in the OSCE over the potential of yet another competitor on the ground in a field in which it had worked hard to develop a comparative advantage. In this article, we show that such concerns are unfounded, as in this issue area complementarity rather than competitive interest is likely to prevail in the relationship between the two organizations.<sup>3</sup> To this end, we liberally draw on the work of Michel Foucault on governmentality to analyse and contrast the police aid approaches of the EU and the OSCE before delineating each organization's comparative advantage in the policing field. This stocktaking exercise sets the stage for our recommendation that to further enhance their cooperation, the EU and the OSCE should specialize on their distinct areas of expertise and, through joint police support programmes, assemble comprehensive police reform packages for countries in transition. We begin, however, by sketching out the police-related activities of the two organizations.

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1 For assessments of the impact of NATO and EU enlargement on the OSCE, see Monika Wohlfeld, EU enlargement and the future of the OSCE: The role of field missions, in: *Helsinki Monitor* 1/2003, pp. 52-64, and Andrei Zagorski, The OSCE in the context of the forthcoming EU and NATO extension, in: *Helsinki Monitor* 3/2002, pp. 221-232.

2 Our analysis draws partly on information gathered in interviews in the General Secretariat of the Council of the EU, the EU Police Mission in Bosnia and Herzegovina, and the OSCE Spillover Monitor Mission to Skopje.

3 For an early argument along these lines, see Ralf Horlemann, Zivile Krisenprävention der EU und ihre Kompatibilität mit dem REACT-Programm der OSZE [Civil Crisis Prevention and Its Compatibility with the REACT Programme], in: *S+F Vierteljahresschrift für Sicherheit und Frieden* 4/2000, pp. 311-312. Horlemann's formalistic analysis, however, focuses exclusively on the compatibility and complementarity of the crisis management capabilities and instruments of the EU and the OSCE. Thus, he does not take account of the ideational context which shapes how these formal assets are utilized. Nor, given the time of writing, could he inquire into the complementarity of the two organizations' peacebuilding efforts in the field.

In December 1999, the Helsinki European Council, in order to respond effectively to the challenges of crisis management under the European Security and Defence Policy (ESDP), adopted an action plan with a particular emphasis on the development of non-military capabilities.<sup>4</sup> In 2000, the European Council in Feira identified action in the area of policing as a priority, and a year later a police unit, currently comprising eight officers, was established in the General Secretariat of the Council of the European Union.<sup>5</sup> In the same year, the Police Capabilities Conference held in Brussels gave concrete form to the pledges made by the member states in Feira to voluntarily provide up to 5,000 police officers for international missions involving the EU.<sup>6</sup> At the end of 2004, two police missions were deployed, one in Bosnia and Herzegovina (EU Police Mission, EUPM, since 1 January 2003) and one in the former Yugoslav Republic of Macedonia (EUPOL Proxima, since 15 December 2003), with three further missions in the planning stage: in Kinshasa (Democratic Republic of Congo), Sudan, and Iraq.

Since the OSCE Yearbook last carried a contribution on police-related activities in 2001,<sup>7</sup> the OSCE has also advanced considerably in establishing itself as Europe's lead organization in the field of international police assistance. A Strategic Police Matters Unit (SPMU) was set up within the Secretariat, consisting of four police officers under the leadership of the Senior Police Advisor, Richard Monk. The new police unit developed a strategic concept for the development and delivery of police assistance programmes. Informed by this concept, police capacity-building projects in the three Caucasian republics (Armenia, Azerbaijan, and Georgia) and in Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan) were initiated or are under consideration. In addition, the Organization continues to provide police aid to the Balkans (Albania, Croatia, Kosovo, Macedonia, Serbia and Montenegro).

Having briefly sketched the police-related activities of the two organizations, we now turn to an investigation of the governmentalities of EU and

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4 For the purpose of this paper we shall focus exclusively on police-related activities in the framework of the ESDP and shall therefore not cover police aid delivered by the European Commission, such as the Police Assistance Mission of the European Community to Albania (PAMECA). For a brief overview of the co-operation between the European Commission and the OSCE on police matters, see the *Annual Report of the Secretary General on Police-Related Activities in 2003*, SEC.DOC/2/04, 20 May 2004.

5 Correct as of 31 December 2004.

6 Of these 5,000 officers, 1,400 are deployable within 30 days, although difficulties in meeting this target have arisen, as the recent attempt to put together a force for the EU Police Mission (EUPOL) Proxima in the former Yugoslav Republic of Macedonia showed. EU member states have also committed up to 13 rapidly deployable integrated police units (of 60 to 100 officers each). Two member states can provide a total of four headquarters facilities, two of which are rapidly deployable. In November 2004, these pledges were reaffirmed at a post-enlargement Capabilities Conference.

7 Thorsten Stodiek, OSCE International Police Missions, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 331-341.

OSCE police assistance. The Foucauldian notion of governmentality brings to the fore two aspects of governance: its technical means and its mentalities or rationalities.<sup>8</sup> The latter should not be considered to be ideologies that can be opposed to “the truth”. But neither are they carriers of neutral information. Rather, they are made up of a variety of sometimes incoherent concepts, assumptions, and logics by virtue of which actors such as the EU and the OSCE make a particular domain – in our case transitional policing – thinkable as a series of problems in need of political attention.<sup>9</sup> To render their “will to assist” practicable, i.e., to translate the governmental ambitions embodied in their rationalities into the realm of action, the EU and the OSCE draw on appropriate technical means or, to use the Foucauldian term, technologies of governance. With the help of such technologies, they seek to “improve” the conduct of host governments and local police forces in accordance with their understanding of “good policing”. In the sections that follow, we shall investigate the police-related rationalities and technologies of the EU and OSCE with a view to highlighting similarities and differences. We begin by contrasting the programmatic aspect of the police aid work of the two organizations.

### *The Police Aid Rationalities of the EU and the OSCE*

Our purpose in this section is to reveal the ways in which the police-related activities of the EU and OSCE are dependent on and embody distinct rationalities, which supply them with their knowledge and objectives.<sup>10</sup> Police aid rationalities, we suggest, can be analysed along two dimensions. First, we establish what meaning the EU and the OSCE attach to transitional policing, i.e., policing in countries in transition from authoritarianism or internal conflict. The underlying “constructivist” assumption here is that actors behave towards objects or issue areas on the basis of the meaning they attach to them by bringing them under a certain description. Second, we investigate how the two international police aid donors understand their roles in relation to the

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8 Cf. Graham Burchell/Colin Gordon/Peter Miller (eds), *The Foucault Effect. Studies in Governmentality*, Chicago, IL, 1991; Mitchell Dean, *Governmentality. Power and Rule in Modern Society*, London 1999; Nikolas Rose, *Powers of Freedom. Reframing Political Thought*, Cambridge 2000. For an application of this approach to the study of international institutions, see Michael Merlingen, Governmentality. Towards a Foucauldian Framework for the Study of IGOs, in: *Cooperation and Conflict* 4/2003, pp. 361-384.

9 Political rationalities of governance are intimately linked to power, forming a power/knowledge complex. The power of rationalities is their symbolic power to describe, represent and interpret those countries and populations that are to be brought under (international) governance. For an overview of Foucault’s thinking on the mutual entwinement of power and knowledge, see Michel Foucault, *Power/Knowledge. Selected Interviews and Other Writings, 1972-1977*, New York 1980.

10 Cf. David Garland, “Governmentality” and the Problem of Crime, in: Russell Smandych (ed.), *Governable Places: Readings on Governmentality and Crime Control*, Aldershot 1999, p.17.

police in recipient countries. This relationship is shaped by the policing model to which the EU and the OSCE subscribe and which they wish to promote in the host countries and by the ends towards which the aid is directed.

We shall argue that while the EU and the OSCE conceive of transitional policing in the same fashion, they frame their relationship with police aid recipients differently. Further below, we shall argue that these differences, which are reflected in police aid practices, constitute the ground for closer cooperation between the two organizations. We begin, however, with the question of how the EU and the OSCE frame transitional policing so that it becomes a problem to be addressed through international assistance.

Both the EU and the OSCE conceptualize transitional policing in terms of its relationship with democratization and peacebuilding. Their operative assumption is that “good policing” is a key element of conflict management and the consolidation of democratic governance. First, only a democratic, human rights-oriented police is capable of safeguarding the lives and property of citizens independently of their ethnic, economic, or social profile, and guaranteeing the security of the public spaces that are so important to the exercise of political and civil rights. If the justice system cannot or will not ensure citizens’ equal standing before the law by protecting both individuals and communities, then peace and democratic society cannot flourish. Moreover, pervasive insecurity in the form of crime and social violence is detrimental to the strengthening of civic values and an obstacle to post-conflict rehabilitation.

Second, the state’s monopoly of violence is not only wielded by the military but also by the police. In a democracy, this formidable repressive potential needs to be held in check so as to ensure that the police does not become a state within the state, abusing its coercive means and discretionary powers to harass, intimidate, extort, torture, or kill. Systematic police brutality and other forms of everyday police harassment impede peacebuilding efforts and undermine the ideal of the protective democratic state by curtailing the civil liberties of citizens, corroding their trust in public institutions, and contributing to an order of endemic insecurity. In short, what these arguments suggest is that a police service which ensures individual-level security is a constitutive element of peaceful and democratic governance. Wayward police forces in countries in transition from authoritarianism or internal conflict endanger the construction of peace and democracy.

Another important similarity in how the EU and the OSCE conceive of transitional policing is the acknowledgement by both that policing reforms will come to naught if they are not integrated into a comprehensive rule-of-law approach that also tackles the reform of the judiciary. Even the best police assistance programme will ultimately be ineffective if corrupt, ethnically biased, or otherwise dysfunctional judges let suspects go.<sup>11</sup> Finally, both or-

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11 The need for comprehensive rule-of-law reforms, which ideally also include penal reforms, is one of the lessons learned from UN police operations. See Eirin Mobekk, *Inter-*

ganizations believe that international assistance, supervision, and intervention play an important role in encouraging and promoting the transition to democratic policing. The legacies of authoritarianism and internal conflict, including the divisive role played by the police, often pose serious obstacles to police reform. Hence, in some countries, international involvement is required to bring about the “right” policing changes.

Yet, while the EU and the OSCE share the same view of the problem to be acted upon, they differ in how they understand their relationship with police aid recipients. This difference is determined by the specific policing model each organization subscribes to and wishes to promote in host countries and by the specific objectives it prioritizes.

Policing models can be analysed in terms of the relative importance they attach to the notions of “care” and “control”.<sup>12</sup> A model that is preoccupied with “control” produces an image of the police as “hard cops” engaged in fighting crime and securing public order against civil unrest. A model that is more attuned to the notion of “care” lends itself to a conception of police officers as “soft cops”, whose job requires them not only to act as enforcers of law and order but also as a kind of social service. Our claim is that while the EU’s police aid rationality gives priority to a more control-oriented model of policing, the OSCE privileges one more focused on service and community. In what follows, we briefly unpack this argument and trace a series of conceptual differences in how the two organizations see their role in relation to the police in recipient countries.

The EU’s police aid rationality is informed by a “modernist” view of policing. At its core are three related elements: the professional policing model, a state-led conception of policing, and a particular understanding of what constitutes the core functions to be carried out by the police.<sup>13</sup> The professional policing model frames police officers as figures of authority, an authority that is based not only on the officers’ legal status but, more importantly, on their status as professionals who possess superior competence and expertise in matters of crime and justice.<sup>14</sup> The model thus implies a hierarchical police-citizen relationship that subordinates the latter to the former. Policing, consequently, is understood as authoritative intervention into social relations grounded in the legitimating appeal to specialized knowledge.

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*national Policing as Part of Post-Conflict Reconstruction and Peace-Building: The Challenges of Ensuring Effective Linkages*, Background Paper 2 for the conference International Post-Conflict Policing Operations. Enhancing Co-ordination and Effectiveness, held at Wilton Park, 26-29 January 2004, at: <http://www.wiltonpark.org.uk/documents/conferences/WPS04-3/pdfs/WPS04-3.pdf>, pp. 81-94.

12 Cf. Mike Stephens/Saul Becker (eds), *Police Force, Police Service. Care and Control in Britain*, London 1994.

13 Cf. Egon Bittner, *The Functions of the Police in Modern Society*, Rockville, MD, 1970.

14 However, building on the lessons learned from the EUPM, the EU is acknowledging the limits of this kind of model and has thus started to increase the number of civilians in its police missions.

Another, closely related, feature of the way the EU conceives of policing is its state-centrism. Policing, in this view, is an expression of state power and thus mainly or exclusively the task of the public police. This state-led conception of policing reflects a Weberian understanding of the relationship between the state, law, and the use of force, thus bringing to the fore the sovereignty-related and coercive aspects of the relationship between the police and the population rather than its consultative and co-operative features. Hence, a state-centric interpretation of policing attaches little importance to the role of citizens and non-governmental organizations in the production of public order and security, thus encouraging passivity on their part in policing matters. Civil society is the recipient of public security rather than an active participant in its production.

Finally, the EU's police aid rationality presupposes that the core function of policing in countries in transition is the effective enforcement of law and order, including lawful police conduct. The underlying image of the police is that of agents of social control, whose core tasks are the fight against crime and the preservation of general order. This law-and-order focus is seen as necessary for at least two reasons. First, the EU assumes that crime and disorder are major short-term obstacles preventing countries from escaping from authoritarianism or internal conflict. Organized crime, in particular, is seen as being linked to corruption and terrorism, impeding investment and international trade, keeping countries underdeveloped, and corroding their states from within.<sup>15</sup> Second, the EU calculates that breaking established patterns of police abuse and impunity is a major contributory factor to the legitimacy of policing reforms. Only if the police distance themselves from their negative record can they expect that their moral authority and their right to enforce the law and to issue commands will be accepted by all segments of society.<sup>16</sup>

Turning to the OSCE, its police aid rationality is informed by a model of policing that is marked by post-modern ideas.<sup>17</sup> To begin with, without denying altogether the validity of the professional police model, the OSCE does not regard policing to be the exclusive brief of police experts. In line with post-modern interpretations of current changes in the field of policing, the OSCE assumes that the knowledge required for policing is not owned by any particular group of persons. The advantage of the resulting hybrid conception of policing, which valorizes lay knowledge and capacity, is that it encourages the police to be integrated with, and accountable to, the communities they serve. Another closely related aspect of the OSCE mentality is the emphasis

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15 Cf. The London Statement – Defeating Organised Crime in South Eastern Europe, London, 25 November 2002. The statement was issued at the conclusion of a ministerial conference on organized crime, which brought together the EU and the countries of the region.

16 Cf. Ronald Weitzer, *Policing Under Fire. Ethnic Conflict and Police-Community Relations in Northern Ireland*, Albany, NY, 1995, p. 83.

17 Cf. Les Johnston/Clifford Shearing, *Governing Security. Explorations in Policing and Justice*, London 2003.



it puts on the responsibility of citizens for the provision of public security. In addition to executive policing concentrated in the hands of the public police, there is room, in this view, for civil policing, i.e., for citizens and non-governmental organizations to play an active role in the policing of their communities. The nexus of self-policing and external policing is regarded as containing the potential for both effective and democratic policing.

Finally, the OSCE's concern with law and order in transition countries is augmented by the Organization's strong interest in policing functions in relation to issues of local justice and quality of life. Under this broad conception of policing, police officers are agents of civic governance who, often in co-operation with other agencies, assist people who experience some kind of personal emergency such as sexual abuse, and help communities to address the deep-seated problems of which crime and disorder are merely the symptoms.<sup>18</sup> The OSCE believes that conceiving of the police as an agency of social improvement that seeks to promote individual-level security in all its aspects is an important aspect of transforming a transitional police force into a human rights-oriented police service that enjoys the trust of the population.

Having discussed at some length the distinct policing models held by the EU and the OSCE, we now turn to a brief discussion of the different ends towards which the two organizations direct their police aid.

The EU conceives of its police missions as instruments for defusing low-intensity crisis situations, generally following – or, as in the case of the EUPM, in parallel with – the deployment of military forces in the wake of civil war. This connection between the military and the police in the context of crisis diplomacy rests on the assumption that restoring order in post-conflict settings is best left to the military and maintaining order to the police because the former is a blunt instrument, “capable only of imposing a most basic, rigid form of order”.<sup>19</sup> Yet, while routine public security tasks within the scope of peace operations are best carried out by the police, the local police force is unfit to carry out its functions in many war-torn societies. To fill this gap, the EU developed rapidly deployable police missions capable of substituting for dysfunctional local police forces or of supervising and reinforcing them. Finally, the fact that the EU frames its police aid objectives in terms of crisis management implies that, at least at the conceptual level, it does not envisage becoming engaged in the long-term project of building a democratic and human rights-oriented police service.<sup>20</sup>

As to the OSCE, it sees the “value added” of its police aid in its contribution to sustainable peacebuilding (pre- and post-conflict). While this does

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18 Cf. Ian Loader/Neil Walker, Policing as a Public Good. Reconstituting the Connections Between Policing and the State, in: *Theoretical Criminology* 1/2001, pp. 15-16.

19 Michael J. Dziedzic, Introduction, in: Robert B. Oakley/Michael J. Dziedzic/Eliot M. Goldberg (eds), *Policing the New World Disorder: Peace Operations and Public Security*, Honolulu, HI, 2002, p.8.

20 According to the current institutional division of labour within the EU, long-term police aid is administered by the European Commission.

not exclude police-related activities in crisis situations, it does assume that the Organization can maximize its impact by operating principally at the level of what has been called unstable peace, i.e., that stage in the conflict lifecycle that precedes or follows the confrontation between armed factions.<sup>21</sup> Consequently, the OSCE inscribes its police aid work in a longer timeframe than does the EU, taking a developmentalist view of the role of police reform in promoting the transition from authoritarianism or following internal conflict. In particular, the OSCE assigns great importance to efforts to change policing ideologies, norms, and attitudes – a process that is time consuming but crucial for building sustainable peace. Moreover, the OSCE assumes that police reforms have a positive impact not only on police conduct but also on the political and social context within which the police operates. In short, OSCE police aid is an instrument principally directed at, firstly, creating a human rights-oriented, publicly accountable, and responsive police service and, secondly, influencing the political and, to a lesser degree, economic development of countries in transition.

To summarize this analysis of police aid rationalities, that of the EU is characterized by, on the one hand, a control mentality that privileges the law-and-order function of policing and, on the other, an emphasis on the rapid deployment of aid with a view to containing crises and assisting in the implementation of peace agreements following the termination of civil wars. The OSCE, on the other hand, has a service mentality that balances a focus on law enforcement with a pronounced concern with the democratic accountability of the police, the empowerment of citizens and non-governmental organizations in the policing field, and the promotion of community justice. Moreover, its police aid is generally framed as a contribution to long-term peacebuilding and the consolidation of democracy.

#### *From Rationalities to Practices: EU and OSCE Police Aid on the Ground*

In this section, we argue that the two organizations' distinct policing rationalities – their policing models and reform objectives – give rise to distinct patterns of action on the ground. While the EU, using the technology of intensive co-location, targets its police aid principally at the law-and-order function of the local police, the OSCE, specializing in the design and delivery of training, has built a niche for itself as a provider of support for community policing. To illustrate our argument, we briefly analyse EU police aid practices in Bosnia and Herzegovina and the OSCE's activities in the former Yugoslav Republic of Macedonia (FYROM).

The police aid provided by the EUPM, the first operation of its kind under the ESDP, has five key features. First, it concentrates assistance on re-

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21 See Michael S. Lund, *Preventing Violent Conflicts. A Strategy for Preventive Diplomacy*, Washington, D.C. 1999, p. 39.

forms in support of crime control, especially the fight against organized crime. Second, it emphasizes an expert-based, technology-driven approach to law enforcement. Third, it provides little room for citizen involvement in policing. Fourth, it focuses on the sovereignty-related and coercive aspects of the relationship between the Bosnian police and the population. Finally, co-location is the key technology used by the ca. 500-strong EUPM to effect its reforms.

The mandate of the EUPM, which superseded the United Nations International Police Task Force (IPTF) on 1 January 2003, is to reform policing under Bosnian ownership in accordance with best European and international practices.<sup>22</sup> To carry out its mission, the EUPM identified four distinct strategic priorities, which have in turn been given concrete form in seven reform programmes and 45 reform projects. Twenty-three of these projects are dedicated to fighting organized crime (as of summer 2004).

Under the Crime Police Programme, forensic assessment capabilities are being improved and witness protection programmes enhanced. At the insistence of the mission, which emphasizes the need to move towards the use of sophisticated, technology-based crime fighting approaches such as intelligence-led policing, criminal intelligence units were established in all cantons to ensure the more effective collection, dissemination, and management of intelligence on organized criminal activities. The programme also aims at fostering closer working relations between the police and the chief prosecutor's office and at improving inter-cantonal and inter-entity police co-operation in combating organized crime.<sup>23</sup> The Criminal Justice Programme, which ran until the summer of 2004, was closely related to the Crime Police Programme. Among other things, it promoted standardized crime reporting formats and skills to improve crime case management.<sup>24</sup>

Running in parallel with these single-issue programmes, the mission's two institutional reform programmes are also designed to enhance the capacity of the Bosnian police to fight organized crime. The first targets the State Border Service (SBS), which was officially inaugurated in mid-2000 and assumed control of all international border crossing points in 2002. Its key function is to combat cross-border organized crime. The second programme is tasked with developing the State Information and Protection Agency (SIPA). SIPA is a state-level law enforcement agency, which, once it is fully operational, will focus on policing organized crime, including human trafficking and trafficking in weapons of mass destruction, as well as terrorism.

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22 Cf. General Affairs and External Relations, Council Conclusions, 18 February 2002.

23 Following the Dayton Peace Accords, Bosnia and Herzegovina is made up of two entities – the (Bosniak-Croat) Federation and the (Serb) Republika Srpska – as well as the Brcko District, which is administered separately. Each of these three territorial units has its own police force. In addition, the Federation has ten cantonal police forces. Finally, there are two state-level law enforcement agencies.

24 These reform activities were taken over by the new Police Training and Education Programme.

Among its scheduled tasks is the processing of criminal information and the exchange of law enforcement information between the entities.<sup>25</sup>

The point we wish to make is that the EUPM focuses its attention and resources on crime, and on organized crime in particular. Furthermore, in seeking to tackle this phenomenon, it follows a strategy oriented towards detection and arrest. In other words, the mission encourages the Bosnian police forces to rely on their surveillance capabilities and coercive powers in combating the perceived threat. The EUPM thus promotes the improvement of border management, the gathering of criminal intelligence and the intimidation and incapacitation of criminals and organized crime groups. This strategy of relentless law-enforcement downplays policies that ally crime control with the democratization and “localization” of policing, based on the recognition of the potential contribution to crime reduction of a partnership between the police and the public.<sup>26</sup>

As already mentioned, the EUPM uses the tool of co-location in implementing its reform programmes. Mission staff are deployed in 24 monitoring units co-located at medium and senior level in police units of the state, the entities, and the cantons as well as in the police force of Brcko District. Furthermore, co-locators are placed as advisors within the state-level ministry of security, other state-level police organizations, and the ministries of the interior of both the Federation and the Republika Srpska. Overall, EUPM officers are currently deployed in over 30 locations throughout the country.

Co-location works by assembling, in Foucault’s terms “spaces of constructed visibility”, in which the police officers of the host country perform their tasks under the trained eye of foreign experts. The operation of the national police apparatus is thus rendered fully transparent, at least in principle. The co-locators mentor and advise their Bosnian colleagues but they also record, evaluate, and report on their behaviour in order to pressurize them to comply with best European and international practices. If co-locators judge that the conduct of Bosnian officers deviates significantly from the norms set by the police aid regime, they have the power to recommend the removal of the individuals concerned.<sup>27</sup> In short, the co-locators’ individualizing gaze is designed to constrain the behaviour of the observed in a certain direction: to make them conform to appropriate rules and codes of policing as defined by the EUPM. The upshot is that little attention is given by the mission to the activation of local policing knowledge. The EUPM thus effects its reforms with the help of a technology that emphasizes the disciplinary aspects in the

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25 For a comprehensive analysis of all EUPM reform programmes, see Michael Merlingen/Rasa Ostrauskaitė, *The EU and the Democratisation of Policing in Countries in Transition: The Case of BiH*, in: *Populacao e Sociedade*, special issue, 2004, pp. 127-144.

26 There are isolated initiatives to make policing more responsive to local needs, such as the Ustikolina community policing project. But overall, these efforts remain underdeveloped.

27 The final decision, which cannot be repealed, is made by the High Representative for Bosnia and Herzegovina.

relationship between donor and recipient. This and other features of its police aid practice set the EU apart from the OSCE.<sup>28</sup>

In the wake of the Ohrid Framework Agreement of 13 August 2001, which in Annex C, Article 5 stipulates a number of measures to promote non-discrimination and equitable representation in the police and other public institutions, the OSCE agreed with the Macedonian government to reinforce its Spillover Monitor Mission to Skopje, notably with a view to assisting the authorities in reforming the police. The upshot of this agreement was the establishment of the Police Development Unit (PDU).

The police support activities of the Mission to Skopje and, with variations, other OSCE missions have at least four distinguishing features. First, they focus on reforms in support of community policing.<sup>29</sup> Second, citizens and non-governmental organizations are regarded as subjects of responsibility, autonomy, and choice in the field of policing. Third, the Mission values a consultative style of policing that is based on co-operation between the police and the population and adapted to local needs. Finally, the principal technology used to administer the aid is training.

Community policing is oriented towards local problem-solving, including crime prevention and the building of confidence between the police and ethnic minorities.<sup>30</sup> Its institutional prerequisites are Citizen Advisory Groups (CAGs), interagency co-operation, and police officers deployed in local communities. The attitudinal prerequisites are citizens who think of themselves as active participants in their own governance and a police force that conceives of itself as a service provider rather than a power existing above and beyond a population to be controlled.

In a transition country such as the FYROM, none of these elements of community policing is likely to be well developed, if they exist at all. Hence, one of the main tasks of the Spillover Mission is to develop the institutional and attitudinal foundations for community policing. To this end, it assisted the ministry of the interior in developing a framework for the development of community policing throughout the country. A principal pillar of this “New Approach to Policing” is training.

The Training and Educational Support divisions of the PDU develop and deliver training to Macedonian police cadets and officers at the Police Academy in Idrizovo. Besides teaching technical skills such as drug identifi-

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28 Conversely, the EUPM displays many features also typical of the IPTF. For an analysis of the IPTF, see Michael J. Dziedzic/Andrew Blair, *Bosnia and the International Police Task Force*, in: Oakley/Dziedzic/Goldberg, cited above (Note 19), pp. 253-314.

29 This is not to say that the OSCE focuses the police aid it provides to countries in transition exclusively on community policing. It is also active in other aspects of police reform such as the development of modern career planning systems.

30 Practitioners and scholars diverge on what precisely, operationally speaking, is implied by “community policing”. Hence, some observers speak of an essentially contested concept and point to the ensuing implementation problems in international police aid programmes. Cf. Eirin Mobekk, *Policing from Below. Community Policing as an Objective in Peace Operations*, in: Renata Dwan (ed.), *Executive Policing. Enforcing the Law in Peace Operations*, Oxford 2003, pp. 53-66.

cation and firearms instruction, the curriculum also emphasizes subjects such as human rights training, policing in a multi-ethnic society, community policing, and domestic violence awareness. These subjects are designed to facilitate the integration of the police into local communities via a shift in ethos within the police: from a force to a service, from law enforcement to community orientation, from policing alone to policing in partnership.<sup>31</sup>

As to the teaching philosophy underpinning this training regime, it is based on a paradigm of knowledge creation and transfer according to which it is best to avoid being overly prescriptive but rather to promote the mutual development of trainers and trainees. This kind of approach values experiential learning, which incorporates local knowledge and aims at nurturing the latent aptitudes of trainees. Moreover, it is attuned to the importance of cultural and political contexts and therefore acknowledges that “good policing cannot be defined operationally, that is by specific practices, nor learned or taught by the transference of ‘proven’ policies from one setting to another”.<sup>32</sup>

As part of its commitment to long-term police reform, the PDU also monitors and advises on the recruitment and selection of new cadets, paying particular attention to enhancing the number of women and ethnic minorities in the service. Finally, by means of its Police Reform and Community Development divisions, the PDU undertakes a number of further activities aimed at supporting the New Approach to Policing. They include efforts to raise awareness among citizens and municipal leaders of the benefits of community policing; providing technical assistance in the decentralization of police command structures and the formation of CAGs; and supporting and advising on the operation of public complaints mechanisms to deal with citizens’ complaints about unprofessional police behaviour, including ethnic bias and human rights violations.

To conclude, its activities in the FYROM show that the OSCE has developed notable expertise and capacities for supporting the long-term development of what can be called “policing at a distance”, i.e., policing that is centred on mechanisms of social control that are indirect and persuasive rather than sovereignty-based and coercive. The Organization thus places great importance on police accountability and the active participation of citizens in policing matters. To advance these objectives, it facilitates the integration of the police service into local communities by creating partnerships in which the police, citizens, local non-governmental organizations, and other public services or state agencies combine to tackle problems. In administering its police aid, the OSCE displays a pronounced cultural sensitivity and willingness to listen to recipients. It emphasizes dialogue with the authorities (national and subnational) as well as the mobilization of local knowledge and

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31 Cf. Superintendent Roy Fleming, contribution to the Supplementary Human Dimension Meeting on “The Role of Community Policing in Building Confidence in Minority Communities”, Vienna, 28-29 October 2002, CIO.GAL/104/02, 12 December 2002, p. 25.

32 Otwin Marenin, The Goal of Democracy in International Police Assistance Programs, in: *Policing: An International Journal of Police Strategies and Management* 1/1998, p. 165.

capacities. As a result, police aid practices in the FYROM and elsewhere are markedly co-operative and value mutual accommodation rather than unilateral prescription. This approach sets the OSCE apart from the EU as well as from many other bilateral and international police aid donors.

Having analysed the police aid governmentalities of the EU and the OSCE, we turn next to the policy implications of our argument. The question to be addressed concerns how the two organizations can further enhance their co-operation in the area of policing.

#### *EU-OSCE Co-operation in the Area of Policing*

So far, the OSCE's lead role in policing reforms in Central Asia and the Caucasus has not been questioned by the EU. The ESDP rule-of-law mission in Georgia (EUJUST-THEMIS) notwithstanding, the Caucasus and Central Asia are likely to remain a space where the OSCE and its police-related activities enjoy superior legitimacy and credibility. Thus, while the potential for competition or duplication in most countries within these two regions is small, the field of police-related activities in the Balkans represents a dense policy space, where a problem of absorption can be said to exist.

As acknowledged by the Gothenburg European Council in June 2001, the evolving civilian crisis management capabilities of the ESDP call for intensified, mutually reinforcing co-operation between the EU and the OSCE in order to avoid rivalry and overlap. In response, the Council of the EU approved conclusions on "EU-OSCE relations in conflict prevention, crisis management and post-conflict rehabilitation".<sup>33</sup> Although the Council specified that it would be best to ground the mutual adjustment of policies in an understanding of comparative advantages of each organization, it stopped short of identifying the actual issues that each organization should specialize in. In what follows, we try to make up for this omission. Based on our analysis of the governmentality of EU and OSCE police assistance and the lessons learned from the successful co-operation in Macedonia, we submit that co-operation between the two organizations in the area of policing can be further enhanced by taking into account the following shortcomings and comparative advantages.

To start with the EU, one clear comparative advantage it has *vis-à-vis* the OSCE is the broad range of crisis management tools it has at its disposal. Certain weaknesses in EU military assets notwithstanding, the ability to combine and sequence military and civilian instruments and capabilities makes it possible for the EU to intervene effectively in all stages of a crisis and to co-ordinate the transition from military to civilian operations, includ-

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33 *EU-OSCE cooperation in conflict prevention, crisis management and post-conflict rehabilitation*, Conclusions of the 2540th meeting of the General Affairs and External Relations Council, Brussels, 17 November 2003, 14486/03 (Presse 319), pp. I-IV.

ing police missions.<sup>34</sup> The impact of this kind of EU-led comprehensive peace operation can be further strengthened by drawing on the accumulated police aid skills of the OSCE, not least in situations in which security concerns might otherwise prevent the OSCE from being active on the ground.

As pointed out earlier, the EU delivers its policing reforms principally via the technology of co-location. Co-location has proved an effective means to bring about changes in local policing conduct within a short period of time. Its comparative advantage is that it institutes a surveillance regime that constrains police officers to alter their behaviour without requiring them to modify their beliefs or attitudes – which is time consuming. However, co-location is a manpower-intensive and intrusive technology and thus can only be deployed by international actors – such as the EU – that have substantial resources and political leverage over the host country.<sup>35</sup> Yet the key drawback of co-location is that once the co-locators leave, any perceptible gains may be lost. In other words, police reforms brought about using co-location run the risk of being “highly perishable”. Therefore, while co-location is an effective crisis management tool, its efficacy as a means for bringing about sustainable police reforms is restricted. These limits point to the need to supplement co-location with longer-term reform efforts such as those undertaken by the OSCE. Most relevant here is the OSCE’s expertise in (re-)training cadets and officers with a view to instilling democratic policing values. We shall return to this point further below.

One of the features of EU police aid governmentality is its emphasis on law and order, notably the fight against organized crime. While such a focus on law enforcement can be an important short-term contribution to the stabilization of war-torn societies, its impact on long-term policing developments is less beneficial. Research suggests that police forces working primarily on law enforcement are characterized by a low integration into the social fabric and tend to prioritize the arrest and punishment of the guilty over due process.<sup>36</sup> These unintended effects of EU police aid undermine the very objective it is supposed to promote: a democratic police service that can ensure individual-level security. A way out of this dilemma is to balance the detection- and arrest-oriented law enforcement approach of the EU with the community-oriented approach of the OSCE.

Community policing is one of the OSCE’s principal areas of specialization. This mode of policing enjoys widespread support among Western practitioners and academics, but it has not yet been fully taken on board or operationalized by other international organizations. The strength of this model,

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34 The EU has recently resolved to establish a “Civil-Military Cell” that will ensure coherence in undertakings of this kind. Cf. European Council (Brussels), 17 and 18 June 2004, Presidency Conclusions, at: <http://europa.eu.int/rapid/pressReleasesAction.do?reference=DOC/04/2&format=HTML&aged=1&language=EN&guiLanguage=en>.

35 Cf. Annika S. Hansen, *From Congo to Kosovo: Civilian Police in Peace Operations*, Adelphi Paper 343, Oxford 2002, p. 74.

36 Cf. Alan Wright, *Policing. An Introduction to Concepts and Practice*, Cullompton 2002, p. 150; also Clive Coleman/Clive Norris, *Introducing Criminology*, Cullompton 2000.



which requires a long-term commitment on the part of the donor institution, lies in its ability to render the police more accountable and responsive to the public. This ensures greater transparency in operational policing matters, not least by encouraging co-operation between the police and the local community – including non-governmental organizations. Community policing is fully compatible with effective crime control as long as a concern with law and order is linked with notions of community justice. Indeed, with regard to certain types of (organized) crime, community policing even promises to be a more effective crime control approach than strategies which tend to be expert- and technology-driven. For instance, it is unlikely that trafficking in human beings can be tackled successfully unless communities are empowered, to some extent, to police *themselves*.<sup>37</sup>

Finally, one area in which the OSCE has more to offer host countries than the EU is training. The Organization has a commitment to and recognized expertise in basic and specialized police training, with a particular emphasis on the training of minority cadets and officers. Through its dedicated efforts, the OSCE contributes significantly to helping police forces in transition countries bridge the attitudinal and cultural gaps that inevitably stand between them and the goal of a modern, human rights-oriented, and democratic police service.<sup>38</sup> As suggested earlier, these pedagogical activities, with their focus on changing how local police officers think, can be productively combined with the external constraints placed on police conduct by co-location.

The potential benefit of grounding closer co-operation between the two organizations in these areas of comparative advantage is that it enables them to assemble and deliver comprehensive police reform packages. Although the police-related activities of the EU and the OSCE in the FYROM are formally independent of each other (each mission has a separate mandate), the two organizations were able to settle on a division of labour in reforming the Macedonian police that proved successful.<sup>39</sup> EU co-locators mentor, monitor, and advise local police, including border police, at middle to senior management level with a view to ensuring that conduct conforms with best European policing practices, while the OSCE specializes in the (re-)training of cadets and

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37 This is not to say that community policing is a panacea. In divided societies, the political, social, and economic conditions for community policing are only partially present. The OSCE's capacity to contribute to the creation of these conditions, however, is limited. For a critical view of the transformational effects of community policing in countries in transition, see Diana R. Gordon, *Democratic Consolidation and Community Policing. Conflicting Imperatives in South Africa*, in: *Policing and Society* 2/2001, pp. 121-150.

38 Cf. Robert B. Oakley/Michael J. Dziedzic, *Conclusions*, in: Oakley/Dziedzic/Goldberg, cited above (Note 19), p. 526.

39 The joint EU-OSCE fact-finding mission in preparation for the launch of EUPOL Proxima – the first mission of this kind – and the involvement of the OSCE in the planning phase of the EU mission played an important role in ensuring the complementarity of the two organizations' police-related activities on the ground. Cf. CIO.GAL/85/03, 5 September 2003. Moreover, the fact that the current Proxima police commissioner Baart D'Hooge is a former head of the PDU certainly contributes to the excellent record of co-operation between the two organizations in this area.

officers – including the border police – as well as the development of community policing. We submit that this comprehensive police reform package, especially if further refined by deploying joint EU-OSCE police missions, constitutes a model that can be generalized and applied to other countries.

However, enhancing EU-OSCE co-operation in the area of police aid will require not only the political will of the two organizations but also a more integrated approach to strategic planning. Furthermore, it would be desirable, as indeed some EU member states suggest, for the EU to have a liaison officer representing its General Secretariat at the OSCE's headquarters in Vienna.<sup>40</sup> A liaison officer could be instrumental in facilitating the exchange of information and the co-ordination of positions, particularly with regard to joint EU-OSCE police missions.<sup>41</sup>

### *Conclusion*

The rapid evolution of EU police capabilities has triggered internal political pressure and external expectations for speedy operationalization in order to demonstrate their specific value and to reinforce the image of the EU as a global actor. This has provided grounds for speculation that the EU would press ahead on its own at the expense of considering alternative institutional frameworks such as the UN and the OSCE. Although not altogether groundless, these fears seem to have been exaggerated as, above all, the close collaboration between the OSCE and the EU in the FYROM and the EU's military operation in the Democratic Republic of Congo, code-named *Artemis*, which was deployed swiftly and effectively in response to the call of the UN Secretary-General, demonstrate.<sup>42</sup> Yet, while the EU has made an effort to ensure that there is no duplication between its actions and those of other international actors, there is room for improvement with regard to its co-operation with the OSCE. Building on our analysis of the police aid governmentalities of the two organizations, we have suggested that the possibility of deploying joint police missions be explored. We would like to conclude with the even

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40 However, we do not go so far as to suggest the establishment of steering committees, such as exist for UN-EU co-operation in the field of crisis management. Two such steering committees, one in Brussels and one in New York, were put in place as a consequence of the Joint Declaration on UN-EU Co-operation in Crisis Management, which was adopted on 24 September 2003.

41 A separate Council liaison officer, however, will become redundant when, or if, the Constitution for Europe is ratified and the new position of EU foreign minister, combining the portfolios of both the Commissioner for External Relations and the High Representative for the Common Foreign and Security Policy, is created. The European Commission Delegation to the International Organizations in Vienna with its seat in the OSCE Secretariat will then be able to take charge of co-ordinating EU and OSCE police assistance.

42 It must be noted, however, that in the case of Bosnia and Herzegovina, there was a certain degree of friction between the EU and the OSCE with regard to the question of which organization should take over from the UN-IPTF. The OSCE had to abandon its plans for a follow-up mission as it became clear that the EU was determined to press ahead with its own police operation.

more ambitious proposal that joint operations designed to tackle all elements of the rule-of-law chain – for instance by combining an EU police mission with an OSCE rule-of-law component – hold even greater promise for providing countries with effective support to escape from authoritarianism or internal conflict and to establish sustainable peace and democracy.<sup>43</sup>

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43 The ongoing discussions in the EU on the need for a strategy on the role of the EU within the OSCE would provide an excellent opportunity for member states to discuss this option. Moreover, close co-operation of this kind in the areas of conflict prevention, crisis management, and post-conflict rehabilitation would be in accordance with the new EU Security Strategy, which emphasizes the importance of pursuing EU objectives through effective multilateral efforts. Yet enhanced co-operation between the two organizations also carries the danger of further increasing political tensions within the OSCE. Some participating States are already voicing their concern that certain OSCE countries or groupings are monopolizing the Organization with a view to advancing their political aims at the expense of others’.



## Making the Transition to Democratic Policing: The Next Phase of OSCE Assistance to the Kyrgyz Republic

The Kyrgyz Republic, like many new democracies exiting the “transition phase”, has more needs than current funds and priorities can accommodate. After ten years, its democracy hangs more precariously in the balance now than in the days immediately following independence. While many people have already benefited from the changes brought by democracy, many others have not. Disillusionment has grown, fed by the slowness of the democracy-building process, the lack of visible change in old Soviet institutions, and the fact that – for many people – democracy has yet to alleviate the social or material hardships they face every day. Amidst much international investment, new pro-democracy programmes, and extensive media coverage of democratic reforms, real change has been slow to reach people’s daily lives. Nowhere is this more apparent than with regard to the reform of the Kyrgyz police force.

In democratic societies, the police serve to protect the people and their rights. Yet, the legacy of most post-Soviet republics is a police force designed to protect the state, a force that at times acts *against* the people, their rights, and their security. If police officers are to perform their critical role in a democratic system based on the rule of law, targeted reforms are necessary to reorient the mission and philosophy of the police force. Such overarching goals, however, have so far taken a backseat to meeting the very real technical and training needs of a police force left with antiquated equipment and inadequate skill-sets.

### *The Context of Current Reform Efforts*

In Kyrgyzstan, the need for police reform has been recognized for many years by the government, civil society, international donors, and the police force itself. The relatively low professional and technical capacity of the police, which has been exacerbated by the new challenges of fighting terrorism, organized crime, and the international drug trade is, by itself, enough to necessitate reform. Another factor is the need to reorient the police force to the new public security role it must play in a democratic society – a role that cannot be achieved without improving its human rights record, mending relations with the public, and purging corruption at all levels.

Although the Kyrgyz government has recognized the need for change, it is hampered by problems that also affect many other states: Competing do-

mestic demands and a lack of effective international support have left it ill-equipped to fully address the problem on a conceptual, legal, administrative, or financial level. The State Commission on Police Reform was established in September 2003 under the presidential administration. With members of the government, civil society, parliament, academic institutions, and police appointed to the commission to organize and oversee significant police reforms, it had a promising composition and mandate. A year later, however, it has yet to begin its work.

International assistance for Kyrgyz police reform has so far been limited, and what little there has been has focused largely on improving the force's professionalism and technical capacity. The United Nations Development Programme (UNDP) deployed an advisory mission on modernizing the Police Academy curriculum in 1997, which was followed by a Crime Prevention and Reduction programme in 1997-2000. The latter sought to combat organized crime by increasing operational expertise, modernizing national laws, creating better information and communications systems, and encouraging public participation in the fight against crime. The UNDP currently has no future police reform programmes planned. The UN Office for Drugs and Crime (UNODC), the European Commission, and several bilateral donors have also contributed technical assistance to fighting drug trafficking, controlling the borders, and supporting other specific projects.

The OSCE's Police Assistance Programme for Kyrgyzstan (PAP), which was begun in August 2003 at the request of the Kyrgyz government, is the most comprehensive initiative that has been implemented to date. The programme takes an eight-pronged approach to modernizing and strengthening law enforcement capacity and institutions in Kyrgyzstan, seeking to: improve the quality of police investigations; strengthen drug interdiction capacities; establish a modern emergency-call response centre; create an information analysis system; develop a radio communications system for criminal police; improve police capacity to prevent conflict and manage public disorder; introduce a community policing pilot project; and conduct a comprehensive revision of Police Academy training activities and curricula. The PAP is well underway and expected to be completed in the first half of 2005.

#### *Learning from Our Experiences*

Police reform in the Kyrgyz Republic has focused – with some success – on a wide set of professionalism and technical reform issues. Yet international support for this has been piecemeal at best, lacking both cohesion and comprehensiveness. Current gains being made in police reform now threaten to stall unless broader democratic-policing goals are more fully incorporated into a comprehensive approach to police reform.

Specifically, the OSCE's PAP has without a doubt provided pragmatic and needs-oriented support to the police and can be credited with substantial gains made in training, drug interception capacities and neighbourhood policing. However, for the following reasons, this programme alone has not had a significant impact on police reform and is unlikely to do so in the future:

- The government has defined police reform as a priority, but has not yet adopted a comprehensive reform plan that includes legal reforms, administrative reforms, and the resolution of problem issues such as respect for the rule of law and human rights, corruption, torture, detention, inter-ethnic conflict, and transparency. As a consequence, the support of the OSCE's PAP is provided in an operational and conceptual vacuum.
- In the absence of a structural and ideological overhaul of the police force, international assistance to the police only further alienates the public and threatens the legitimacy of international donors. In focusing almost exclusively on improving the professional and technical capacity of the police, the PAP has been perceived by civil society as supporting a corrupt and undemocratic institution that protects only the interests of the state authority. This technical bias turned into a serious problem in the context of the tragic Aksy events, when police opened fire on a group of demonstrators, killing six of them.<sup>1</sup> Kyrgyz civil society could not comprehend how the OSCE could support and equip a police force capable of such actions.
- The mandate of the OSCE in Kyrgyzstan is broad, encompassing human rights, legal reform, rule of law, corruption, detention, torture, and ethnic conflict issues. As each of these topics is also a major problem within the police force, the OSCE is well-positioned – and perhaps even expected by the local community and government – to address them in the context of police reform.

It has become clear that a well-defined framework for broader democratic police reform in Kyrgyzstan would provide much-needed direction for currently disjointed international police assistance, justify continued technical assistance within the OSCE's political mandate, legitimize international support of the police in the eyes of the public, and, perhaps most importantly, effect real change in the relationship between the Kyrgyz police and the public.

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<sup>1</sup> On 17 March 2002, six people were killed when police opened fire on a crowd protesting the imprisonment of parliamentary deputy Azimbek Beknazarov, who was arrested after criticizing the Kyrgyz president.

### *Guiding Principles for the Next Phase*

One promising development was the publication this year of a concept paper by the Kyrgyz Ministry of Internal Affairs (MIA) on reforming the MIA, including the police. The paper articulates a vision and a concrete programme for broad police reform that seeks to fundamentally reorient the mission of the police from protecting the state to protecting the people and their rights. This is a vision with which the OSCE Centre in Kyrgyzstan agrees, and it provides an opportunity for deeper co-operation between the OSCE and the Kyrgyz government, to the very real benefit of the Kyrgyz people.

There are six guiding principles for the next phase of OSCE assistance to the Kyrgyz police:

1. Stakeholders must develop the conceptual and programmatic framework – and commensurate international commitments – for comprehensive, long-term assistance to the Kyrgyz police. Before the details of any further international assistance are defined, the participants should take time out to rethink the goals of police reform. The overriding goal should be to define means to achieve a transformation not only of the way the police discharge specific tasks, but also of their overall role.
2. International assistance should continue to advance the technical, professional, and operational development of the police in the capital and the regions. The reforms carried out so far have made substantial progress in improving police capacity and should be continued.
3. International and domestic efforts should be undertaken to identify the legal reforms necessary to reshape the formal and informal basis of police work.
4. Police reforms should promote greater accountability, transparency, and respect for the rule of law within the police force. If the police force is to enforce and create respect for the rule of law in society, it must itself adhere to the same democratic standards.
5. The reforms should make a priority of building trust and improving relations between police and the public. Structural and procedural changes should be enacted to institutionalize community involvement in police work.
6. Reforms must employ a participatory approach involving civil society, government, and the police in all phases, including initial strategy development, project design, implementation, and evaluation. Kyrgyz ownership is crucial to success, and the reform process must thus garner the meaningful participation of all stakeholders. A major systematic effort should also be made to involve participants that reflect the gender and ethnic make-up of the country.



In supporting broader police reforms, the OSCE seeks to facilitate the evolution of the Kyrgyz police force into an institution that protects the people and their rights; is responsive, open, and accountable to the public; adheres to the rule of law; and has the expertise necessary to carry out its duties.

### *OSCE Strategy*

To address the myriad challenges and goals of Kyrgyz police reform, the next phase of OSCE programming will assist Kyrgyz parties in undertaking a wide range of professional, legal, rule-of-law, and administrative reforms in order to prepare the police force for its new role in building a democratic society.

### *Professional Development*

The OSCE aims to build the professional and technical capacity of police officers so that they may effectively carry out their duties of crime prevention and law enforcement.

*Training and assistance on technical issues.* The PAP's technical assistance has improved both the capacity and the responsiveness of the police and should be continued in fields to be identified by an expert assessment mission.

*Training and assistance on ethical issues.* Moving to the next level of professional development, the programme will provide training, mentoring, and other assistance to shape the conduct of officers and police culture more generally. Direct training in ethics will augment legal and administrative reforms aimed at the same goal.

*Police Academy curricula.* The next phase of OSCE assistance will build on current efforts to modernize the curriculum and teaching methods at the Police Academy, with a particular focus on protecting human rights and developing the police as a central component of a democratic criminal justice system. Developing decentralized training processes, region-specific curricula where necessary, and mechanisms for training *all* serving officers in new standards will enhance the current OSCE curriculum and training programmes.

### *Legal Reforms*

The OSCE will facilitate the development of a legal framework that supports the police in fulfilling their new duty of protecting the people and their rights.

*Laws on technical issues.* The OSCE will provide assistance to the government in conducting a thorough assessment and evaluation of all laws, policies, and procedures in order to eliminate gaps and contradictions in the

existing legal foundation of police work and to harmonize national and international laws on police practices.

*Laws on ethical issues.* Kyrgyz law currently defines the duties of police officers, yet it is largely silent on *how* they are to carry them out. Support should thus be given to the government in further revising Kyrgyz laws to incorporate principles of democratic policing and adopting a comprehensive code of ethics, based on the European Code of Police Ethics or other widely used models.

*Internal regulations.* Many reforms already made to national laws have yet to be incorporated into the internal regulations officers use in their day-to-day interactions with the public. Assistance will thus be provided to the police to ensure that internal procedures conform to national laws and are written in plain language, allowing for their meaningful application. Internal regulations should thus not simply direct police to “protect human rights” but should also articulate how officers should protect human rights in situations they encounter every day, for example, by detailing procedures on what officers can and cannot do when they stop a motorist.

*Informal procedures.* The OSCE will assist the police and civil society in documenting informal police practices to assess how the informal foundation of police work could be reformed to support the new democratic role of the police. This analysis will serve as the basis for legal reforms, as a monitoring activity that could itself limit undesirable actions, and as a confidence-building measure for the community.

*Domestic capacity in international law.* There is currently a lack of Kyrgyz legal personnel trained in international human rights and democratic policing standards. Providing international legal training to national experts will not only establish a pool of people able to conduct the necessary analyses of national laws in the short term, but will also mean that domestic expertise in international standards is retained long after international police missions have concluded.

### *Rule of Law*

The OSCE seeks to institutionalize the accountability of the police under the rule of law. To this end, the OSCE will fund a comprehensive analysis of legal and administrative reforms necessary to bring local procedures into compliance with Kyrgyzstan’s international human rights obligations, focusing in particular on issues of detention, torture, and corruption. These rule-of-law reforms will complement efforts to establish merit-based selection procedures, improve internal and external accountability, and make internal regulations public, which will also indirectly limit abuse by reducing opportunities for corruption. Measures of this kind designed to deal directly with police corruption will also benefit from co-ordination with ongoing larger-scale efforts to fight corruption in the Kyrgyz Republic.

### *Administrative Reforms Regarding Individual Police Officers*

The OSCE will provide the technical assistance necessary to reorganize the administration of the police force, with the goal of improving the working environment for individual officers.

*Police qualifications and recruitment.* Selection processes and criteria should be standardized, based on merit, developed through public consultation, and widely distributed and publicized. A clear and broadly agreed selection policy used to vet all new and current officers would increase the legitimacy of the force, reduce controversy over the representation of diverse ethnic groups (a particular problem in the South), and help fight corruption by establishing meritocratic criteria as the condition for employment. Increased public confidence in the quality and independence of officers will produce a corresponding rise in the prestige of the police.

*Criteria for evaluation and recognition of officers.* The criteria for evaluation, promotion, and recognition of officers should be revised to reinforce respect for the principles of democratic policing and make it measurable.

*Police rights and benefits.* The Kyrgyz Ministry of Internal Affairs has identified the establishment of social security guarantees for police personnel as the “most important condition” for determining the success of reforms. The OSCE will thus support the government’s attempts to analyse how to improve the salaries, benefits, healthcare, and working conditions of police personnel, and how to institutionalize legal and social guarantees for police officers’ rights.

*Police management style.* If police officers are to respect and employ a participatory and rule-based approach in their work with the public, the same approach must be put into practice within the police force. Internal management style should thus be revised to be more participatory and based on uniform, predictable rules.

*Gender and ethnic representation.* An analysis should be conducted on how best to achieve balanced gender and ethnic representation in the police force.

### *Administrative Reforms with Respect to Police Institutions*

The OSCE will provide technical assistance to support administrative reforms that increase the transparency and accountability of the police.

*Internal accountability.* Many reforms relating to disciplinary procedures, internal affairs policies, and police ethics that have been adopted in Kyrgyz law have not yet been – but need to be – fully incorporated into internal regulations and practice. Increasingly exact definitions of the role of police officers and the consequences for failing to discharge these responsi-

bilities correctly will ensure the legal accountability of the police while protecting officers from the arbitrary application of disciplinary laws.

*External accountability.* The first fundamental step in promoting transparency, and thus accountability, is to open internal regulations to public view. Second, an individual complaints mechanism should be institutionalized, making citizens' rights and complaint procedures readily available to the public. The OSCE will also work with the government, police, and civil society to assess the best options for some form of sustained external oversight, such as a citizen review board or citizen monitors. In the longer term, however, perhaps the most effective and farsighted means by which the programme will create external accountability will be its introduction of a participatory element to police procedures, i.e. the creation of a permanent mechanism for involving the community in the planning and operational activities of the police.

*Separation of powers.* An analysis should be made of the organizational relationship between the police, government, and other justice institutions to ensure that it minimizes political interference while maximizing accountability in police work. This analysis should look particularly at issues of police independence and officers' rights, both of which are key to establishing the separation of powers.

#### *Administrative Reforms with Respect to Police-Public Relations*

The OSCE will provide technical assistance to support administrative reforms that improve the relationship between the police and the public and the police's responsiveness to the needs of the community.

*Community policing.* Encompassing a range of measures from community relations and public education to greater accountability, improved training of police officers and other personnel, the community policing strategy reinforces many of the OSCE's other reforms, but it also offers a broader, comprehensive vision for sustainable democratization of the police force. The OSCE's successful pilot programme in community policing should be rolled-out as a nationwide programme and expanded in scope, based on the recommendations of an expert in the field.

*Public awareness activities.* Education campaigns conducted by the police force help officers internalize human rights standards, educate people about their rights and the responsibilities of the police, and bridge the divide between the police and the public. Likewise, the participation of human rights and civil society groups in Police Academy training will educate the public about the challenges police officers face while building trust between the police and the public. Furthermore, training representatives of civil society in security issues will foster understanding, as well as the capacity for local engagement in the development and sustained implementation of police reforms.

*Prevention.* An effective system should be established for collecting information on police abuses. The information gathered could be used by the police and communities to prevent future incidents by developing early warning systems and by recommending changes in training, procedures, or management.

*External appearance.* Mission statements, uniforms, and names are superficial, yet reform in these areas represents an outward, visible sign that can contribute to shaping the perception of the force by both the public and police officers themselves. Accordingly, the OSCE supports the Ministry of Internal Affairs' suggestion that the institution's name be changed from "militia" to "police" and that the uniforms be updated.

### *Looking Forwards*

The OSCE does not lightly take on responsibility for such comprehensive reforms, but does so with a clear vision of the expected benefits to the Kyrgyz people.

With this more comprehensive vision of police reform, the OSCE expects to see:

- Increased knowledge of and respect for human rights among the Kyrgyz police
- Institutionalization of respect for the rule of law in both internal and external police practices
- Harmonization of the Kyrgyz legal framework with international law and practices
- An improved working environment for police officers
- Improved relations between the police and the public
- Fewer cases of the police violating domestic laws
- Increased public awareness of the rights of citizens and the responsibilities of the police
- Modern curricula and training programmes at the Police Academy and in the field, reaching all serving and new officers
- Improved capabilities on the part of the police to carry out their duties, and
- Creation of a local capacity within civil society, the police, and the government to sustain reforms and monitor the need for further reforms in the future.

Regarding the OSCE itself, the Centre expects the participatory approach and the more comprehensive reform programme to bolster the OSCE's credibility in the eyes of the Kyrgyz people and the wider world.

It is hoped that the next phase of OSCE assistance to Kyrgyzstan will not only improve the effectiveness of the Kyrgyz police, but will also foster people's sense of safety in their community, trust in their government, and faith in democracy and the international institutions supporting their own nascent democracy. The reform process is a long-term undertaking. Its success depends in part on the dedication of the Kyrgyz government, but also on long-term financing of the programme by foreign sponsors.

## The Treaty on Open Skies – Status Quo and Prospects

### *Introduction*

The Treaty on Open Skies is the most wide-reaching and advanced instrument for military and security-related confidence building in the OSCE area. It opens the entire airspace between Vancouver and Vladivostok to co-operative observation overflights,<sup>1</sup> including the vast expanses of North America and Siberia, which are not open to inspections under the CFE Treaty and the Vienna Document.

When the Treaty was signed in 1992, one of its main aims was to support and verify efforts to reduce massed offensive capabilities (troops and heavy military equipment). The specifications of sensors were defined accordingly: photographic cameras with a ground resolution of 30 cm, night-vision-capable thermal-imaging sensors with a ground resolution of 50 cm, and radar-imaging devices with a resolution of three metres.

At the same time, however, the Treaty already contained several elements that were *highly progressive*:

- Establishing the rights and responsibilities of the States Parties to the Treaty irrespective of membership of existing or former military organizations
- Providing all States Parties with equal access to the image data generated by inspection flights
- Planning and performing observation flights co-operatively.

Today – twelve years after the Treaty was signed – the States Parties find themselves in a fundamentally transformed security environment:

- The threat potential within Europe has been enormously reduced.
- The danger of destabilization in most transition countries has been eliminated by their integration into NATO and the European Union.

At the same time, there is growing awareness of risks associated with developments outside the OSCE area but with repercussions for Europe. This includes phenomena such as the destabilization of states in Africa and the Middle East, the proliferation of weapons of mass destruction, terrorism and conflicts over natural resources. Within the OSCE area itself, trouble spots remain in the southern Balkans, the entire Caucasus region, and Central Asia. It

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<sup>1</sup> The only exceptions are the territories of the USA not situated on the continent of North America.

is thus necessary to ask what *role* the Treaty can play in this changed environment and what *options* exist for adapting the way it is implemented. Before doing so, however, I shall first summarize the Treaty's central provisions and the events that have occurred since it came into force on 1 January 2002.<sup>2</sup>

### *The Central Provisions of the Treaty*

The Treaty was signed in March 1992 by all of NATO's then 16 member states, and by many of the transition countries and successor states of the Soviet Union (Belarus, Bulgaria, The Czech and Slovak Federal Republic, Georgia, Hungary, Kyrgyzstan, Poland, Romania, Russia, and the Ukraine). All but Kyrgyzstan have ratified the Treaty. Each state is required to allow a certain number of overflights of its territory per year (known as its passive quota) and may carry out a number (generally the same number) of flights over other states (the active quota). For example, Russia (together with Belarus) and the USA each have a passive quota of 42 flights per year (75 per cent of that in the first three years). Smaller countries have passive quotas of between two and twelve flights per year. Each year, the Open Skies Consultative Commission (OSCC) allocates each state's passive quota among countries interested in performing overflights.

Alongside the sensor technologies already mentioned, video cameras with a ground resolution of 30 cm may also be used. *Certification* ensures that the ground resolution of the sensors at the proposed flight altitude complies with the Treaty. Behind these somewhat technical stipulations lies the ability to observe security-relevant installations throughout the Treaty's entire area of application and, in particular, to identify large pieces of military equipment located outdoors, such as tanks and aircraft. In other words, the

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2 The following publications contain descriptions of the treaty negotiations and the preliminary implementation phase, and critical evaluations of the treaty: Pál Dunay/Marton Krásznai/Hartwig Spitzer/William Wynne/Rafael Wiemker, *Open Skies*, UNIDIR, Geneva 2004; Klaus Arnhold, *Der Vertrag über den Offenen Himmel: Ein Konzept zur Aktualisierung des Vertrags* [The Treaty on Open Skies: A Proposal for Modernization], Stiftung Wissenschaft und Politik, Berlin, June 2002; Ernst Britting/Hartwig Spitzer, The Open Skies Treaty, in: *Verification Yearbook 2002*, London 2002, pp. 223-238; Pál Dunay, The Treaty on Open Skies in Force: European Security Unaffected, in: Institute for Peace Research and Security Policy at the University of Hamburg, *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 289-310; Rüdiger Hartmann/Wolfgang Heydrich, *Der Vertrag über den Offenen Himmel* [The Treaty on Open Skies], Baden-Baden 2000; Peter Jones/Marton Krásznai, Open Skies: Achievements and Prospects, in: John B. Poole/Richard Guthrie (eds), *Verification Report 1992*, London/New York 1992; Peter Jones, Open Skies: A Review of Events at Ottawa and Budapest, in: John B. Poole (ed.), *Verification Report 1991*, London/New York 1991; Peter Jones, Open Skies: Events in 1993, in: John B. Poole/Richard Guthrie (eds), *Verification 1993*, London/New York 1993; Sergey Koulik/Richard Kokoski, *Conventional Arms Control – Perspectives on Verification*, SIPRI, Oxford 1994; Michael Krepon/Amy E. Smithson (eds), *Open Skies, Arms Control, and Cooperative Security*, New York 1992.



activities carried out under the terms of the Treaty serve to create *transparency* and *openness*.

### *Events Since the Treaty Came into Effect*

The Treaty finally entered into force on 1 January 2002 after considerable delays in ratification on the part of Russia and Ukraine. The entry into force was proceeded by a ten-year period of preliminary implementation, during which time nearly 400 test flights were carried out to check and optimize procedures. The certification of aircraft from 16 states was completed rapidly by July 2002. A further three planes, one each from Russia, Sweden and Turkey, were certified in early May 2004.<sup>3</sup> Quota flights began on 1 August 2002. The allocation of quotas was renegotiated for 2004 (see table 1). In view of the heavy demand for flights over Russia, Ukraine, Georgia, and Bosnia and Herzegovina, many states agreed to carry out their inspections jointly.<sup>4</sup> Nevertheless, it is worth noting that many states do not make use of the full number of flights they are entitled to.

Although, in general, the Treaty is neither a focus of public attention nor a priority for policy makers, nine additional states have applied for accession since 2002 (Bosnia and Herzegovina, Croatia, Cyprus, Estonia, Finland, Latvia, Lithuania, Slovenia, and Sweden). Bosnia and Herzegovina, Croatia, Finland, Latvia, Slovenia, and Sweden have already ratified the Treaty, thereby acceding to the Open Skies regime. Cyprus's application has so far been blocked by Turkey's veto. The other countries have not yet ratified the Treaty. Implementation has generally proceeded smoothly and has made a lasting contribution to achieving the Treaty's aims. The image data gathered has mostly been used to verify the CFE Treaty and the Vienna Document,<sup>5</sup> occasionally also to support verification of other arms-control agreements (such as the Chemical Weapons Convention), and, in general, to raise transparency and to share knowledge of countries' military strengths.

The practical activities that have been carried out under the terms of the Treaty also illustrate well how the intelligent selection of basic structural principles – in this case, co-operation and openness – can shape the conduct of the individuals charged with carrying them out. A culture of openness and co-operation that ignores political boundaries has been established among the officers involved in implementation activities – a new experience for many.

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3 Ten of the States Parties are collectively known as the "pod group". They have jointly purchased a (single) container for sensors (pod), which can be affixed under the wing of transport aircraft from these countries.

4 Four of Germany's six active quota flights in 2004 are joint flights: with France over Ukraine, with Hungary over the "Group of States Parties" Russia/Belarus, and with Turkey over Bosnia and Herzegovina and Georgia.

5 Open Skies flights are often used in preparation for or to complement on-site inspections. Approximately 30 objects of verification can be observed in the course of a single flight over a medium-sized country such as Germany.

The Treaty thus strikes a balance between confidence building and careful double checking via territorially unrestricted observation flights.

Nevertheless, it is important to critically examine the extent to which Open Skies can effectively support current and future security needs and can withstand competition from commercial observation satellites.

### *Technical Capabilities Compared to Satellites*

When the Treaty was signed in 1992, only the USA had reconnaissance satellites whose ground resolution (of ca. 10 cm) was superior to the 30-cm resolution of the Open Skies sensors.<sup>6</sup> One of the USA's political goals at that time was thus to use Open Skies to provide its allies with images of an equivalent resolution.

Today, however, the skies have become significantly more open thanks to the launch of commercial satellites and improvements by other countries to their space-based military reconnaissance capabilities.

Three US consortiums (Space Imaging, Digital Global, and Orbital Sciences) operate satellites capable of delivering digital images with a ground resolution between 0.6 metres and one metre. The area captured on the ground typically measures ten by ten kilometres. Although the images generated are less detailed than those produced by Open Skies overflights by a factor of two or three, they still allow large pieces of military equipment to be detected, if not identified by type. The images can be acquired by anyone, including the world's intelligence services. There are only a few recorded cases of the US government blocking the sale of such commercial satellite-imaging data.

In the area of radar imaging, a European consortium (DLR and Astrium) will begin operating a commercial satellite with a ground resolution of one metre in 2006. Numerous countries, including France, Germany, India, Israel and Japan, already operate or are in the process of developing optical or radar satellites with a ground resolution of one metre or less.

Can Open Skies compete under these conditions? In fact, this question is fundamentally flawed, as it does not compare like with like. The enormous political benefits gained through the highly symbolic opening of national airspace to foreign observers and the co-operation this entails in practice could *never* be achieved by the use of satellites. In this respect, the Open Skies Treaty is unique and irreplaceable.

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6 Here, "resolution" corresponds to sensor pixel size (ground sampled distance).

Table 1: Allocation of active flight quotas for 2004. The countries overflowed and the number of flights in each case are given in brackets.

<p><i>Belarus and the Russian Federation</i>  Total: 25.5, maximum possible acc. to Treaty: 31  (Germany 2, France 2, UK 2, Norway 2, USA 2, Turkey 2, Benelux 1, Bulgaria 1, Canada 1, Denmark 1, Spain 1, Finland 1, Georgia 1 [joint flight with the UK], Greece 1, Italy 1, Poland 1, Portugal 1, Romania 1, Sweden 1, Czech Republic 1)</p>
<p><i>Benelux Group</i>  Total 2.33, maximum possible acc. to Treaty: 4  (Belarus and the Russian Federation 1, Georgia 1 [joint flight with Greece and Spain], Bosnia and Herzegovina 1)</p>
<p><i>Bosnia and Herzegovina</i>  Total: 0, maximum possible acc. to Treaty: 3</p>
<p><i>Bulgaria</i>  Total: 0.5, maximum possible acc. to Treaty: 3  (Bosnia and Herzegovina 1 [joint flight with Spain])</p>
<p><i>Canada</i>  Total: 2.5, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 2, Ukraine 1 [joint flight with the USA])</p>
<p><i>Czech Republic</i>  Total: 0.5, maximum possible acc. to Treaty: 3  (Ukraine 1 [joint flight with Spain])</p>
<p><i>Denmark</i>  Total: 0, maximum possible acc. to Treaty: 4</p>
<p><i>Finland</i>  Total: 3, maximum possible acc. to Treaty: 3  (Belarus and the Russian Federation 1, Germany 1, Sweden 1)</p>
<p><i>France</i>  Total: 3, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 3 [of which 1 with Portugal], Ukraine 1 [joint flight with Germany])</p>
<p><i>Georgia</i>  Total: 0, maximum possible acc. to Treaty: 3</p>
<p><i>Germany</i>  Total: 4, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 3 [of which 1 with Hungary], Georgia 1 [joint flight with Turkey], Ukraine 1 [joint flight with France], Bosnia und Herzegovina 1 [joint flight with Turkey])</p>
<p><i>Greece</i>  Total: 1.83, maximum possible acc. to Treaty: 3  (Belarus and the Russian Federation 3, Georgia 1 [joint flight with Benelux and Spain], Ukraine 1 [joint flight with Italy])</p>
<p><i>Hungary</i>  Total: 2, maximum possible acc. to Treaty: 3  (Belarus and the Russian Federation 2 [of which 1 joint flight with Germany and 1 with the USA], Ukraine 1)</p>

<p><i>Italy</i>  Total: 3.5, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 2, Sweden 1, Ukraine 1 [joint flight with Greece])</p>
<p><i>Lithuania</i>  Total: 0, maximum possible acc. to Treaty: 3</p>
<p><i>Norway</i>  Total: 2, maximum possible acc. to Treaty: 5  (Belarus and the Russian Federation 2)</p>
<p><i>Poland</i>  Total: 3, maximum possible acc. to Treaty: 4  (Belarus and the Russian Federation 2, Finland 1)</p>
<p><i>Portugal</i>  Total: 0.5, maximum possible acc. to Treaty: 1  (Belarus and the Russian Federation 1 [joint flight with France])</p>
<p><i>Romania</i>  Total: 4, maximum possible acc. to Treaty: 4  (Bulgaria 1, Hungary 1, Greece 1, Ukraine 1)</p>
<p><i>Slovakia</i>  Total 0.5, maximum possible acc. to Treaty: 3  (Belarus and the Russian Federation 1 [joint flight with the USA])</p>
<p><i>Spain</i>  Total: 1.33, maximum possible acc. to Treaty: 3  (Georgia 1 [joint flight with Benelux and Greece], Ukraine 1 [joint flight with the Czech Republic], Bosnia and Herzegovina 1 [joint flight with Bulgaria])</p>
<p><i>Sweden</i>  Total: 3, maximum possible acc. to Treaty: 5  (Belarus and the Russian Federation 1, Finland 1, Poland 1)</p>
<p><i>Turkey</i>  Total: 5, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 2, Georgia 1 [joint flight with Germany], Ukraine 2, Bosnia and Herzegovina 1 [joint flight with Germany])</p>
<p><i>Ukraine</i>  Total: 9, maximum possible acc. to Treaty: 9  (Germany 2, Bulgaria 1, Greece 1, Hungary 1, Italy 1, Poland 1, Romania 1, Slovakia 1, Turkey 1)</p>
<p><i>United Kingdom</i>  Total: 4.5, maximum possible acc. to Treaty: 9  (Belarus and the Russian Federation 3, Georgia 1 [joint flight with Belarus and the Russian Federation], Ukraine 1)</p>
<p><i>USA</i>  Total: 7.5, maximum possible acc. to Treaty: 31  (Belarus und Russian Federation 8 [of which 1 joint flight with Hungary and 1 with Slovakia], Ukraine 1 [joint flight with Canada])</p>

Source: The German OSCE Delegation, Vienna

Where meaningful comparison can be carried out is in terms of image resolution, availability, and cost:

*a) Image Resolution*

Table 2 compares Open Skies aircraft with commercial and military reconnaissance satellites in terms of the ground resolution of their photographic, thermal-imaging, and radar sensors. The optical sensors used under the Open Skies regime are generally as good as or even better than those of military and commercial satellites. However, the three-metre resolution foreseen under Open Skies rules for radar sensors will soon also be surpassed by commercial satellites. In the area of thermal imaging, however, Open Skies has unique capabilities not even equalled by the USA's most advanced military satellites.<sup>7</sup>

*Table 2: Ground resolution of photographic, thermal-imaging, and radar sensors on Open Skies aircraft and satellites*

Sensor	Photograph. camera	Mid-wavelength infrared	Thermal-imaging device	Radar
Open Skies	0.3 m	-	0.5 m	3 m
Commercial satellites	0.6 -1 m	-	(60 m)	1 m (2006)
Reconnaissance satellites (USA)	0.1-0.5 m	0.6-0.9 m (?)	-	0.6-0.9 m

Source: Pál Dunay et al., Open Skies, UNIDIR, Geneva 2004.

*b) Availability and Access Time*

Open Skies flights can be announced and carried out with a minimum of 72 hours advance notice. A mission plan with a detailed flight plan is filed 24 hours before the start of the actual observation flight. This means that – in crisis situations – data can be collected via Open Skies flights just as quickly as via commercial satellites. In practice, Open Skies flights are generally agreed upon three months in advance. Open Skies flights are also generally more flexible: Unlike satellites, their flight paths can be chosen freely and cloud cover higher than 1,500 metres can be underflown.

*c) Cost*

A typical Open Skies flight covers around 30 separate military sites. Achieving comparable coverage using space-based systems would require the

<sup>7</sup> Thermal-imaging sensors detect heat radiation, which makes it possible to observe, by day and night, whether vehicles and equipment are in use. The information they provide thus goes beyond that delivered by photographic means.

purchase of 30 separate satellite images. A full costing shows that the price per military installation of Open Skies flights is around half that of buying satellite images.<sup>8</sup>

In general, therefore, using Open Skies to capture image data of military installations is more flexible and less expensive than buying satellite images or indeed deploying one's own satellites.

### *Meeting Contemporary Security Challenges*

The States Parties to the Treaty are faced with a variety of existing and emerging challenges, including regional crises, terrorism, and arms proliferation.

#### *a) NATO-Russia Relations*

The complexity of the Russian Federation and the relative weakness of Russian democracy suggest that the long-term stability of the multi-ethnic federation remains uncertain. For its part, Russia has voiced concerns at NATO's eastwards enlargement. Open Skies flights provide Russia with valuable information on the military strength and troop deployments in NATO countries, and this contributes to stabilizing NATO-Russian relationships.

#### *b) Regional Crises in Europe and Central Asia*

The territory of the former Yugoslavia, Moldova, the Caucasus, and Central Asia remain potential sources of crisis. Open Skies flights are currently contributing to détente and stabilization in Bosnia and Herzegovina and Georgia. The Treaty's potential for crisis prevention would be raised yet further if the remaining OSCE States could be persuaded to accede to it (Serbia and Montenegro, Macedonia, Albania, Moldova, Armenia, Azerbaijan, and the Central Asian republics). The Treaty's unique potential for crisis prevention and post-conflict rehabilitation rests on, among other things, the fact that representatives of mutually hostile groups have to co-operate in performing joint observation flights and can establish a shared corpus of image data. There is no reason why observation should be limited to military sites; flights can also be undertaken to observe civilian objects, such as refugee movements or camps.

#### *c) Proliferation of Weapons of Mass Destruction*

Open Skies flights equipped with photographic cameras and thermal-imaging devices can be used in combination with other sources of information to monitor undeclared facilities for the manufacture of chemical weapons and

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<sup>8</sup> Cf. Pál Dunay et al., *Open Skies*, cited above (Note 2), section 9.

fissile material within the Treaty area. Out-of-area deployment of Open Skies aircraft for such purposes requires a separate mandate, as in the case of the Iraq inspections.

*d) Trafficking in Human Beings, Arms and Drug Dealing*

Trafficking in Human Beings and the illegal trade in arms and drugs represent a growing threat to security and human rights. Open Skies aircraft can be used to monitor the more remote and mountainous border regions in the south and east of the Treaty area, but, owing to the limited number of available flights, are limited to performing spot-checks in support of other information-gathering activities. However, it would be possible to agree on additional flights, possibly by means of an OSCE mandate.

*e) Terrorism*

In general, Open Skies flights are poorly suited for monitoring terrorist threats. Open Skies' great strength – its co-operative approach – renders it powerless when faced with actors that are utterly unwilling to co-operate. Other means of intelligence gathering are more relevant here.

*f) Open Skies Outside the OSCE Area*

In principle, any state in the world can apply to join the Open Skies regime. Accession requires the agreement of all existing members. At present it is unlikely that the USA would agree to accession applications from states outside the OSCE area. Separate Open Skies agreements could be concluded in other regions of the world, should the political will exist.<sup>9</sup>

*Review Conference 2005*

The Open Skies Treaty makes provision for a Review Conference to be held three years after its coming into effect and at five-year intervals thereafter. The first of these conferences will take place from 14-16 February 2005 under the chairmanship of Germany. The Conference provides a good opportunity to lend new momentum to the implementation process and to strengthen the will to continue in the spirit of the preamble. This is a welcome opportunity, since the position of some governments towards the Treaty has turned out to be "lukewarm".

In the first place, it would be desirable for the number of *treaty members* to be increased by the successful conclusion of the ratification process in two accession states. The Conference will also take stock of the implementation activities carried out so far.

One issue that could prove extremely divisive is the question of *quota allocation*. The Treaty is based on the principle of equity among all States

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9 Cf. *ibid.*, section 8.4.

Parties. However, an agreement between NATO states not to make observation flights over each other's territory stands in the way of balanced and fair implementation. In the meantime – following the accession of nearly all the states of Eastern Europe to NATO – this has become a political obstacle to the implementation of Open Skies. When quotas are allocated in Vienna, the NATO states tend to single-out the non-NATO states Russia, Belarus, Ukraine, Georgia, and Bosnia and Herzegovina. There is a considerable imbalance in the number of passive-quota overflights carried out and the volume of data gathered over certain countries.

The established tendency of the NATO states to act as a bloc could, for example, be overcome by requiring each State Party to the Treaty to fly a minimum number of missions (however small) over every other State Party – whether or not they belong to the same alliance. This would provide an excellent opportunity to encourage multinational co-operation in the pooling of quotas.

The most interesting questions for the further development of the activities performed under the terms of the Treaty are given in the preamble. As well as the creation of transparency and openness in the service of verification, it mentions three further areas, whose potential has so far been underexploited or completely ignored:

1. Co-operating with the OSCE and other relevant international organizations
2. Strengthening capabilities in the areas of conflict prevention and crisis management
3. Extending Open Skies to environmental protection.

Several states are examining these questions in as much detail as possible prior to the Conference so that the event itself can be used to formulate declarations of intention. The Treaty grants the States Parties and the Commission extensive powers to reach agreement on matters of implementation without making changes to the text of the Treaty (e.g. the addition of new categories of sensor).

#### *Co-operation with International Organizations*

The preamble allows for the possibility of carrying out missions aimed at conflict prevention and crisis management under the aegis of the CSCE (now the OSCE) and other appropriate international structures. These could include the United Nations, multilateral verification organizations, such as the IAEA, and regional organizations whose mandates include security. The text of the Treaty does not address concrete procedures for such co-operation, and it will be necessary to clarify this.



The core of the Treaty sets down the rights and duties of the States Parties for overflights of each other's territory. These rights cannot simply be transferred to international organizations. It is possible, however, for international organizations to request technical assistance in the form of information from Open Skies States Parties either as individuals or as a collective body. For example, the OSCE Conflict Prevention Centre needs up-to-date aerial images to support OSCE field missions.

The following options for co-operation with international organizations should be considered:

- (a) *Making the image data from Open Skies flights available to international verification organizations* (IAEA, OPCW, the Preparatory Commission for the Comprehensive Test-Ban Treaty).<sup>10</sup> A precondition for this is the agreement of the states to be overflown.
- (b) *Carrying out observation flights for an international organization* that requests this of a state possessing an Open Skies aircraft. Once more, this requires the agreement of the state to be overflown. The costs of such flights would be met by the organizations requesting the flights. Alternatively, where such a request concerns a flight over a state within the Treaty area, the state receiving the request could make use of one of its active-quota flights to fulfil the international organization's request – at its own expense. The Open Skies Consultative Commission is ideally suited to play the role of a clearing house in this process. It will be necessary to establish rules governing the transfer of image data. Up to now, Open Skies images have only been available to the governments of States Parties to the Treaty.
- (c) *Requests from international organizations to observe specific sites during Open Skies flights.* International organizations could approach individual States Parties with requests for specific inspection targets to be visited within the course of the state's active quota flights. Even if the state that is subject to inspection were to refuse to allow the image data to be passed to the international organization, the state performing the observation could present its conclusions to the organization as technical assistance. The IAEA already makes considerable use of national support in verifying the NPT. The OPCW has also received conclusions based on Open Skies image data in a number of cases.

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<sup>10</sup> The Chemical Weapons Convention does not provide for aerial inspections, although it does allow for support activities by individual states, which could be based on aerial images. For its part, the Comprehensive Test-Ban Treaty allows the use of aerial observation in support of on-site inspections.

### *Conflict Prevention and Crisis Management*

Flights that contribute to conflict prevention and crisis management are possible within the Treaty area as things stand and have already been carried out in connection with the 1999 war in Kosovo. It is also conceivable that flights of this kind be carried out outside the Treaty area, as was done in Bosnia and Herzegovina before it acceded to the Treaty (1997-2001). For example, an international organization or a state threatened by a crisis could ask a country that possesses an Open Skies aircraft to carry out such a mission. Once again, this would require the co-operation of the state to be inspected. It remains to be determined whether such flights could be made according to standard Open Skies rules (taking priority over all “regular” air traffic). The added bonus of such flights is that they would be performed on a co-operative basis – i.e. with the participation of all local conflict parties.

### *Environmental Missions*

The majority of Treaty members possess sufficient civilian airborne capacities and access to satellite data to perform regular environmental monitoring. The bilateral or multilateral deployment of Open Skies aircraft can only be of interest in two situations:

- (a) Short-notice deployment in response to environmental and humanitarian disasters
- (b) Deployment to tackle cross-border environmental problems.

The institutional problems that need to be resolved before these types of deployment can take place have been described in detail elsewhere.<sup>11</sup>

### *Summary*

The Open Skies Treaty has proved its worth as a means of confidence building and conflict prevention. It is one of the peacekeeping instruments of European and Transatlantic security policy. As a consequence, it is rarely the focus of political and public attention. But this should come as no surprise in a political and media culture where preventive, non-violent measures receive considerably less attention and support than the use of force, whether pre-emptive or reactive. Nonetheless, political representatives and the community of experts are called upon to bring new momentum to the Treaty and to grasp the chance to adapt its implementation to today’s changing security requirements

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11 Cf. Dunay et al., *Open Skies*, cited above (Note 2), section 7.3.

## From Regional Stabilization to Security Co-operation in Bosnia and Herzegovina – The Role of the OSCE Mission

### *Introduction*

When the OSCE Mission to Bosnia and Herzegovina was established, it had a well-defined mandate in the politico-military field and a rather narrow set of tasks. This changed over time, and we may in retrospect distinguish between two phases:

- The first phase, in which the responsible department within the OSCE Mission executed the tasks assigned to the OSCE by Annex 1-B of the Dayton Peace Accords in assisting in the implementation and verification of the agreements on confidence and security building and on sub-regional arms control;
- The second phase, during which the tasks increasingly shifted towards assisting Bosnia and Herzegovina in fulfilling its commitments within the OSCE's politico-military dimension as a participating State of the OSCE, in particular those derived from the Code of Conduct on Politico-Military Aspects of Security. The latter also encompasses the defence reform enacted in 2003.

The phases partially overlap, yet it is possible to distinguish between them relatively clearly, and even to specify exact dates for the transition. This contribution describes the development of the two phases, in particular emphasizing the transition from the first to the second and the latter's further development, including its achievements.<sup>1</sup>

Finally, against the backdrop of the experiences gained in this process, I undertake a critical assessment of the role of OSCE missions in the implementation of OSCE commitments by their host nations.

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<sup>1</sup> The author had the opportunity to work within the Politico-Military Department of the OSCE Mission both at the beginning of the first phase (1996-1997) and during the start and further development of the second phase (2002-2003). This provided good opportunities for a kind of "participant observation".

The point of departure for the OSCE's role in the military stabilization of Bosnia and Herzegovina was determined by the military aspects of the constitutional arrangements that had emerged as the result of the war and the Dayton Peace Accords of late 1995. Bosniaks, Croats, and Serbs had been at war since 1992. The armed conflict between Bosniaks and Croats was terminated in 1994 by the Washington Agreement, based on a US initiative. It envisaged a federal structure for the whole of Bosnia and Herzegovina, which was later intended to include the Serbs as well, and which was conceived of as a sovereign state. For its part, the Republika Srpska was also founded on the claim that it was a sovereign state, as expressed in its constitution. However, the constitution finally provided by the Dayton Peace Accords established a federal state for the whole of Bosnia and Herzegovina, with the Bosniak-Croat Federation and the Republika Srpska being given the status of non-state "entities". Nonetheless, the two entities retained their constitutions, which had been created for sovereign states and which ascribed to each entity sovereignty in defence matters.

The situation was aggravated by the fact that the Dayton constitution allowed for a high degree of autonomy on the side of the entities.<sup>2</sup> Furthermore, both entities were permitted to maintain the armed forces they had established during the war of 1992-1995. Finally, the situation was made even more complex as the Dayton constitution does not contain any explicit reference to defence being a state matter<sup>3</sup> which was – given the continued existence of the entities' separate armed forces – for a long time interpreted as meaning that defence and "military matters" would be a prerogative of the entities rather than the state.<sup>4</sup> This constitutional situation and the prevailing interpretation thus led to the *de facto* military division of Bosnia and Herzegovina, with two separate military-political structures and two<sup>5</sup> armies.

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2 The state constitution obliged the entities to eliminate all provisions within their constitutions that contradicted the state constitution. This obligation was, however, mostly ignored, in particular on the Serbian side.

3 The Constitution of Bosnia and Herzegovina (Annex 4 to the Dayton Peace Accords) reserves competencies for the state authorities in the areas of "foreign policy", "foreign trade policy", "customs policy", and other tasks relating to international affairs, e.g. co-operation with Interpol, etc. The only explicit reference to "military matters" is the provision on the Standing Committee on Military Matters (SCMM) of the collective state Presidency.

4 This view incorrectly equates "defence" and "military matters". It ignores, however, the fact that "defence" is a political function within the context of external security, and thus primarily a matter of "foreign relations", which the constitution explicitly assigned to the state level. This view is based on the provisions of Article III, paragraph 5 of the constitution, which provides that the state "shall assume responsibility for matters which are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina".

5 If not "two and a half", as the armed forces of the Federation were effectively split between the forces of the former "Armija" (*Armija Republike Bosne i Hercegovine*, ARBiH) of the Bosniaks, and the "Croatian Defence Council" (*Hrvatsko Vijeće Obrane*, HVO).

While the *de facto* military division of Bosnia and Herzegovina was more or less accepted by the international community as a result of the Dayton compromise, there had been efforts from the beginning to mitigate its effects and to allow Bosnia and Herzegovina to develop into a “normal” state as far as possible.

During the first phase immediately after the end of the war, these efforts were mostly aimed at preventing the resumption of hostilities and achieving a transition to a kind of “cold peace”. Thus, the Dayton Peace Accords established the mandate for creating a robust peace implementation force (IFOR, replaced by the Stabilisation Force, SFOR, in 1997) as well as a set of agreements on arms control in the widest sense, including both “soft” and “hard” arms control measures. They recognized the *de facto* division of Bosnia and Herzegovina but aimed at minimizing its effects. The approach was based on the agreements and documents that had been developed within the CSCE/OSCE framework for the whole of Europe during the Cold War.

These two complementary tasks were assigned to different institutions by the relevant annexes to the Dayton Peace Accords. Annex 1-A provided the mandate for NATO’s deployment of IFOR. Annex 1-B created a framework for negotiations to take place under the auspices of the OSCE. Starting at the centre and expanding in concentric circles, these negotiations can be seen as aiming to establish military stability through co-operation between the parties. The envisaged steps were:

- Negotiations on confidence- and security-building measures for Bosnia and Herzegovina (Annex 1-B, Article II) between the (state level) institutions of Bosnia and Herzegovina and the two entities as equal partners;
- Negotiations on sub-regional arms control (Annex 1-B, Article IV) between the state of Bosnia and Herzegovina, its two entities as well as Croatia and the then Federal Republic of Yugoslavia (FRY); and
- Negotiations on regional arms control “in and around former Yugoslavia” (Annex 1-B, Article V).<sup>6</sup>

The negotiations on confidence- and security-building measures for Bosnia and Herzegovina started on 4 January 1996 in Vienna and successfully concluded on 26 January 1996 with the Agreement on Confidence- and Security-

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6 Both the upheavals in the Federal Republic of Yugoslavia in late 2000 and its accession to the OSCE rendered the negotiations under Article V superfluous. The participants thus terminated the negotiations in July 2001, adopting a concluding document which, however, contains no obligatory measures. The matter will thus not be followed further in this paper. Cf. also Heinz Vetschera, The negotiations on regional arms control under Annex 1-B, Article V of the Dayton Agreement – a preliminary post-mortem; in *Helsinki Monitor* 3/2001, pp. 177-184.

Building Measures for Bosnia and Herzegovina (Vienna/Article II Agreement). This agreement pertains to the whole territory of Bosnia and Herzegovina and contains a varied set of measures, rooted partly in the OSCE-wide Vienna Documents of 1992 and 1994 on Confidence- and Security-Building Measures, and also derived directly from provisions within Annex 1-B. The verification regime was mostly taken from the Treaty on Conventional Armed Forces in Europe (CFE), which was concluded in 1990. The main objectives of this agreement were to facilitate transparency in matters related to the armed forces, to limit the available options for military operations, and to prevent unintended escalation. It did not, however, contain any provisions for armament limitations.

Besides Bosnia and Herzegovina and its two entities, participants in the negotiations on sub-regional arms control (Article IV) included Croatia and the FRY. These were also held in Vienna, but the resulting agreement (the Agreement on Sub-Regional Arms Control) was finally signed on 14 June 1996 in Florence (and is hence known as the Florence/Article IV Agreement). In terms of its philosophy and structure, this agreement follows the CFE Treaty in establishing ceilings on battle tanks, armoured combat vehicles, artillery pieces, combat aircraft, and combat helicopters for all parties. In addition, the parties agreed on voluntary personnel limits for their armed forces. Implementation is subject to a verification regime, also modelled on the CFE Treaty.

Excess weapons systems were to be reduced, primarily by destruction and scrapping. The agreed limits were achieved after some delays in November 1997, with a total of 6,580 heavy weapons systems eliminated. Verification of the remaining armaments became a routine matter which was also covered by the verification regime provided for by the agreement.

#### *The Role of the OSCE Mission in the Implementation of the Agreements*

Not only were the negotiations under Articles II and IV to take place “under the auspices of the OSCE”, but Annex 1-B also provided that “the OSCE would assist the Parties in the implementation and verification of the agreements”. In the implementation process, the OSCE was represented vis-à-vis the parties in two ways:

- Formally, by a Personal Representative of the OSCE Chairman-in-Office tasked with the implementation of the two agreements, and
- On the ground by the Politico-Military Department of the OSCE Mission to Bosnia and Herzegovina, which had been subordinated to the Personal Representative in these matters.

The Politico-Military Department was established within the Mission immediately after the conclusion of the Agreement on Confidence- and Security-

Building Measures. In accordance with the terminology of Annex 1-B to the Dayton Peace Accords, it was named the “Office for Regional Stabilization”.<sup>7</sup> In line with the way its tasks were then understood, this Office was organized primarily along military lines and staffed with military officers experienced in peacekeeping operations or the verification of arms control agreements, as well as experts in questions of military confidence building and arms control.

Formally, the Office’s tasks were to represent the Personal Representative on the ground and to advise and support the parties to the Article II Agreement in all questions of implementation. In reality, however, the main task was soon seen primarily to be in assisting the mutual inspections, which led to the dominance of verification “bean counters”. A further task envisaged by the agreement, the provision of implementation assistance in a wider sense, which would have encompassed the political level, was pushed to the back-burner.

Despite this, the then Personal Representative and several OSCE experts within the Office already made efforts to widen the scope of the Office’s activities during the first year of its existence. They sought to go beyond the mere implementation of the two agreements and to support Bosnia and Herzegovina as an OSCE participating State in complying with its existing obligations under the OSCE’s politico-military dimension, but without formally leaving the framework of the existing agreements. The optimal point of departure was seen as being Measure XI (“Contacts and Co-operation”) of the Article II Agreement, which provided the basis for the organization of several “seminars”. These were to serve, firstly, in the spirit of this provision, to motivate representatives of the three parties – the state and the entities – to joint participation, thereby promoting contacts among them. Secondly, they were also organized with a view to making the politico-military elites at both state and entity levels acquainted with the politico-military commitments under the various OSCE documents to which Bosnia and Herzegovina is subject as an OSCE participating State.

The first such seminar was organized in December 1996 in Sarajevo on the topic of “The OSCE Code of Conduct and Democratic Control of Armed Forces”.<sup>8</sup> It was the beginning of a series of seminars, two of which have been held each year since then, at which representatives of the entities’ defence establishments, in particular, were introduced to the OSCE’s Code of Conduct on Politico-Military Aspects of Security. Organizing such seminars – on the Code of Conduct in particular but also on other subjects – subsequently became an integral part of the Office’s work programme.

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7 It was re-named the “Department for Security Co-operation” in 2001.

8 Further seminars in this early phase dealt with arms control and military doctrines. The first seminar on military doctrines in July 1997 was the first occasion at which representatives of both entities’ general staffs could present and discuss their respective military doctrines.

The Article II framework thus functioned to some extent as a surrogate for the distribution of competencies within “normally functioning” states for the implementation of OSCE commitments. In a “normally structured” state, implementation of foreign policy commitments would be a responsibility of the ministry for foreign affairs, which could rely on the expertise of the defence ministry. Due to the particular situation in Bosnia and Herzegovina and the prevailing understanding of defence competencies, this procedure was inapplicable. Article II enabled structured co-operation between the entities and between the entities and the state, and achieved comparable results. All these activities were, however, undertaken by the Personal Representative and the Office without putting into question the military division of the country, which continued to be perceived as an immutable fact.

#### *Transition to the Second Phase*

The transition to the second phase was initiated by the political changes in Croatia in early 2000, but first and foremost by the democratic revolution in the FRY in October 2000. The demise of governments that had harboured at least implicit reservations about respecting Bosnia and Herzegovina’s territorial integrity, thus indirectly supporting radical, nationalist, and separatist forces within Bosnia and Herzegovina, significantly changed both the security policy environment and the politico-military situation in the country.

The first phase of military stabilization was thus coming to a close, as an armed conflict with neighbouring states or between the entities had ceased to be a realistic scenario. The relationship between the entities, and between their armed forces in particular, improved markedly and SFOR force levels were reduced correspondingly.<sup>9</sup> Efforts to achieve some “normality” in the military field could now enter a new phase, enabling Bosnia and Herzegovina to become a “normal” state with respect to defence policy.

#### *The Development of Platforms*

The international community in Bosnia and Herzegovina developed the organizational framework initially used to co-ordinate the activities of the various organizations. The first such platform was the Common Security Policy Working Group (CSPWG). It emerged in 1999 out of an informal group established jointly between the Office of the High Representative (OHR), SFOR, and the OSCE Mission after the Madrid Peace Implementation Council (PIC)<sup>10</sup> meeting of 15-16 December 1998 to develop a politico-military strategy for and

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9 From more than 60,000 troops in 1996 to about 20,000 troops in 2001.

10 The Peace Implementation Council was established at the London Peace Implementation Conference on 8 December 1995. It is the supreme international body for supervising the implementation of the Dayton Peace Accords and co-ordinating the activities of the various international institutions in Bosnia and Herzegovina.



within Bosnia and Herzegovina. Between January and March 1999, this working group elaborated the rudiments of a common approach by the various organizations that aimed at strengthening the state level with a view to developing a common security policy strategy for the state, and creating adequate state-level security policy institutions.

In March 1999, this informal group was transformed into the formally established CSPWG, which consisted of SFOR, NATO, the OHR's Military Cell, and the OSCE Mission's Office for Regional Stabilization. Its purpose was to develop a common security policy for the whole of Bosnia and Herzegovina. Parallel efforts were undertaken simultaneously by the OHR in particular to create corresponding structures at the state level, with an implicit aim of finally establishing a ministry of defence for the whole state.

Taking a broader approach, the Institution Building Task Force (IBTF) was established by the High Representative in early 2002 and presented to the PIC Steering Board at its meeting in February 2002, where its creation was explicitly endorsed. The Task Force consisted of representatives of OHR, the OSCE Mission, SFOR, the EU (represented by the state holding the EU Presidency), and – until its mandate ended in 2002 – the UN Mission in Bosnia and Herzegovina. The IBTF ran a wide-ranging programme focusing on establishing of state-level institutions in areas such as public administration, democratization, and civic participation; defence and security; media development; and (rudimentary at the beginning) education.

A working group was established to deal with each of these subjects. However, the working group for defence was effectively identical with the CSPWG.<sup>11</sup>

#### *Ambitions to Join the Partnership for Peace (PfP)*

Efforts to create state-level institutions took on a new character thanks to Bosnia and Herzegovina's ambitions to join the Partnership for Peace (PfP), which were also strongly supported by Western governments.

The decisive point of departure was a message by NATO's Secretary General to the Bosnia and Herzegovina Presidency in July 2001 outlining the criteria for accession. Most weight was laid on the existence of an effective and credible state-level civil command and control structure, including a state-level ministry responsible for defence matters.

Other factors mentioned included the provision at state level of the following:

- Democratic parliamentary oversight and control over the armed forces of Bosnia and Herzegovina;
- Transparency of defence plans and budgets;

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<sup>11</sup> The obvious duplication was finally solved by transforming the CSPWG into the "Defence and Security Steering Group" (DSSG) which was subordinated to the IBTF.

- The development of common doctrines and standards to train and equip the armed forces of Bosnia and Herzegovina; and
- The development of a security policy for Bosnia and Herzegovina.

The aim of these steps was the eventual merging of the entities' armed forces into one state army of Bosnia and Herzegovina. The merger of the entities' armed forces and the establishment of a state-level defence ministry became the core criteria for Bosnian accession to the PfP, even if, at that time, this was still expressed in rather cautious terms for political reasons.

#### *Efforts to Establish a Joint Army and a State-Level Ministry of Defence*

*Downsizing of entities' armies prior to their merging:* The international community demanded the downsizing of the entities' armed forces for various reasons: First, because of the financial burden imposed by the entities' excessive defence spending; second, because it was assumed that the reduction of forces to a level lower than was militarily reasonable would lead to the merger of the remaining forces into one army as the only means of maintaining effective military forces.

The demand that forces be downsized had financial origins. The PIC meeting in Madrid in 1998 had already expressed concerns over the levels and lack of transparency of the entities' defence spending. As the entities' obligations within the annual information exchange on military budgets in accordance with Measure (I) of the Article II Agreement were seen as the most feasible way of influencing defence expenditures at that time, the Personal Representative tasked a team of auditors with assessing the contents of the budget information that had been exchanged by the entities in a formally correct procedure. The process revealed significant discrepancies between the real figures and those given in the information exchanged. Furthermore, they revealed that defence expenditures were far in excess of the international average, something that could be traced primarily to the disproportionate size of the entities' armed forces, itself rooted in their mutual perception of each other as a threat. In accordance with the PIC's decision of 24 May 2000, the entities should thus have reduced both their defence expenditures and the size of their armed forces by 15 per cent by the end of 2000. In the future, the forces should be reduced between January 2002 and December 2005 from 22,600 to 13,200 active service personnel in the case of the Federation, and from 11,300 to 6,600 active service personnel in the case of the Republika Srpska.<sup>12</sup>

At that time, these efforts were still primarily concerned with reducing excessive defence expenditure. From 2001, however, they became increas-

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12 Which would also have maintained the 2:1 ratio of forces in favour of the Federation that was applied to weapons systems in the relevant provisions of the Article IV Agreement on Sub-Regional Arms Control.

ingly entangled with the question of Bosnia's joining the PfP and the associated requirement to strengthen the state level. Subsequently, both objectives – downsizing the armed forces and establishing state-level institutions – were no longer followed merely *in parallel* to each other, but were *synchronized*.

The pressure to downsize the armed forces thus increased after the end of 2001 with the aim of achieving the planned levels as early as mid-2002. Force reductions would then have taken place simultaneously with the planned transformation of the Secretariat of the Standing Committee on Military Matters (SCMM) into a state-level defence ministry.

The management of the downsizing process was entrusted to the OSCE Mission's Department for Security Co-operation on the basis of its previous involvement in auditing the entities' defence budgets and assisting in their reduction. In this way, the Department's activities started to exceed its original tasks as outlined by the Article II Agreement.

*Establishment of a state-level ministry of defence:* Efforts of the international community concerning this issue concentrated on the SCMM, as it was the only state-level institution with an explicit mandate in military matters. This idea, which was soon turned into a formal programme, concentrated on transforming the SCMM's previously quite insignificant Secretariat into a state-level ministry. Because it was an administrative institution, the SCMM's Secretariat was an obvious choice for this purpose. Despite its attractions, this idea was not without constitutional problems: It utterly ignored the clear functional separation of the Presidency and the government, as well as the fact that the SCMM's function within the constitution is to act as a coordinating body between the Presidency and the entities, which would have made a transformation of parts of it into an element within the government even more problematic. Nevertheless, the idea, once adopted, became a key component of the international community's efforts in this field.

Based on the PIC decisions from 2000 and the criteria for PfP accession, the OHR organized a series of informal negotiations ("seminars") in cooperation with SFOR and the OSCE Mission to prepare the restructuring of the SCMM and the Secretariat's transformation into a kind of state-level ministry-like institution. The local parties took different positions on this question. The strongest support came from the Bosniak/Muslim side, which was generally in favour of strengthening the state level in all fields. The Croats, too, were mostly in favour, as they hoped to gain more influence in state institutions than they had within the Federation, where they were limited to the role of junior partner. Even the Serbian side proved relatively flexible on substantive questions, but became uncooperative when terms such as "state-level ministry of defence" were introduced, or when demands were raised to change the Dayton constitution with respect to the distribution of competencies between the state and the entities.

The results of these seminars were compiled into a working paper, which proposed changing the composition of the SCMM, now to have nine

members.<sup>13</sup> It also proposed enlarging the SCMM Secretariat to create a structure on the scale of a ministry, with departments for personnel management and administration; security and defence issues; internal and foreign military affairs; and co-operation with NATO. The Secretariat would be led by a secretary general with two deputies, in order to ensure ethnic balance. The secretary general would later take over the position of state minister of defence.

The seminars also concluded that the SCMM should establish a military commission composed of representatives of the entities' defence ministries and command structures, to become the *de facto* state-level military command institution. Finally, the working paper was intended to create the basis for a joint military command for all armed forces in Bosnia and Herzegovina, and to provide the legal framework for joint defence.

The Serbian side accepted the substance of the paper. However, when the draft was submitted to the collective Presidency on 16 May, it explicitly stated that the SCMM Secretariat should become the defence ministry for Bosnia and Herzegovina. The Serbian member of the Presidency objected to the draft and asked for ten days' delay to consult with the entity's authorities.<sup>14</sup> Against the Serbian member's vote, the two other members adopted a decision that would have transferred command authority to the SCMM. The defence council of the Republika Srpska<sup>15</sup> rejected the paper on 23 May 2002, branding it "unconstitutional". On 28 May 2002, after the ten-day deadline expired, the state Presidency decided to put the issue on the backburner.

#### *The Role of the Department for Security Co-operation*

The Department for Security Co-Operation began to play an ever more integral role in these efforts. At first – still within the framework of its original mandate – it had supported the work of the auditors that had been appointed under the provisions of the Article II Agreement. Subsequently, however, the Department also became tasked with managing the force reductions, which was not one of its original tasks.

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13 Namely the three members of the (collective) Presidency; the state ministers for foreign affairs, for civilian affairs and communication, and the minister of the treasury; the president of the Republika Srpska and the president and deputy president of the Federation. Representatives of SFOR, the international community and parliamentary commissions would participate without a right to vote.

14 As far as it could be established, the text version that had been presented to the state Presidency was at variance with the previously agreed text, which provoked the refusal by the Serbian side.

15 Although the defence council was established by the Defence Law of the Republika Srpska, it was exempt from parliamentary control and thus a typical relict of the old thinking and already at variance with the then applicable legal requirements. It was finally dissolved by the High Representative in the context of the ORAO affair in 2003 (see below).

The Department also represented the OSCE Mission in the CSPWG and – with respect to military matters – within the IBTF. Although in view of its original tasks and its near total subordination to the Personal Representative the Department had been something of an alien element within the Mission up to then, it now developed increasingly into the politico-military representative of the OSCE Mission, but also into an actor equal to the other international institutions. In this way, it became involved in developments that went clearly beyond its original mandate.

In early 2002, there was a significant shift in the Department's tasks. The activities foreseen by its original mandate in supporting the Personal Representative in the implementation of the two agreements reached under Annex 1-B continued. In parallel, however, the new tasks gained a dynamism of their own, which brought them increasingly into the foreground, and they came to take precedence over the original tasks.

### *The Second Phase*

In their early stages, the efforts to reform the defence sector, including the establishment of democratic control of the armed forces, made practically no reference to the OSCE's politico-military dimension, despite the fact that they covered very much the same territory. Instead, they were primarily promoted by the High Representative's efforts to strengthen the state level, and by SFOR with a view to Bosnia and Herzegovina's future membership of the PfP. If the OSCE Mission had any function at all, it was merely a supporting one. Its key task in this context was primarily seen as to manage the process of reducing the entities' armed forces.

This changed in April 2002 as result of two events. First, the then Director of the OSCE's Conflict Prevention Centre (CPC) sent a letter to all Heads of Mission on 12 April 2002, asking them to report on the implementation of commitments under the OSCE's politico-military dimension by their host countries, and encouraging them to ensure better implementation, in particular with respect to the Code of Conduct, the Vienna Document 1999, and the use of the end-user stations of the OSCE Communication Network.<sup>16</sup> Then, almost simultaneously, the annual rotation of the Department's Deputy Director took place. While, up to this point, the post had been filled by verification experts, it was now occupied by an expert in the politico-military dimension of the OSCE, who had served in the CPC and his country's OSCE Delegation for several years, and had been attached to the Department in 1996-97. At that time, he had, under the instruction of the then Personal Rep-

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16 The network is a system of electronic links for the exchange of politico-military information. It was originally established by the Vienna Document 1990 as a means for communication in crisis situations but has since come to be seen as a confidence-building measure on its own account.

representative, also organized the first seminars aimed at familiarizing the politico-military elites at state and entity level with the OSCE's politico-military dimension.

#### *Development of a New Strategy for the Department*

The new Deputy Director treated the letter from the CPC Director as the point of departure for a strategy centred on the OSCE's politico-military dimension and the implementation of the associated commitments by the host country, making them the basis of activities already started by the Department, as well as for future steps. The strategy rested on the following considerations:

- As a participating State in the CSCE/OSCE since 1992, Bosnia and Herzegovina has co-adopted all CSCE/OSCE documents passed since then, including those of the politico-military dimension;
- Since then, Bosnia and Herzegovina has been obliged to implement the commitments made under these documents. However, annual implementation surveys, such as those submitted by the CPC for the Annual Implementation Assessment Meetings, have shown that Bosnia and Herzegovina has in most issues been a "black hole", with an implementation quota comparable, at best, to some micro-states or Central Asian states;
- Improving Bosnia and Herzegovina's implementation record was therefore a matter of urgency, not least in order to improve Bosnia and Herzegovina's international credibility;
- The implementation of commitments under the OSCE's politico-military dimension is without a doubt a foreign policy issue and would therefore fall exclusively within the prerogative of the state and not that of the entities;
- There is no doubt that, under the constitution of Bosnia and Herzegovina, the entities are obliged to assist the government (i.e. the state-level authorities) in implementing international obligations;
- Other competencies assigned explicitly or implicitly to the entities by the state constitution are therefore completely irrelevant; in matters of foreign and security policy, they are subordinated to the state;
- The Code of Conduct explicitly demands that participating States ensure its implementation. Whenever the entities prove unable or unwilling to ensure that the Code of Conduct is implemented within their own areas of responsibility, the state level has the right and the duty to ensure implementation.

In this view, all efforts to create a state-level framework for security and defence policy, including the establishing of a state ministry of defence, are based on international commitments and the current constitution.

Concerning the reduction of the armed forces, the strategy referred to the Code's provision that "participating States" should maintain only such armed forces as are commensurate with their legitimate security interests. As the Code explicitly refers to the security interests of "states", the entities' views and perceptions in this perspective had to yield to the Code's provisions.

This strategy can be said to have killed two birds with one stone. On the one hand, the ongoing activities of the OSCE Mission in creating state-level defence structures and in reducing the entities' armed forces could now be legitimized by reference to OSCE commitments.<sup>17</sup> On the other hand, the Department's activities could now be oriented towards improving Bosnia and Herzegovina's implementation record. This led to better relations with the Mission's local partners compared to the earlier situation when the Mission had only been able to make demands, but could not even refer to a mandate on which they were based.<sup>18</sup>

The Mission thus took the indisputable gaps within the implementation record in the OSCE's politico-military dimension as its point of departure to demand, on the one hand, their full implementation, and, on the other, the elimination of all obstacles preventing this. The lack of adequate state control was identified as the main hindrance, impacting on the implementation of the following provisions of the Code of Conduct among others:

*Political neutrality of the armed forces:* The entities' armed forces were established as the armed forces of the various ethnic groups, and were more or less mutually exclusive.<sup>19</sup> As a consequence, these forces bear a *de facto* resemblance more to party militias than to the regular armed forces of an OSCE participating State. This, in turn, prevents the forces from being politically neutral, which is in clear contradiction to the Code's provisions.

*Democratic/parliamentary control, including control of the defence budget and control by authorities vested with democratic legitimacy:* At state level, proper parliamentary control was completely absent, this could be accounted for, on the one hand, as a result of the traditional perception that the military would somehow stand "outside", if not even "above" civilian control. It resulted, on the other hand, also from the division of the armed forces into ethnically defined units, which claimed to defend "the people" (meaning the ethnic group). As a consequence of these two factors, the armed forces laid claim to disproportionately high levels of financial resources, which were

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17 This had also become necessary to achieve the required budgetary support within the existing OSCE structures. Activities without any reference to the OSCE are unlikely to have gained support within the Finance Committee.

18 E.g. for downsizing or the creation of joint state-level institutions.

19 Within the armed forces of the Federation, this division went so far as to mean that units from corps level downwards were ethnically homogenous, i.e. either Croat or Muslim.

then themselves overspent, not least due to the lack of financial control by the parliaments.

There was also a lack of control by authorities vested with democratic legitimacy. Not only was there no defence ministry at state level, but the ministries of defence established in both entities answered only to the entities' parliaments. Moreover, these parliaments also lacked the expertise in defence matters needed to exert adequate political control over the ministries. This was aggravated by the narrow, provincial, and ethnically determined perspective of the parliaments, which were thus unable to exercise truly democratic control.

The same applies to the intelligence services within each entity. They acted practically outside democratic control and their uncontrolled activities represented a risk factor.

*Military capabilities commensurate with legitimate security interests:* The implicit orientation of the entities' armed forces towards the defence of each entity against the other has also led – or did at least at the beginning – to internal arms races, which, however, were successfully contained by the Article IV Agreement. However, it also led to the legitimate security interests of the state being ignored. “Security interests” was too frequently identified with “interests of the entities” which, however, are not recognized by the Code of Conduct, which explicitly refers to “states”.

As a consequence, it had never been asked whether the military capabilities accumulated by the entities would really be “commensurate with the legitimate security interests” of the state, or whether they might not be far in excess of the levels needed.

In addition, the military division of the country also impeded the implementation of other commitments of a more technical nature:

*OSCE Document on Small Arms and Light Weapons (SALW):* The entities' armed forces had extremely high levels of SALWs stockpiled for their reserve forces from the time of the war. Although militarily ineffective, owing to a lack of both sufficient training and equipment, these forces lent legitimacy to the huge stockpiles of SALWs, which, as a rule, were kept in badly guarded storage areas, which have been characterized as “one-stop shops for criminals”. These stockpiles were therefore justifiably considered to be a “destabilizing” accumulation in the sense of the SALW Document, and hence were to be eliminated.

In addition, the obligatory annual information exchange on SALW could not take place, as the responsible state authorities did not receive any relevant information from the entities.

*OSCE Document on Principles Governing Conventional Arms Transfers (CAT):* Bosnia and Herzegovina's arms industries were also subject to the exclusive control of the entities without any state control. In Yugoslavia, they had been subordinated to the ministry of defence, and the entities had maintained this structure after the break-up of Yugoslavia within the federal



structure of Bosnia and Herzegovina. However, the industries produced arms not just to meet the demands of their respective armed forces but also for export, again practically without control.

There was no state control because arms production, being subordinated to the various ministries of defence, was considered to be a military matter and therefore a prerogative of the entities. While SFOR exerted tight control over all movements of forces and armaments, including armaments destined for export, this did not extend beyond monitoring security during transportation. The practice of unregulated exports had frequently led to tension in foreign relations, and although these problems were caused by the entities, they were formally the responsibility of the state.<sup>20</sup> For the same reason, the obligatory annual exchange of information on CAT could not take place, as the state authorities once more did not receive any relevant information from the entities.

*Vienna Document 1999:* This was the first issue to be addressed by the international community when the May 2000 meeting of the PIC in Brussels, in the annex to its declaration, demanded that “the competent Bosnia and Herzegovina authorities shall create the necessary conditions to fully meet their obligations under the 1999 Vienna Document”. The same year also saw some cautious progress being made towards implementation when a state-level mechanism for information exchange was prepared. However, this mechanism was not implemented, as the entities demanded clearer separation of the various elements of information to be exchanged.

Another failure of compliance concerned Bosnia and Herzegovina’s obligation to invite international inspectors to visit an airbase in the country every five years. No such invitation has been issued for almost a decade.

*Communication network:* Bosnia and Herzegovina was one of the few states not yet connected to the OSCE Communication Network. Here, too, implementation failed as a result of the long-standing demands of the entities to be directly connected to the network, bypassing the state level. If the entities had been connected to the network, however, it would probably have been interpreted, in particular by the Republika Srpska, as acceptance of their implicit claims to sovereign statehood. It was for that reason consistently refused.

#### *Implementation of the Strategy by the Department*

The annual workplan for 2003 drawn up in June 2003 envisaged the following activities for the Department: *first*, continued support for the Personal Representative in the implementation and verification of the agreements reached under Articles II and IV. This covers the organization of seminars

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20 An example was the export of several Panhard reconnaissance vehicles to Israel by the Bosniak-Croat Federation, which provoked anger within the Arab world at the (Muslim) Bosniaks.

and other voluntary activities, including aerial observation and a command-post exercise for disaster relief activities, as well as support for inspections to be conducted in Bosnia and Herzegovina under the Article II and Article IV Agreements. *Secondly*, it also now explicitly referred to tasks resulting from the implementation of OSCE commitments. Here, the emphasis was placed on commitments under the Code of Conduct, which could hardly be implemented without shifting competencies towards the state level. However, even the existing Dayton constitution should have made it possible to establish adequate institutions at state level. This would have fulfilled the Code of Conduct's demands for democratic control, while also enabling Bosnia and Herzegovina to implement all its other commitments in the politico-military dimension.

Thus, as well as continuing to provide support for the Personal Representative's activities under the Article II and IV Agreements, the Department has assumed two further key areas of responsibilities. The first is the provision of direct support for the implementation of the commitments through the provision of expertise and the establishment of contacts between the competent authorities within Bosnia and Herzegovina and the OSCE. The second is to make an active contribution to establishing the pertinent institutions at state level.

The new tasks were also reflected in the restructuring of the Department in accordance with the 2003 workplan. This envisaged a structure consisting of three main sections: one for the support of activities under the Article II and IV Agreements; one for the support of implementation activities deriving from the various documents within the OSCE's politico-military dimension; and a politico-military section tasked with contributing to the establishment of state institutions.

The new fields of activity also led to the creation of new partnerships on the ground. As long as the Department had seen its tasks primarily as consisting in supporting the verification of the two agreements, its main contacts were the entities – and their defence ministries and the various verification centres in particular. There were occasional contacts with the SCMM, which was formally a state institution, although its members saw themselves primarily as representatives of their respective ethnic groups and their forces. Under the new arrangement, however, the Department saw the ministry for foreign affairs as its main partner, as, on the one hand, it was undeniably the competent authority for the implementation of foreign policy commitments, and, on the other hand, it could be expected to co-operate in the implementation of the Department's new strategy. Further key partners for the question of democratic controls were the parliaments of the entities and the state.

### *Merger with the OHR Military Cell*

This strategy was originally developed to support the Department's role, as part of the OSCE Mission, of conducting specific activities in combination with other international institutions within the existing organizational frameworks. However, with the High Representative's decision to reduce the number of international players and his suggestion that OHR's Military Cell be merged with the OSCE's Department for Security Co-operation,<sup>21</sup> the situation changed dramatically. The merger was implemented in August 2002, and the head of the OHR's Military Cell also took over the position as the Director of the Department.

These steps had a direct impact on the Department's structure and composition. The establishment of the politico-military section, which had been planned for 2003, was implemented immediately, primarily so as to integrate the former OHR personnel. They also had an immediate impact on the Department's work, as it could no longer concentrate on the implementation of OSCE commitments but had to stress institution building, which had been primarily the task of the OHR Military Cell until then.

The situation was aggravated by the fact that former OHR personnel continued to identify with their former institution and showed little understanding of the specific role of the Department as an OSCE institution. This identification with the OHR declined as the rotation system thinned out the former OHR personnel, replacing them with staff recruited by the OSCE Mission. At the top, however, there was a distinct lack of change, as the Director proved unwilling to accept the Department's role as an OSCE institution. Nor was he prepared to accept the usefulness of the Department's strategy of using the commitments under the OSCE's politico-military dimension to support the common objective of establishing defence institutions at state level. The tensions resulting from this significantly reduced the Department's ability to continue as planned.

### *The Work of the Department Since August 2002*

Despite the growing tensions, progress was made in various fields.

*Downsizing of the entities' armed forces:* Downsizing, which had been initiated in spring 2002, was completed within the envisaged timeframe. A particular problem emerged with severance payments, which posed a serious financial burden.<sup>22</sup> While it had been hoped that international loans would help pay for this, they could not be granted for a purpose that was deemed to be "military". In the end, the severance payments were financed by means of

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21 Cf. High Representative to Bosnia and Herzegovina, Lord Ashdown, Presentation to the OSCE Permanent Council, Vienna 4 July 2002; PC.FR/26/02, Vienna, 1 July 2002.

22 Each demobilized soldier received 10,000 convertible marks (equivalent to the old German mark). The cost to the Federation alone, which had started the process, was 100 million marks.

loans secured on that portion of the former Yugoslavia's property (the "succession fund") that had been inherited by Bosnia and Herzegovina, and distributed between the entities. Social programmes for the re-integration of demobilized soldiers into the civilian economy were offered by the World Bank and the International Organisation for Migration (IOM) and frequently accepted.

Yet the intended effect of forcing the remaining entity forces to merge did not materialize, rejected by the Serbian side against the background of the discussions on the transformation of the SCMM into a state ministry of defence. Downsizing thus achieved its original purpose of budget reduction, but not the additional objective of inducing the merger of the two armies.

*Restructuring the SCMM:* After the failure of efforts to restructure the SCMM in May 2002, the informal negotiations continued during the summer of 2002 without attracting much attention. The Serbian side soon abandoned their position of total rejection and began to show greater flexibility. While they insisted that they would retain their own armed forces, they also displayed an increasing willingness to discuss any other questions and solutions that would bring Bosnia and Herzegovina closer to PfP accession.<sup>23</sup> Nevertheless, the low-profile efforts continued throughout the summer break and were eventually successful. On 29 August 2002, the Presidency passed a "Decision on the Organization and Functioning of Defence Institutions of Bosnia and Herzegovina", which defined the following:

- The composition of the SCMM proper as a political body;
- The enlargement and restructuring of the SCMM Secretariat along the lines of a ministry, including the creation of various departments;
- The appointment of a secretary general and several deputies; and
- The establishment of a military commission to co-ordinate "the activities of the armed forces in Bosnia and Herzegovina" in the areas of "defence, sovereignty, and the territorial integrity of Bosnia and Herzegovina".

*Providing expertise for the entities' defence committees:* The department continued its efforts to strengthen democratic control of the armed forces at entity level. This was undertaken in parallel to the efforts to establish parliamentary control at state level. In negotiations with the defence committees of both entity parliaments, the Department secured the agreement that two defence experts on each committee would have the task of advising the com-

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23 On various occasions, however, the positive developments were undermined by statements made by international actors containing provocative terms such as "joint forces", "joint command", or "state-level ministry". Unfortunately, statements of this kind were made even by higher-ranking SFOR functionaries, who are expected to display a certain sensitivity to such questions. These developments and attempts to arrogate to SFOR competencies that had been assigned to other international institutions by the Dayton Peace Accords led to tension between the various international institutions in mid-2002.

mittees on defence issues. The Department was involved in the selection of these experts to ensure that they were suitably qualified and to exclude, as far as possible, any political interference. These experts' salaries were paid by the Geneva-based *Centre for Democratic Control of Armed Forces* (DCAF).

*Eliminating obstacles to inspections under the Vienna Document 1999:* Just like any other OSCE participating State, Bosnia and Herzegovina is subject to the verification regime of the Vienna Document and obliged to accept up to three inspections of its territory per year. In practice, the inspecting parties selected as a rule an inspection area that traversed the Inter-Entity Boundary Line, thus incorporating sections of the territory of both entities. This prevented these inspections being interpreted as proof of sovereign statehood as claimed by the entities.

In accordance with the provisions of the Vienna Document 1999, the inspecting state is entitled to request an aerial inspection performed by aeroplane or helicopter. In Bosnia and Herzegovina, however, this could not be realized due to the refusal by SFOR to allow such flights across the Inter-Entity Boundary Line, even when the competent state authorities would have given the consent required. This practice corresponded to SFOR's basic mandate of ensuring the separation of the former belligerents, but became increasingly counterproductive in the context of the envisaged co-operation – or even merger – of the entities' armed forces, the emphasis on the statehood and unity of Bosnia and Herzegovina, and the push for better compliance with the pertinent commitments under the OSCE's politico-military dimension.

In negotiations, the Department successfully persuaded SFOR to adapt its procedures concerning the regulation of such flights to take account of the special conditions prevailing in Bosnia and Herzegovina.

*Regulation of arms exports:* As mentioned before, the practice of unregulated arms exports by the entities was a cause of foreign policy tension on several occasions and made state-level control increasingly an imperative. By June 2002, initial steps had already been taken within the IBTF to establish a joint "Weapons Export Control Commission", which was to have been composed of representatives of the competent state authorities and the international community. These steps were taken largely to improve compliance with the relevant OSCE documents.<sup>24</sup> In particular, they should have led to ensuring compliance with the export criteria established within the OSCE's CAT and SALW documents.

However, during the summer of 2002, intelligence reports increasingly indicated that the Serbian aircraft manufacturer ORAO had been involved in illegal arms shipments to Iraq, in clear breach of the United Nations embargo.

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24 The intention was to improve Bosnia and Herzegovina's ability to comply with the pertinent provisions under the 1993 OSCE Document on Conventional Arms Transfers (CAT), thereby holding the entities to their obligations under the constitution of Bosnia and Herzegovina to assist the state in complying with international commitments. This should have been the first "trial run" for the department's new strategy in this respect.

ORAO was an armaments company specializing in aircraft design and production as well as maintenance of jet engines. It had been established by the former Yugoslav People's Army, was taken over by the armed forces of the Republika Srpska following the break-up of Yugoslavia and the subsequent war within Bosnia and Herzegovina, and had been subordinated to the general staff and defence ministry of the Republika Srpska since then.

These reports were made public in August 2002. The High Representative used them to demand that Bosnia and Herzegovina should establish state control over arms exports. At the same time, it was also made clear that effective state control over the military sector as such would be an indispensable precondition for any kind of "normality" in Bosnia and Herzegovina's foreign relations.

Initially, in October 2002, the High Representative decided to task the state ministry for foreign trade and economic relations with elaborating, in close co-operation with the international community, a state-level law regulating arms exports. The legal basis for this approach was the fact that the constitution had assigned "foreign trade" to the state rather than the entities, which made it possible to bypass the still controversial dispute over competencies for "military matters".

The task of elaborating a draft law was given to a small group of experts from certain key ministries of Bosnia and Herzegovina (Foreign Trade and Foreign Affairs) and international organizations (led by the OSCE Mission, together with SFOR and OHR). Within five weeks, the group completed the draft text of a law on the import and export of arms and military equipment. Taking into account relevant commitments under the OSCE documents on CAT and SALW, this was finally adopted by both houses of the state parliament of Bosnia and Herzegovina in February 2003.

In retrospect, the passing of this law was a milestone. For the first time, a matter previously regarded as "military" and therefore entirely within the entities' sphere of competence, was now regulated by a state law within a sphere of competence at state level (foreign trade). The establishment of state-level competencies for regulating arms imports and exports also initiated a paradigm shift for the international community. Until then, the idea had prevailed that it would be necessary to "transfer the competencies in military affairs from the entities to the state". But now they were proven that the explicit and indisputable competency of the state for "foreign relations" could be taken as a point of departure in addressing competencies in matters of defence and the military. It thus confirmed the strategy previously developed within the OSCE Mission.

The ORAO affair gave the final impetus to the major defence reform, whose way had been prepared by various preliminary measures. By weakening the position of the Republika Srpska and its security policy elite, the affair provided a golden opportunity to establish state-level military command and control capabilities and to overcome the unacceptable military division of

the country. The establishment of state-level institutions was a non-negotiable prerequisite for Bosnia and Herzegovina's joining the Partnership for Peace.

### *The Defence Reforms*

The final steps towards the planned large-scale defence reform proper took the form of seminars on defence law. They were organized within the framework of the Defence and Security Steering Group (DSSG) by various international organizations under SFOR's organizational leadership. Their aim was to prepare local decision makers for the planned reforms. The first seminar was held in March 2003, and the second in May 2003. Although the Department participated in both seminars, however, it focused primarily on issues of demobilization and did not deal with essential questions relating to the compatibility of the planned reforms with the state constitution.

On 8 May 2003, at the end of the second seminar, the High Representative officially announced the establishment of a Defence Reform Commission and the appointment of its chairman.<sup>25</sup>

*The Defence Reform Commission:* From this point in time, defence reform took place within a separate organizational framework: the Defence Reform Commission. In accordance with its mandate, which was also established by the High Representative's decision of 8 May, its task was to examine the legal measures necessary to reform defence structures in Bosnia and Herzegovina, to identify constitutional and legislative provisions at variance with such requirements, and to propose legislation and other legal measures.

The High Representative's decision of 8 May 2003 outlined the following general objectives and principles for the Commission's work: Defence structures in Bosnia and Herzegovina, and the legislation establishing such structures, must be consistent with Euro-Atlantic standards and must respect and be fully consistent with the commitments undertaken by Bosnia and Herzegovina within the politico-military dimension of the OSCE. Explicit demands referred to democratic civil oversight of the armed forces in Bosnia and Herzegovina at both state and entity level, specific provisions to guarantee state-level command and control and the interoperability of defence structures throughout Bosnia and Herzegovina, and a requirement that funding for defence structures in Bosnia and Herzegovina be held within the fiscal limits established by political authorities through the democratic process.

The Commission's work was based on a concept paper, which had in part been elaborated at the legal seminars, but it also included the specific measures required for Bosnia and Herzegovina's accession to the PfP pro-

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25 The person appointed chairman was the American defence expert Jim Locher III, who had already chaired a defence reform commission in the USA. During the negotiations, he proved to be both a capable and flexible chair and someone who was open-minded to the peculiarities of the situation on the ground.

gramme. Above all, it envisaged the strengthening of the state in defence matters.

The concept paper also outlined in detail tasks for the state parliament, the collective state Presidency, the SCMM, and the council of ministers, and defined the competencies of future state-level defence institutions such as the defence minister, the chief of general staff, the defence ministry, the joint general staff, and the operative command.

The Commission consisted of twelve members and four observers. The members were the Chairman of the Commission, the Secretary-General of the SCMM and his two deputies, two civilian representatives, one each appointed by the President of Republika Srpska and the President of the Federation of Bosnia and Herzegovina; the two entity ministers of defence; one member designated by the High Representative in his capacity as European Union special representative; one representative designated by each of NATO, SFOR, and the OSCE. Invitations to appoint a permanent observer to the Commission were sent out to the United States, the Presidency of the European Union, Turkey as representative of the Organisation of the Islamic Conference (OIC), and the Russian Federation.

The Department for Security Co-operation effectively became the Commission's staff element, with the key function of providing personnel for the Commission's Secretariat. However, only a limited role was given to the Department's technical experts.

*Work of the Commission:* In its initial sessions, the Commission defined its objectives, namely to implement the principles defined by the High Representative's decision, and to establish defence structures that would conform to the criteria for PFP accession. The deliberations generally followed the lines set down in the concept paper; decisions were reached by consensus.

The main bulk of the Commission's work was undertaken in working groups. The working groups, which had two co-chairs each,<sup>26</sup> elaborated draft reports that were submitted to the Commission's plenary in July 2003. These reports, including the Commission's commentaries, were finalized in August 2003 and submitted to the plenary, where they were adopted together with the revised concept paper as the Commission's final report.

*The Commission's Report:* The report of the Defence Reform Commission was published on 25 September 2003 and can be seen as a blueprint for the reform efforts that the international community expected from Bosnia and Herzegovina. In terms of its contents, it follows the concept paper almost to the last comma. Its chapters on legal reforms outline the future defence law of Bosnia and Herzegovina as well as the necessary changes to the entities' constitutions, defence laws, and army laws.

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26 One representative of the international community (in practice always a representative of an international organization active within Bosnia and Herzegovina), and a citizen of Bosnia and Herzegovina.



The centrepiece of the report is the creation of a state-level defence ministry; most of the chapter on “implementation” is devoted to this subject. Another vital topic also covered in this chapter is parliamentary oversight, with an emphasis on budget control in the context of budget reductions. On the other hand, little space was devoted to the question of protecting the rights of enlisted personnel. The matter of the political neutrality of the armed forces was not even mentioned in the report, despite frequent demands by the OSCE Mission to this effect.

#### *Other Activities of the Department*

Despite the predominance of its work on defence reform, the Department continued to work on other issues concerning commitments under the OSCE’s politico-military dimension.

*Arms exports:* In close co-operation with the competent authorities within SFOR and on the basis of the newly adopted state law on arms imports and exports, the Department carried out checks on requests for arms exports. In particular, this involved determining whether the necessary confirmation had been provided by the ministry for foreign affairs confirming the compatibility of the request with international obligations and the foreign policy interests of Bosnia and Herzegovina.

*Arms production:* In addition to the law on the import and export of arms and military equipment already adopted, the High Representative called for the elaboration of a state law on arms production and the arms trade. The department had a major role in elaborating this law which was adopted by the state parliament in March 2003

*Connecting Bosnia and Herzegovina to the OSCE Communication Network:* The improved co-operation between the Department and the foreign ministry of Bosnia and Herzegovina finally led to Bosnia and Herzegovina being connected to the OSCE Communication Network. Previously, this had generally been perceived as a military matter and attempts to integrate Bosnia and Herzegovina had failed due to the demand on the part of the entities’ defence ministries that they be directly connected to the network, bypassing the state level. Now it was possible for the first time to identify a state-level institution that could function as the end-user station. Correspondingly, in co-operation with the OSCE Conflict Prevention Centre, foreign ministry personnel were trained to access and use the network. As the ministry for foreign affairs lacked suitable computer equipment, the Mission donated a computer for linking up with the network.

#### *Defence Reform Implementation so far*

On 1 December 2003, the State Parliamentary Assembly adopted the Defence Law of Bosnia and Herzegovina, which more or less followed the concept

paper in every detail. In accordance with the Defence Law, a state minister and his deputies were appointed in March 2004. Other key functions (joint staff, operational command, inspector general, etc.) were staffed in July 2004.

On 24 March 2004, the collective state Presidency, pursuant to the Defence Law, adopted a decision on the size and organization of the armed forces of Bosnia and Herzegovina. This entails a further reduction of the entity armed forces to 8,000 military professionals in the Bosniak-Croat Federation and 4,000 in the Republika Srpska. In addition, there would be up to 12,600 conscripts (8,400 in the Federation and 4,200 in the Republika Srpska), and 60,000 reserves (40,000 in the Federation and 20,000 in the Republika Srpska).

Supporting defence reform continued to be a dominating factor for the Department. Following a further restructuring, in 2004, it consists of sections dedicated to assisting with the implementation of OSCE commitments, and to supporting implementation of the Article II and Article IV Agreements, as well as three sections tasked with implementing defence reform (parliaments; establishing the state ministry of defence; intelligence reform). The Secretariat of the Defence Reform Commission was also integrated into the Department.

### *Conclusions and Assessment*

The substance of the Department's work has undergone significant changes since 2002, triggered in part by the changes in the country and within the security policy environment, but also by incidental developments, which by themselves again contributed to changes in the security policy environment.

The most significant cause of the changes in the security policy environment was, beyond a doubt, the political changes in Croatia and the end of the Milosevic-regime in the FRY in 2000. Thereafter, the question of the excessive autonomy of Bosnia and Herzegovina's entities could finally be explicitly addressed as a problem to be solved. The establishment of an institutional framework by the international community in the form of the CSPWG and the IBTF provided the tools for preparatory steps to enable action at the appropriate time.

In the area of defence, the prospect of Bosnia and Herzegovina joining the PfP provided additional incentives for defence sector reform.

Nonetheless, resistance to the establishment of adequate state-level defence institutions would probably still have been too strong on the Serbian side, in particular. It took the self-inflicted damage of the ORAO affair to finally break the capability of effective political resistance and pave the way for reform.

These developments had an immediate effect on the work of the OSCE Mission's Department for Security Co-operation. Within its rather narrow

original mandate as an instrument to assist the Personal Representative in implementing the two agreements reached under Annex 1-B, it could not possibly have had a role in these developments. Rather, by being tasked with auditing the defence budgets within the framework provided by the Article II Agreement, it slipped almost accidentally into assisting with budget reductions through demobilization, and was finally tasked with assisting with demobilization itself. When this became linked with the establishment of state-level defence structures, the Department also became drawn into these matters, which went far beyond its original mandate.

Further factors also played a role, the first being the letter of 12 April 2002 from the Director of the OSCE Conflict Prevention Centre, in which he encouraged the OSCE missions to support their host countries in complying with commitments under the OSCE's politico-military dimension. The other was the almost simultaneous appointment of a Deputy Director in the Department with long-standing experience with these issues as well as with the Department's work and who could combine these two elements into a coherent strategy. Compliance with OSCE commitments thus became a central part of the Department's activities, and the Department's role in demobilization and the establishing of state-level defence institutions found their legitimate place.

The merger with the OHR's Military Cell also had a major influence on the Department's work. In formal terms, it contributed to avoiding duplication and to streamlining the structures on the side of the international community. On the other hand, however, it increasingly created problems for the Department's self-understanding, as the primary loyalty of leading persons remained with the OHR. This was combined with ignorance of and unwillingness to use the Mission's potential as an OSCE institution to help achieve compliance with the various documents of the OSCE's politico-military dimension and thus also to achieve objectives in the area of defence reform. This led to unnecessary limitations on the Department's work. In the meantime, it has become a common view that playing the OSCE card more strongly might have made defence reform significantly easier, or shortened the timeframe for its achievement.

Overall, the Department's work could be termed a success, albeit with variable results across the various fields.

In assisting with the implementation and verification of the agreements reached under Annex 1-B of the Dayton Peace Accords, the Department has acted professionally from the beginning. In the area of inspections, which accounted for the bulk of activities at one time, it supported, from 1996 until December 2003, under the Article II Agreement on Confidence- and Security-Building Measures, 105 inspection tours to 269 "objects of inspection" and ten inspections of an "area". These were carried out by a total of 389 OSCE inspectors and 409 inspectors from the entities. Under the Article IV Agreement on Sub-Regional Arms Control, it supported 205 inspection tours

with 484 inspections (including 34 inspections tours with 122 inspections relating to armaments reduction or the destruction of excess weapons), involving 625 OSCE inspectors from 28 OSCE participating States.

During the same period, it supported 32 monitoring missions to “Weapons Manufacturing Capabilities” (i.e. arms and ammunition factories) under the Article II Agreement, carried out by 45 experts provided by OSCE participating States, and 84 experts provided by the entities. It also held at least four related seminars every year.

These tasks were primarily of a technical nature, leaving little room for manoeuvre on the part of the Department. Moreover, Bosnia and Herzegovina’s unique situation (as a result of its military division) makes it impossible to assess “success” and “failure” in comparative terms. Nonetheless, it is clear that the professionalism of all involved meant that no problems emerged that were capable of impeding implementation.

It is a simpler matter to identify success in the implementation of the Department’s strategy to improve the compliance record with respect to the various documents under the OSCE’s politico-military dimension.

In *substantive* terms, assistance in the elaboration of the laws on the import and export of weapons and military equipment and on arms production provided the legal basis for Bosnia and Herzegovina to implement relevant commitments under the CAT and SALW documents, while simultaneously putting an end to the repeated violations of these documents through the entities’ uncontrolled activities. Co-operation on defence reform, too, directly contributed to making the pertinent provisions of the Code of Conduct effective, namely with respect to parliamentary control and the establishment of authorities vested with democratic legitimacy. It also created the preconditions for Bosnia and Herzegovina to effectively implement other commitments under the Code of Conduct.

A further achievement was the successful connection of Bosnia and Herzegovina to the OSCE Communication Network in December 2003, which was achieved directly thanks to the Department’s efforts.

Efforts by the Department to motivate Bosnia and Herzegovina to organize a visit to an airbase under the Vienna Document remained unsuccessful. However, the reasons for this had less to do with a lack of political will on the side of the authorities in Bosnia and Herzegovina than with the absence of state-level institutions capable of organizing such a visit. It is thus natural that the visit was postponed until the state defence ministry is ready to function.

With respect to *formal* implementation, a visible improvement is evident since the Department took up these issues. While Bosnia and Herzegovina had already participated in the information exchange under the Vienna Document 1999 back in 2001, practically no other activities of this kind have been carried out since then.<sup>27</sup> Though delayed, Bosnia and Herzegovina submitted its annual

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27 The exception being the information exchange under the Document on Anti-Personnel-Landmines in 2001.

information on the implementation of the Code of Conduct on 29 July 2002 for the first time. In May 2003 it did so again, once more with a slight delay. Bosnia and Herzegovina provided information under the exchange regime of the SALW Document for the first time in November 2002. The Department's efforts, and above all the improvement of co-operation with the foreign ministry of Bosnia and Herzegovina, also made it possible for that country to participate in the Global Exchange of Military Information (GEMI) in June 2004 for the first time, and in a further exchange in accordance with the document's provisions on SALW on 1 July 2004.

Overall, the Department's activities concerning compliance with commitments under the politico-military dimension can thus be termed a success. While Bosnia and Herzegovina had previously shown initial indications of complying, a significant improvement took place only when the Department took up these questions and visibly supported the Bosnia and Herzegovina authorities interested in these issues. Improvement of the compliance record thus stands in clear and direct correlation to the Department's activities in this field.

Concerning defence reform, the situation appears more complex. On the one hand, defence reform in itself has to be seen at least in part as the implementation of commitments under an OSCE document, namely the Code of Conduct. The Department's work in this area can thus also be perceived as assistance in improving compliance, as it indeed was by the majority within the Department. At the same time, well-functioning state authorities – together with limitations on the freedom of action of the entities – is an essential prerequisite for compliance with obligations under the OSCE's politico-military dimension in general.

On the other hand, the primary focus of defence reform remained on the formal questions of establishing a state-level defence ministry and state-level control in general, which was not fully compatible with the envisaged wider approach. Furthermore, the actual role of the Department was quite limited. While its Director was a key member of the Defence Reform Commission, he saw his own function primarily in his original and continued role as military adviser to the High Representative, with his function as a member of the OSCE Mission clearly secondary to that. Addressing the wider question of compliance with OSCE commitments played a marginal role, if any, despite the fact that it had been enshrined in the Commission's mandate.

All in all, therefore, the Mission's achievements must be considered a mixed bag. On the positive side, the very establishment of state-level structures and democratic control through the state parliament may be considered a success both in substantive terms, and with respect to the implementation of the pertinent provisions of the Code of Conduct. Furthermore, it has to be seen as a positive development that the reform created the necessary organizational infrastructure for future complete compliance with all commitments deriving from documents under the OSCE's politico-military dimension. On the negative side, the Commission virtually ignored many issues that would

have had to be covered under its mandate. These include questions relating to the human rights of individual soldiers, and the political neutrality of the armed forces, which unfortunately remained ethnically divided even after the reforms.

### *Outlook*

The Department's work was significantly affected by the developments in 2002 and 2003 and will have to continue under the changed conditions.

For example, the establishment of state-level defence structures had far-reaching consequences for the agreements reached under Annex 1-B to the Dayton Peace Accords. Soon after the state parliament had adopted the state law on defence in December 2003, the parties to the Article II Agreement decided to convoke an extraordinary review conference for June 2004. There, on 16 June 2004, they agreed to voluntarily cease implementation of most measures of the Agreement with immediate effect, with the exception of measures concerning contacts and co-operation (Measure XI, sections I and II), and of the provisions on the Joint Consultative Commission (Measure XV).<sup>28</sup> They further decided to terminate the Agreement no later than the next meeting of the Joint Consultative Commission (29 September 2004).<sup>29</sup>

A major part of the Department's previous activities must thus be seen as completed. What currently remains in this area is the continuing provision of support for inspections conducted in Bosnia and Herzegovina under the Agreement on Sub-Regional Arms Control. However, the number of inspections has declined so significantly following the massive decrease in the numbers of units and weapons systems deployed that they have been effectively rendered irrelevant. Nonetheless, the parties to the Agreement have expressed an interest in using the OSCE Mission as a framework for applying voluntary measures in the areas of contacts and co-operation. If these plans bear fruit, the Department's arms control activities might once again increase.

In the area of defence reform, the adoption of the Commission's report was not the end of the Department's efforts, as the Commission continued to work on implementation of its September 2003 recommendations. In 2004, tasks related to implementation dominated the Department's work schedule and there has been an increase in the number of sections involved. It appears, however, that these tasks will be of limited duration and will end with the establishment of the pertinent state structures – a process that should have been completed by the end of 2004. At that point, a NATO office established

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28 Cf. Final Document of the Fifth Conference to Review the Implementation of the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina, Vienna, 14-16 June 2004.

29 This provision was required due to the 30-day timeline for withdrawal from the Agreement, which had also been agreed at the review conference.

in Sarajevo and tasked with facilitating PfP accession will also become operational

A similar time limit is likely to apply to the Mission's work supporting efforts to improve compliance with commitments under the OSCE's politico-military dimension. It will be possible to consider this as accomplished only when Bosnia and Herzegovina has reached a compliance standard comparable to that of other states. While achievements made so far look encouraging, full compliance appears to be a more distant goal than the general functioning of state-level defence structures. It can be assumed that it will only be possible to effectively implement other commitments arising from the Code of Conduct – such as those concerning democratic control, budget restraints, the political neutrality of the armed forces, guarantees of the civil and human rights of service members, and other commitments, such as that of training forces in international humanitarian law – once workable state-level enforcement structures exist. Successful completion of defence reform thus becomes a prerequisite for implementation of these commitments, making the continued assistance of the competent state authorities essential.

Similar considerations also apply with regard to compliance with other documents, such as the Vienna Document 1999 and the documents on CAT and SALW. Here, too, the existence of truly effective authorities must be seen as an absolute precondition if implementation of these commitments is to become feasible on a day-to-day basis. Assisting the host country in realizing these commitments will therefore remain a necessity above and beyond the implementation of the defence reform itself.

It may thus be expected that the activities currently dominating the Department's agenda – namely the implementation of defence reform – will be completed after an intensive phase that is nonetheless of limited duration. On the other hand, tasks relating to compliance assistance are likely to remain significant for a while. Finally, the extent to which the parties to the Article IV Agreement may assign the Department new tasks to replace its now defunct role of supporting the implementation of the Article II Agreement remains unclear.

### *Concluding Remarks*

The work of the Department for Security Co-operation within the OSCE Mission to Bosnia and Herzegovina cannot easily be compared to the work of any other mission, due to that country's unique politico-military situation. The experiences that the Department has gathered can therefore not easily be generalized. Rather, one has to distinguish between those elements that are rooted in the particular situation of Bosnia and Herzegovina, and those that are more general. Only in the case of the latter does it make sense to generalize, for instance in order to identify weaknesses and opportunities to im-

prove the work of OSCE missions in general. In order to do this, assessment must be conducted on three levels: the functional, the structural/institutional, and the personal.

On the *functional* level, the Department began with a clear task, namely to support the implementation of the agreements reached under Annex 1-B. This task was enshrined in its mandate. Over time, however, its responsibilities broadened considerably until there was finally little visible connection between its activities and the original mandate. To legitimize these activities, they were explicitly brought into the context of compliance with OSCE commitments. Without this context, they would have most probably not been considered to be tasks for an OSCE mission.

At the *structural/institutional* level, there were problems from the start. The Department was established as part of the OSCE Mission, yet it was effectively subordinated to the Personal Representative, leading to tension between the Mission and the Personal Representative on several occasions. The structural issue came to a head when it was agreed in July 2002 to merge the Department with the OHR Military Cell, and when the then military adviser to the High Representative was established as the Department's Director. Even then, it might have been quite possible to find a workable structure, with the Department exclusively subordinated to OSCE institutions (the Mission and the Personal Representative). The Department's Director could have maintained his personal function as adviser to the High Representative but without establishing a chain of command between the High Representative and the Department. In reality, however, the Department was mostly used by its Director as an instrument to help him perform his second function as military adviser to the High Representative, which led to serious friction, particularly with those members of the Department who saw their primary loyalty as lying with the OSCE and its Mission.

This leads on to the *personal level*. Here, we have to distinguish between the issue of loyalty to the Mission and that of individuals' understanding of the role of the OSCE in general, and the Mission's tasks in particular.

With regard to the loyalty issue, the fact that a person in a leading position remained expressly loyal to another institution must be considered very much a one-off occurrence. There were also significant teething problems with other members of the former OHR Military Cell who had been transferred to the OSCE Mission. In most cases, however, these resolved themselves as a result of the routine rotation of personnel.

The problems relating to the understanding of the OSCE in general, and the Mission's tasks in particular, were more extensive. Here, events once more confirmed earlier conclusions<sup>30</sup> about the serious gaps in knowledge on the part of Mission members, frequently with at least a risk of negative con-

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30 Cf. Heinz Vetschera, The Role of the OSCE in the Military Stabilization of Bosnia and Herzegovina; in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1998*, Baden-Baden 1999, pp. 305-325.



sequences. For example, such gaps were one of the major reasons for the tension in the relationship between the Personal Representative and some Department members between 2000 and 2002, the latter not being sufficiently aware that they would effectively be subordinated to the Personal Representative. Similarly, the inadequate understanding of the OSCE's politico-military dimension on the part of both the Department and the majority of Mission members was not insignificant in the failure to sufficiently recognize the potential for using the appropriate OSCE documents to help achieve the international community's strategic objectives.

The majority of these problems appear to have been rooted in the selection process for Mission personnel, which was based on insufficiently defined criteria – not least as a result of the Mission's own inadequate understanding of precisely what it should look for in prospective members. During the early stages, an emphasis was placed on experience in the verification of arms control agreements. Thus, no negotiating expertise was available, although this was vital for the political side of implementing the agreements. This, furthermore, led to the exclusion of the state level from the dialogue, as the entities were the only parties to the agreements who had armed forces that could be verified, while the state had none. And this led to the longstanding practice of ignoring the state level, despite the fact that it was an equal party to the agreements.

The exclusive focus on a narrow range of military expertise in recruitment also led to political and legal issues being virtually ignored and ensured that no contacts were made with political institutions, such as the foreign ministry. Such contacts were only established by the new Deputy Director starting in April 2002. It is reasonable to assume that the longstanding policy of communicating exclusively with the entities was a key reason why the entities' claims that "defence" was their exclusive prerogative was accepted for so long.

Finally, this way of selecting Mission personnel led to a situation where basic knowledge about the OSCE in general – how its core institutions worked, how documents are elaborated and adopted, etc. – was virtually non-existent within the Mission. This kind of knowledge is indispensable for the Mission's work, for example in explaining to functionaries of the host country that certain obligations – such as those relating to information exchange – are not arbitrary demands of the OSCE Mission but rooted in documents adopted by all OSCE States, including the host country. Such knowledge was also needed to explain to the media the significance of connecting the host country to the OSCE Communication Network.

If these observations can lead to any conclusions on how to optimize the work of OSCE missions in the politico-military dimension, the following options should be considered:

- *Intensified training of mission members:* In order for this to have a more than marginal effect, however, it would be necessary to extend training time beyond generally acceptable limits. Experience has shown that even intensive training in specific issues tends to be submerged within the other preparations for a mission;
- *Applying more specific criteria within the selection process:* In this case, a particular emphasis should be placed on previous experience within the OSCE. Particularly pertinent in this respect are those who have worked as military advisers to their state's OSCE Delegation, and have generally gathered around three-years' experience working within relevant OSCE bodies. They would provide the necessary understanding of the functioning of the OSCE and its bodies, as well as of the substance of the politico-military dimension, and could utilize this for their work within the Mission.

It is quite likely that OSCE missions will have a greater role to play in the politico-military dimension in the future. It would thus be sensible to take the necessary steps today to ensure the Organization is capable of deploying personnel adequately prepared for the tasks they will be expected to perform.

Economic Transformation and the  
Containment of Emerging Risks



## Money Laundering: The Case of Albania

### *Introduction*

In recent years, the OSCE has stepped up its efforts to combat money laundering. When adopting the new OSCE Strategy Document for the Economic and Environmental Dimension at the Maastricht Ministerial Council in December 2003, OSCE participating States underscored once more that money laundering constitutes a threat to security and reaffirmed their commitment to combat it. In the first section of this contribution, we briefly describe the mechanisms by which money laundering affects the security and stability of a country or a region. The second section examines money laundering in Albania, considering the extent of the problem, its security implications, and the means used by the Albanian authorities to deal with it. Because a successful strategy to counter money laundering also requires an understanding of the genesis of the problem, the third chapter will focus on the root causes of money laundering in Albania, placing money laundering in a wider socio-economic and political context. Finally, the contribution will examine the role of the OSCE and opportunities for combating money laundering in the future.

### *Money Laundering and Its Impact*

Money laundering is the financial sector of the criminal economy. The Financial Action Task Force on Money Laundering (FATF) defines money laundering as “the processing of criminal goods to disguise their illegal origin”.<sup>2</sup> Activities such as trafficking in human beings, drugs, small arms and light weapons, smuggling, counterfeiting, credit card fraud, and many others generate huge profits. Money laundering is a critical part of the criminal process, as it allows individual criminals, organized crime groups, recipients of bribes, public officials, corrupt politicians, and the like to distance themselves from criminal activity, and this makes it more difficult to prosecute them. By separating the profits from the criminal activity itself, the funds are protected from seizure by law enforcement agencies and can more easily be re-invested into further criminal activities or legitimate business enterprises.

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1 The views expressed in this paper are made in a personal capacity and do not reflect the views of the OCEEA, the OSCE Presence in Albania, or the OSCE.

2 Financial Action Task Force on Money Laundering: Basic Facts about Money Laundering, at [http://www1.oecd.org/fatf/MLaundering\\_en.htm](http://www1.oecd.org/fatf/MLaundering_en.htm). The FATF is an intergovernmental body associated with the OECD but independent of that organization.

In short, successful money laundering perpetuates criminality within an economy and facilitates its entrenchment within the local institutional infrastructure by transforming dirty money into effective purchasing power through its assimilation into legal channels. The more efficiently money is laundered, the lower the criminals' "overheads" and the greater their "productivity".<sup>3</sup> However, money laundering does not only contribute to increasing the level of crime and the influence of organized criminal groups, it also fuels corruption within the institutions it penetrates. Similarly, money laundering plays an important role in enabling terrorists to finance their activities.<sup>4</sup>

Endemic criminality, pervasive corruption, and organized crime also have a negative effect on the economic development of a country.<sup>5</sup> This is particularly true for transition countries, where the process of economic restructuring and reform is ongoing and market and public institutions are still developing. Crime and corruption have the potential to deter both local and foreign investment. They weaken public institutions and can encourage the mismanagement of already scarce public resources. Yet a sound business environment and good governance are essential preconditions for sustainable economic growth that can enable states to reduce poverty and inequality and increase social integration and opportunities for all.<sup>6</sup> As long as poverty cannot be effectively addressed, crime can flourish<sup>7</sup> and impact negatively upon economic development.

In addition to undermining a country's economic development by cultivating crime and corruption, money laundering can also have a direct economic impact on its institutional structures.<sup>8</sup> Laundered money can contaminate and hamper the development of financial institutions, which are essential both to attract foreign investment and to address local capital needs. As laundered money tarnishes the integrity of the financial sector, potential depositors and investors lose faith and refrain from using its institutions. The impact of money laundering is thus reinforced by weakening the financial foundation on which a country relies for economic growth. Money laundering also thwarts economic development by diverting resources into less productive

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3 See Donato Masciandaro, Money Laundering. The Economics of Regulation, in: *European Journal of Law and Economics* 238/1999.

4 See for example Jean-François Thony, *Money Laundering and Terrorism Financing: An Overview*, delivered at the IMF Seminar on Current Developments in Monetary and Financial Law, Washington, D.C., 7-17 May 2002.

5 See Brent L. Bartlett, The Negative Effects of Money Laundering on Economic Development, in: Asian Development Bank, *Manual on Countering Money Laundering and the Financing of Terrorism*, s.l. 2003.

6 Cf. UNDP, *Political and Economic Institutions, Growth and Poverty – Experience of Transition Countries*, s.l. 2002; cf. also UNECE, *New Threats to Security in the Economic, Social and Environmental Dimensions*. A UNECE Report, Eleventh OSCE Economic Forum, Prague, 23-25 May 2003.

7 See for a detailed discussion on the possible economic causes of crime and violence François Bourguignon, Crime as Social Cost of Poverty and Inequality: A Review Focusing on Developing Countries, in: *Facets of Globalization. International and Local Dimensions of Development*, World Bank Discussion Paper 415/2001.

8 The following discussion draws on Bartlett, cited above (Note 5).

activities. Criminals who launder money through non-financial institutions often place their funds in low-productive investments – so-called “sterile” investments, such as real estate, art, antiques, jewellery, and luxury automobiles. For transition countries, the diversion of limited resources into sterile investments and imported luxury goods is seriously detrimental to growth and prosperity. In addition, the economic productivity of enterprises in which criminals have invested tends to fall as they are operated for money laundering purposes rather than profit maximization, thus acting as a brake on the economy as a whole.

As an integral element of criminality, money laundering can constitute a serious threat to national and regional security and stability. Particularly in transition and post-conflict countries, organized crime can endanger the process of democratization and the transition to fully fledged market economies. Should organized crime manage to infiltrate or even capture state institutions, the government’s capacity to address economic and political concerns will deteriorate, decreasing its capability to ensure the peaceful resolution of conflicts, and placing the rule of law and respect for human rights at risk.<sup>9</sup> Furthermore, the impact of money laundering can exacerbate the socio-economic disparities within and among countries that might foster ethnic and religious tensions, fuel illegal migration and potentially contribute to global security threats such as terrorism. In turn, economic failure weakens the capacity of the state to create and maintain order and security, thus weakening its prospects for further development.<sup>10</sup>

#### *Money Laundering in Albania*

No one should be surprised by the existence of money laundering in Albania, which has a large informal sector, and a cash economy, coupled with a fragile financial system. The Albanian government has acknowledged that money laundering constitutes a problem that needs to be addressed. This is evidenced by the welcome afforded to the OECD’s offer of support in assessing the extent of Albania’s informal sector and proposing means to bring it under control.<sup>11</sup> Although quantitative data on the extent of money laundering is unavailable, the number of new buildings and hotels constructed throughout the

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9 See UNECE, *Enhancing Security in the Economic and Environmental Dimensions: The Analytical Framework*, an analytical paper based on the contribution of the participants at the Villars Seminar on A New Strategy for Enhancing Security in the Economic and Environmental Dimensions, organized by the UNECE in co-operation with the OSCE, Villars, Switzerland, 7-8 July 2003. See also the statement of Louis Shelly at the United States Senate Committee on Foreign Relations, Subcommittee on European Affairs, Hearing on Combating Transitional Crime and Corruption in Europe, 30 October 2003.

10 Cf. UNECE, *New Threats to Security in the Economic, Social and Environmental Dimensions*, cited above (Note 6); cf. also UNECE, *The Economic Dimension to Security: New Challenges and New Approaches*, s.l. 2002.

11 See, for example, the declaration made by Albania’s Economy Minister on this question, ATA, 13 August 2003.

country might serve as an indicator. The boom in the construction industry is obvious to all who visit Tirana and Durres. As building licenses can be bought, most units are built illegally. There are also numerous newly established illegal bars, restaurants, and businesses, and rumours of drug money being invested into Tirana's apartment buildings.

### *The Extent of the Problem*

The blatant and growing presence of money laundering within Albanian society has only begun to receive the serious attention of the Albanian government, media, and civil society in recent years. In 2001, the Bank of Albania started to take action against informal money changers operating on the country's streets. Over 800 money changers were drummed out of business in Tirana and about 2,000 throughout Albania. During that time, the Albanian government estimated that approximately 2.5 billion US dollars in so-called dirty money passed literally through the hands of the money changers each year.<sup>12</sup> There was a public outcry at the government's move to close down the informal money changing sector, which was seen as "leaving 8,000 people without bread to eat",<sup>13</sup> and this prompted the Bank of Albania to take the positive step of requiring all money changers to be licensed and to legalize their operations. However, the practical measures introduced to fight money laundering to date go only so far and tend to be poorly enforced. In the 2001 Evaluation Report produced by Council of Europe experts, the banking and financial system was still described as underdeveloped and as representing one of the biggest contributing factors to the problem of money laundering. Cash accounts for 90-95 per cent of all transactions in Albania.<sup>14</sup> In March 2002, a major operation by the police in Tirana netted a haul of 350-400 illegal money changers. However, the problem still persists.

### *Effects on Security and Stability*

Albania's reputation as a centre of organized crime has grown considerably since the collapse of Communism. Albanian organized crime has succeeded in penetrating illegal markets worldwide, and is described by the Italian Anti-Mafia Report, for instance, as "very dangerous" due to the strong ties it has created with local mafia organizations. The growing volume and efficiency of the trade in drugs (among other trafficked commodities) carried out by Albanian criminal networks across the Adriatic to the Italian coast is resulting in

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12 Cf. Bill Hayton, Albania cracks down on dirty money, BBC News, 26 October 2001, at: <http://news.bbc.co.uk/2/hi/europe/1621271.stm>.

13 Ibid.

14 Cf. Financial Action Task Force on Money Laundering (FATF), Annual Report 2001-2002, 21 June 2002, Annex D: Summaries of Mutual Evaluations Undertaken by the Council of Europe Select Committee of Experts on Evaluation of Anti-Money Laundering Measures, Albania.



tremendous profits being laundered into both illegal and legal business activities in Albania.<sup>15</sup>

The indisputable link between money laundering, criminal activities, and organized crime has already had serious implications for the stability of Albanian institutions and those of the surrounding region. The CSD Report on Smuggling in Southeast Europe underlines that “smuggling and other forms of trans-border crime, as well as the corruption they generate, have been among the most important obstacles to the successful transition to democracy and market economy”<sup>16</sup> in South-eastern Europe. As previously outlined, strong democratic and market institutions are indispensable for effectively combating poverty and economic disparities, which themselves can contribute to weakening institutions and fostering an environment conducive to insecurity and instability.<sup>17</sup> In Albania, poverty remains widespread. Average annual per capita income of 1,230 US dollars places Albania among the poorest transition countries, despite “the impressive performance of the economy”<sup>18</sup> recently noted by the World Bank. At the same time, crime and corruption still constitute serious challenges for Albania. Together with the inadequacy of law enforcement and the slow pace of reforms, they jeopardize the country’s ability to sustain economic growth and alleviate poverty.<sup>19</sup>

#### *Law Enforcement and Its Effectiveness*

Recent pressure from the international community and Western countries has encouraged the Albanian government to intensify its efforts to deal with this problem and to implement institutional reforms. In response, the government of Albania has adopted a number of legislative measures. The Law on the Prevention of Money Laundering was enacted in May 2000. In 2001, the government established a government department to fight money laundering (Directorate of Co-ordinating the Fight Against Money Laundering/*Drejtoria e Bashkerendimit te Luftes Kunder Pastrimit te Parave*, DBLKPP) within the ministry of finance. It functions as Albania’s Financial Intelligence Unit (FIU).<sup>20</sup> Relevant legislation has either been amended to address money laun-

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15 Cf. the Italian Mafia Report for the 4th quarter of 2003 as submitted to the Italian parliament and published in the Albanian newspaper *Republika* on 23 April 2004.

16 Marko Hajdinjak, *Smuggling in Southeast Europe. The Yugoslav Wars and the Development of Regional Criminal Networks in the Balkans*, Center for the Study of Democracy Report No. 10, Sofia 2002 p. 70.

17 See also Slavica Roceska, *Poverty, Unemployment and Social Stability in the Countries of South Eastern Europe*, 2000, paper given at the International Association for Official Statistics (IAOS) Conference on Statistics, Development, and Human Rights in Montreux, Switzerland, 4-8 September 2000.

18 World Bank, *Albania Poverty Assessment*, Report No. 26213-AL, 5 November 2003. p. XII.

19 Cf. European Commission, Commission Staff Working Paper. *Albania*, Stabilisation and Association Report 2004, COM (2004) 203 final.

20 The establishment of Financial Intelligence Units was based on a recommendation of the FATF. They have so far been created in 70 countries worldwide. The umbrella organization for international FIUs is the Egmont Group, see: <http://www.egmontgroup.org/>.

dering or updated to reflect current conditions, including the Penal Code of the Republic of Albania (Law No. 7895 dated 27 January 1995), the Penal Procedure Code of the Republic of Albania (Law No. 7905 dated 21 March 1995) and the Law on the Prevention of Money Laundering (No. 8610 dated 17 May 2000). Most recently, an inter-ministerial committee on the fight against money laundering chaired by the prime minister has been established, which held its first meeting in March 2004.

In addition, several important international conventions, including the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention), the UN Convention against Transnational Organized Crime and its two additional protocols, the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the UN International Convention for the Suppression of the Financing of Terrorism have been ratified by the parliament. In August 2003, Albania became a member of the Egmont Group.

While Albania's legislation on money laundering has improved, implementation and enforcement remain weak and of limited effectiveness due to a lack of expertise, co-operation, and resources within the Albanian supervisory authorities and judiciary and law enforcement agencies. Since 2001, the FIU has frozen the assets of 44 bank accounts and confiscated two office buildings.<sup>21</sup> The limitations affecting enforcement can also be attributed to the low proportion of Albania's money that circulates within the banking system and can thus be effectively monitored. Other problems exist with regard to the inadequate licensing and regulation procedures for financial institutions under the country's commercial law. The process of identifying suspicious business transactions is greatly hindered by the lack of proper implementation and enforcement.

Moreover, there is a lack of co-operation between the police and judiciary in the tracking of cash flows resulting from illegal activities. The system of information exchange between the FIU and the prosecutor's office is not very effective at tracking financial transactions. In general, those believed to be perpetrators of financial crime are convicted of other offences, such as drug trafficking, fraud, or corruption, rather than money laundering, and no attempts are made to discover what became of the profits generated by the illegal activity. This is partly also due to a lack of financial expertise within the prosecutor's office and the courts, which makes it impossible to properly ascertain what constitutes a financial crime, and to identify money laundering schemes in particular.

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21 According to the Minister of Finance of Albania at the Regional Conference on the Fight Against Money Laundering and Financing of Terrorism on 26-27 January 2004.

### *The Root Causes of Money Laundering*

The role money laundering plays in Albanian society must be seen in the broader context of the political and socio-economic environments that contribute to its influence and operational capacity. The potential legitimation and entrenchment of laundered money within the structures of Albanian society gives cause for concern, as the country struggles with democratic and market reforms with a view towards closer integration with European structures. Issues such as poverty, weak governance, endemic corruption, organized crime, regional conflicts, and the Communist legacy are just some of the factors that warrant examination if a better understanding of the nature of money laundering in Albania is to be achieved.

### *Legacy of Dictatorship*

Albania's development into a hub of organized crime has been facilitated by a history of dictatorships, which has helped breed an environment conducive to crime, nepotism, and corruption.<sup>22</sup> The dictatorial, highly repressive, and isolationist regime of Enver Hoxha was instrumental in destroying much of the traditional social fabric that forms the basis of community life. Over the course of 45 years, government propaganda and the politics of fear served to undermine moral principles and corrode value systems, resulting in Albania's current difficulties in adopting democratic reforms.<sup>23</sup> Similarly, the dire state of the economy during this period and the ensuing poverty – aggravated by political polarization – created an environment conducive to crime and corruption, which has spread throughout the country's institutional structures since the fall of Communism.

### *Crime, Corruption and State Capture*

Historically, smuggling and banditry have always been present in the Balkans, and this did not change under Communist rule. Albania itself has always been part of the Balkan Route used by smugglers and criminals to transport drugs from the Far East to Europe. With the demise of Communism, economic collapse, and the outbreak of civil wars following the disintegration of Tito's Yugoslavia, organized crime began to flourish. During the UN sanctions of the Socialist Federal Republic of Yugoslavia (SFRY), Albania functioned as a transit country for the smuggling of oil and other valuable

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22 Cf. Senator Alberto Maritati, *Organized Crime in the Balkans with Reference to Albania*, paper delivered at the Conference on Organized Crime in Southeast Europe, The American University of Rome, 15 November 2002.

23 Cf. Eno Trimcev, *Organized Crime in Albania: An Unconventional Security Threat*, in: *Crushing Crime in Southeast Europe: A Struggle for Domestic, Regional and European Dimensions*, 6th Workshop of the Study Group "Regional Stability in Southeast Europe", Partnership for Peace Consortium of Defense Academies and Security Studies Institutes, Vienna, May 2003.

commodities to the SFRY. At the same time, Albanian crime groups managed to take control of the drug trade into Western European countries.<sup>24</sup>

The long unmet needs of the Albanian people helped spur the development of an informal economy and led to a rapid growth in criminality. The fall of Communism unleashed an exodus of people from Albania and gave criminal groups the opportunity to flourish by smuggling people cross the Otranto channel (to Italy) as well as by engaging in the transport of drugs, arms, and trafficked persons. In a relatively short space of time, Albania's criminal fraternities reached a level of "efficiency" that rivalled even the established mafias of Italy, Turkey, and Russia. Given the geographic proximity of the two countries, co-operation between Albanian and Italian mafia groups was quick to develop, which enabled the Albanian groups to conduct business with other criminal networks worldwide. Weak government institutions also contributed to rendering Albania highly susceptible not only to criminal activities such as trafficking in drugs, arms, and human beings, vehicle theft, smuggling, and organized prostitution, but also corruption.<sup>25</sup>

Corruption is endemic and extends beyond classical administrative corruption affecting public servants, to influence many other aspects of Albanian daily life.<sup>26</sup> Receipt of health care is often contingent upon paying a bribe to the medical or administrative staff. The education system is also affected, with only those with the "proper" means able to gain entrance to institutions of higher learning. The judicial system has also been contaminated by a degree of corruption that affects judges, prosecutors, attorneys, and administrative staff. The system, already weakened by a lack of professional capacities and infrastructure, is itself not respected by the public, and is therefore incapable of promoting respect for the rule of law. This view is supported by the low level of prosecutions and convictions, particularly among high level politicians and criminals. There were no convictions for money laundering-related crime in 2002 and only four in 2003.<sup>27</sup> In this regard, the Reformed Democratic Party deputy, Nard Ndoka, commented on the EU's corruption report on Albania: "There are very few instances of criminal proceedings; [...] corruption is tangible everywhere [...] the government is not really pre-occupied with fighting corruption in every cell and with the eradication of the roots of corruption, because it is widespread in all walks of life [...] The government has never condemned the persons who have committed violations and has not dismissed them accordingly."<sup>28</sup>

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24 Cf. Woodrow Wilson International Center for Scholars, Meeting Report 269 on an East European Studies seminar on "Organized Crime in the Balkans", 22 January 2002. Cf. also Hajdinjak, cited above (Note 16).

25 Cf. Maritati, cited above (Note 22).

26 Cf. GRECO, *First Evaluation Round. Evaluation Report on Albania*, Strasbourg, 13 December 2002, Greco Eval I Rep (2002) 9 E Final.

27 Cf. European Commission, Commission Staff Working Paper. Albania. Stabilisation and Association Report 2004. COM (2004) 203 final.

28 BBC Worldwide Monitoring, Albanian Politicians Comment on EU Draft Report, 26 March 2004.

Pervasive corruption<sup>29</sup> facilitates state capture by individuals or groups that try to influence the formulation of laws, regulations, and policies to secure special advantages. Even if the extent of state capture by organized crime in Albania remains to be quantified, there is strong evidence that criminal interests have infiltrated the country's political establishment.<sup>30</sup>

*The Political and Financial Collapse of 1997*

The pyramid schemes that resulted in Albania's economic and political collapse in 1997 are by far the most illustrative example of the degree to which the Albanian state and government system have been subjected to state capture. These financial schemes, believed to be a means of laundering money from arms trafficking during the Balkan wars and illegal oil sales to the SFRY during the UN sanctions, were linked to Kosovo drug gangs and the Italian mafia. The schemes were later perpetuated by investments from even the poorest of the population. They were attracted by artificially high interest rate, which reached 44 per cent per month at their peak. The total amount of money invested in these schemes was almost two billion US dollars – approximately 50 per cent of Albania's 1996 GDP. The collapse of the schemes in early 1997 led to nationwide anarchy, riots, looting of the state armouries, prison breaks, and the deaths of over 2,000 people.<sup>31</sup>

Sali Berisha's ruling Democratic Party (DP) publicly supported the financial schemes. Berisha, the then president, even came to their defence when it was suggested that they were linked to money laundering by the Italian mafia. The parliamentary elections of 1996, which the DP won under suspicious circumstances, helped push interest rates to unsustainable levels, thus accelerating the growth of the pyramid schemes. Vefa Holding, the largest of the eleven schemes, had strong connections with the DP and was considered to have played a role in its political campaign financing. Despite regular warnings issued by the Bank of Albania to the government on the unsustainable rates of interest and the lack of proper licensing of some of the schemes, the government was a passive observer of the speculation frenzy. Its first public warning of the risks involved in the pyramid schemes was only made in October 1996. Government hypocrisy and probable collusion allowed some of the largest pyramid schemes to continue to operate, and even to advertise on television, after the passage of a law banning their existence and during the period of violent civil unrest.<sup>32</sup>

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29 In Transparency International's 2004 International Corruption Perceptions Index Albania ranks a poor 108th of 146 countries, see: <http://www.transparency.org/cpi/2004/cpi2004.en.html#cpi2004>.

30 Cf. Trimcey, cited above (Note 23).

31 Cf. Chris Jarvis, *The Rise and Fall of the Pyramid Schemes in Albania*, International Monetary Fund Staff Paper 47/2000.

32 Cf. *ibid.*

The disintegration of the Albanian state in 1997 was indicative of a political establishment and a political culture at an embryonic stage of development and an underdeveloped sense of community values. The Albanian political experience has been one of authoritarianism, whether under Turkish rule, the reign of King Zog, Hoxha's Communism, or Sali Berisha's leadership. None of these regimes was conducive to the development of a national identity, encouraging instead the resentment of the state that reinforced the clan-like culture and north-south polarization that characterized the country at the end of the Communist era and, to an extent, still does so today.<sup>33</sup>

Although bloodshed was avoided, the end of Communism led to social chaos, economic destitution, and political in-fighting. The elected government of Sali Berisha, Albania's first non-Communist president, continued to demonstrate the clan-like behaviour of past regimes, and the transition and privatization processes featured considerable nepotism and favouritism. Ultimately, resignation at the lack of political change, coupled with the absence of alternative institutions for citizen participation in decision making and governance, created an environment favourable to the penetration of crime into politics.<sup>34</sup> The withdrawal of motivated individuals from the political scene and the prohibitive cost of political campaigning has resulted in a breed of businessmen-politicians who finance their own parties and pay young people to become members. This practice of buying support further cultivates a system of crime and corruption that is rooted in Albania's poor socio-economic state and entrenched political leadership.

Albanian civil society, which, given its short history, naturally remains weak, has a limited ability to challenge political parties and government institutions. In this environment, Transparency International (TI), for example, has not been able to establish a local office due to the inability to identify a respectable partner base.<sup>35</sup>

The entrenchment of Albanian politicians is responsible for the constant political instability and incremental and often regressive nature of reforms. The Albanian political landscape has changed little since the fall of Communism. Fatos Nano (Socialist Party) served as the country's first prime minister and, at time of print, is currently serving his third term, despite there having been periods when he was discredited, faced allegations of corruption, and was even imprisoned. Similarly, the current opposition leader, Sali Berisha of the Democratic Party (DP), who was president at the time of the 1997

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33 Cf. Klarita Gerxhani/Arthur Schram: Albanian Political-Economics: Consequences of a Clan Culture, in: *Journal for Institutional Innovation, Development and Transition*, Volume 4, 2000, pp. 5-14.

34 Cf. Trimcev, cited above (Note 23).

35 Cf. International Crisis Group (ICG), *Albania: State of the Nation 2003*. Balkans Report No. 140, 11 March 2003.

pyramid-scheme debacle, continues to be active on the political scene despite being blamed for the country's mayhem.

### *Economic State of Affairs*

High levels of poverty, aggravated by very poor infrastructure and regular power shortages, has contributed to the growth of an informal economy and given rise to crime and corruption in Albania. Some ten per cent of the labour force participates in the informal sector, often for an extended period of time, rising to around 24 per cent in urban areas. The overall poverty rate in 2002 was 25.4 per cent. Per capita GDP of ca. 1,230 euros placed Albania among the poorest of the transition countries. The unemployment rate in 2003 reached 16 per cent, although unofficial figures suggest a higher figure.<sup>36</sup>

The worst indices of poverty are concentrated in rural areas and the northern part of the country, where poverty levels are 66 per cent higher than in Tirana and 50 per cent higher than in other cities. Fifty-three per cent of Albanians live in rural areas. The average income in such areas is only two thirds of that in urban zones, increasing the dependency on private money transfers from abroad (remittances). Moreover, these mountain regions suffer a great deal from economic isolation due to the lack of effective transportation infrastructure. The difficulty of sustaining a predominately agrarian economic base in an unfavourable climate is also pronounced. Security problems in adjoining countries have complicated the situation thanks to the limited effectiveness of border controls, and this has created a haven for arms smuggling and other illegal activities. Largely due to the dismal economic situation, rural areas are also affected by extremely low levels of school attendance, with only about 25 per cent of secondary school-aged children enrolled in classes. This phenomenon has serious implications for crime and (sub-regional) stability, as widespread desperation leads families and individuals to support illegal activities as a means of survival.

A distinct feature of Albanian society is the financial dependence on remittances from abroad. The result of high emigration rates in earlier periods, the Albanian diaspora helps fuel the formal and informal economies. Approximately 22 per cent of households receive remittances, which are worth 47 per cent of the average annual household income. Much of this money is received and kept in cash, epitomizing Albania's cash economy.

A weak and poorly regarded banking sector reinforces Albanians' preference for cash, which accounts for 90-95 per cent of transactions.<sup>37</sup> This explains, in part, Albania's incapacity to combat money laundering: It is simply unable to monitor and regulate the large flows of income and profits stem-

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36 Cf. World Bank, *Albania Poverty Assessment*, cited above (Note 18).

37 Cf. Financial Action Task Force on Money Laundering (FATF), *Annual Report 2001-2002*, Annex D, cited above (Note 14).

ming from cash-based business activity in the informal economy and outside the banking system.

*Conclusion: Opportunities for the Future*

Money laundering in Albania represents a major challenge for the government and other stakeholders in Albanian society. Breaking the cycle of weak institutions, corruption, political entrenchment, and profit-driven criminal activity that perpetuates money laundering in Albania will require a major commitment by both politicians and the general public, as well as the support of the international community. A comprehensive, multi-sector approach that addresses the root causes of money laundering would be a key means of assisting Albania to overcome this debilitating scourge and providing it with a solid foundation to constructively develop its political, economic, and social systems.

The OSCE recognizes the destabilizing impact of money laundering and assists its participating States in combating it. Guided by Decision No. 1 on “Combating Terrorism” adopted at the Ninth OSCE Ministerial Council in Bucharest in December 2001, Decision No. 1 on “Implementing the OSCE Commitments and Activities on Combating Terrorism” adopted at the Tenth OSCE Ministerial Council in Porto in December 2002, and in accordance with the OSCE Strategy Document for the Economic and Environmental Dimension adopted at the Eleventh OSCE Ministerial Council in Maastricht in December 2003,<sup>38</sup> the OSCE co-operates closely with the United Nations Office on Drugs and Crime (UNODC) in supporting the efforts of OSCE participating States to strengthen their ability to combat money laundering. The co-operation between the UNODC Global Programme against Money Laundering (GPML) and the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) started in 2002 as a direct implementation of the Programme of Action endorsed at the December 2001 Bishkek International Conference. An initial joint activity was a working session on these issues in the framework of the Tenth OSCE Economic Forum in Prague in May 2002. On 11 July 2002, as a follow-up to this event, the 55 OSCE participating States committed themselves by means of Decision No. 487 of the OSCE Permanent Council to complete the FATF self-assessment ques-

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38 Cf. Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 391-417, here, pp. 393f.; Organization for Security and Co-operation in Europe; Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, in Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455, here, pp. 442f.; and Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, at: <http://www.osce.org>.



tionnaire by 1 September 2002.<sup>39</sup> Since 2003 OCEEA and GPML have been implementing national workshops on combating money laundering and suppressing the financing of terrorism in a number of OSCE participating States.

In the case of Albania, the OSCE supports the government's efforts to combat money laundering and organized crime by providing technical assistance to the ministry of finance's FIU. Activities aim at building technical capacities by training staff in analysis techniques and developing financial analysis software. Support is also provided for efforts to increase awareness and co-operation among all the government agencies, banks, and other institutions subject to the Law on the Prevention of Money Laundering. In attempting to promote dialogue and co-operation, the OSCE provided the government with financial and technical assistance for the organization of a Regional Conference on the Fight against Money Laundering and Financing of Terrorism held in Tirana in January 2004, with the co-operation of the US Treasury Department, the Police Assistance Mission of the European Community to Albania (PAMECA), and the FIUs of the Balkan states.

In addition, the OSCE hopes to continue to support projects that aim to address the root causes of money laundering as a means of promoting socio-economic development and stability by encouraging the younger generation to better understand the implications of crime and corruption for their country. A recent effort of this kind was the development of a business ethics curriculum for university students, which was accompanied by a series of open classes. It is hoped that this project, which was financed by the German government in 2003, will be expanded to universities throughout the country in 2004 and beyond.

Including recommendations of the regional money laundering conference mentioned above, the following are key steps that would contribute to the fight against money laundering in Albania:

- Completion of the legal framework, including establishing specialized and qualified structures for implementation and enforcement.
- Creating a better understanding of the links between corruption and organized crime as a prerequisite in the fight against money laundering.
- Strengthening Albania's banking and financial sector and promoting its use among the public; eliminating illegal foreign exchange operations and encouraging proper enforcement of legal exchange offices.
- Establishing joint training and capacity building programmes for representatives of the police, customs, the prosecutor's office, and the judiciary to develop the expertise needed for proper identification of money laundering schemes and the efficient prosecution of financial crime, including the tracking and confiscation of financial profits.

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39 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 487, Financial Action Task Force (FATF) Self Assessments on Terrorist Financing, PC.DEC/487, 11 July 2002.

- Enhancing dialogue and information exchange on a national level among the FIU, police structures, prosecutors, and courts.
- Increasing regional and international co-operation in the area of identification, seizures, and confiscation of criminal assets.
- Amending legislation to comply with international conventions and the 40 recommendations made by the FATF.<sup>40</sup>
- Monitoring and regulating business formation, in order to better track sources of money relating to new business proposals.

Implementing these and other measures and enhancing regional and international co-operation will help build the necessary capacity and infrastructure needed to tackle the growing problem of money laundering in Albania.

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40 Albania is a member of MONEYVAL, the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures in Council of Europe member countries that are not members of the Financial Action Task Force (FATF), see: [http://www1.oecd.org/fatf/Ctry-orgpages/org-pcrev\\_en.htm](http://www1.oecd.org/fatf/Ctry-orgpages/org-pcrev_en.htm). MONEYVAL has observer status within the FATF. The FATF's 40 recommendations can be found at: [http://www1.oecd.org/fatf/pdf/40Recs-2003\\_en.pdf](http://www1.oecd.org/fatf/pdf/40Recs-2003_en.pdf); cf. also Note 15.

### III. Organizational Aspects



## OSCE Institutions and Structures



## The Dutch Chairmanship: From Porto to Maastricht

### *Added Value for the OSCE?*

No other state has made such a well-prepared and correspondingly confident and ambitious impression in recent years as the Netherlands did on assuming the OSCE Chairmanship for 2003 from Portugal, following the tenth Ministerial Council Meeting in Porto.<sup>1</sup> The Netherlands continued to project confidence and ambition throughout its Chairmanship.<sup>2</sup> A deliberate decision appears to have been taken to cultivate a façade of confidence in an effort to lend the Organization momentum and overcome the lethargy that had set in among participating States as a result of the lack of progress made in many matters since the Istanbul Summit. At the same time, there were high expectations that the Dutch Chairmanship would be characterized by strong leadership and energetic activity. The Netherlands has more extensive resources and greater experience in international politics than virtually any state that had previously held the Chairmanship. In addition, the Netherlands has frequently shown its willingness to commit personnel and funds to the OSCE in the past.<sup>3</sup>

In preparation for its Chairmanship year, the Dutch foreign ministry seconded additional staff for attachment to its delegation in Vienna, took organizational measures that included the creation of a 20-strong OSCE office, and provided additional funding worth 2.3 million euros in 2002, 9.1 million euros in 2003, and 1.3 million euros in 2004. The defence ministry also seconded staff.<sup>4</sup>

Measured against its declared intentions and the expectations it aroused, the results of the Dutch Chairmanship up to the eleventh Ministerial Council held in Maastricht on 1-2 December 2004 were in some respects disappointing and in others no better than acceptable.<sup>5</sup>

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1 This is documented in: Edwin Bakker/Bert Bomert, *The OSCE and the Netherlands as Chairman-in-Office*, The Hague 2003.

2 Cf. Report by the Personal Representative of the Chairman-in-Office on the activities of the Chairmanship, 458th (Reinforced) Meeting of the Permanent Council on 27 June 2003, CIO. GAL/64/03, 20 June 2003. The Personal Representative of the Chairman-in-Office was Ambassador Daan Everts, who also headed the OSCE Task Force within the Dutch Foreign Ministry, responsible for co-ordinating the Dutch OSCE Chairmanship.

3 Cf. Bakker/Bomert, cited above (Note 1), pp. 35ff. See also Edwin Bakker/Bert Bomert, Challenges for the OSCE – A Dutch Perspective, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 51-59.

4 Cf. *ibid.*, pp. 53-54.

5 This opinion is borne out by the report by the Nederlands Helsinki Comité (NHC): *Een redelijk succes, Verslag van een bijeenkomst*, The Hague, 4 March 2004.

How can we explain such a large discrepancy between outlay and return on investment (between declared goals and realized achievements)? Possible causes could include, *first*, that the targets were overly ambitious or poorly selected, *second*, that the effort made and the resources provided were insufficient, *third*, that other agencies involved were lacking the will to co-operate, and *fourth*, that the course of events was influenced negatively by unforeseeable developments in other areas.

This last factor was most feared by the Netherlands itself. The major political event of 2003 was the attack by the USA and the UK on Iraq, and the discord between members of the UN Security Council before and after the invasion. According to the heads of OSCE delegations, however, this did not have a negative impact on the Organization's work. The issue was avoided by the participating States involved. Nor was there a noticeable retreat from OSCE multilateralism on the part of the US government, which could have caused difficulties for the Dutch Chairmanship. Accusations that the Dutch Chairmanship set the wrong targets or was insufficiently committed to achieving them are also unfounded. In the end, probably the only blame that can be laid squarely at the door of the Netherlands is that of cultivating an excessive optimism that ignored the general reluctance of the other participating States.<sup>6</sup>

### *The Legacy of the Porto Ministerial Council*

Key aspects of the Dutch Chairmanship's programme were determined in advance by the formal Decisions of the Porto Ministerial Council made on 7 December 2002.<sup>7</sup> Tasks assigned for 2003 included implementing OSCE commitments and activities to combat terrorism, developing an OSCE strategy to address threats to security and stability in the 21st century, holding the first Annual Security Review Conference, reviewing the role of the OSCE in peacekeeping missions, enhancing the OSCE's economic and environmental dimension, and intensifying the Organization's particular commitment to tolerance and non-discrimination. The Decisions also included a number of more-or-less detailed specifications, e.g. for the design of the OSCE's new strategy, for the form and content of the Security Review Conference, and for strengthening the economic and environmental dimension. Furthermore, the Dutch Chairmanship was of course also the first to have to submit to the restrictions on the role of the Chairman-in-Office that had been put in place by the Porto Ministerial.<sup>8</sup> Nonetheless, the declarations and tasks defined by the

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6 Daan Everts' appearance before the Permanent Council displayed both optimism and energy, cf. CIO.GAL/64/03, 20 June 2003, as did Chairman-in-Office Jaap de Hoop Scheffer's appearance in the Dutch parliament cf. CIO.GAL/68/03, 25 June 2003.

7 The Decisions of the Porto Ministerial Council are reprinted in: *OSCE Yearbook 2003*, cited above (Note 3), pp. 442-455.

8 Cf. *ibid.*, pp 452-454.



Porto Ministerial Council did leave the Dutch Chairmanship with adequate opportunities for interpretation and room to develop its own initiatives.<sup>9</sup>

### *The Agenda of the Chairmanship*

At the start of his incumbency, the Chairman-in-Office presented the Dutch agenda to the Permanent Council.<sup>10</sup> This featured, most significantly, plans to rebalance both the OSCE's three dimensions and the Organization's geographical focus, and a new emphasis on combating human trafficking and the illegal trades in arms and drugs (paying particular attention to the connections between countries of origin and destination). The Dutch Chairmanship also announced that it would work to promote OSCE activities and standards in Central Asia and other regions, to make intensive diplomatic and political efforts to bring the "frozen conflicts" closer to a solution, to reach a satisfactory conclusion in the discussions on new risks and challenges, to enhance co-operation with other international organizations, and to improve co-ordination within the Organization itself.

Finally, the Netherlands promised to bring transparency and openness to its Chairmanship, i.e. to keep all participating States well informed and to report at least to each weekly Permanent Council session. This includes the production of a half-way progress report by the Chairman-in-Office.<sup>11</sup>

### *Activities of the Chairmanship*

In line with its announced intentions, the Dutch Chairmanship began its programme of activities energetically.<sup>12</sup> A special performance of a piece entitled "Dance against Violence" by the Dutch National Ballet in the Vienna State Opera was just the first of a varied programme of cultural events that lasted the whole year, and represented a new departure for the Chairmanship.<sup>13</sup> The Dutch Chairmanship and several other sponsors put on a programme that included exhibitions, panel discussions, and theatre and film festivals in Vienna and a number of cities in other OSCE States.<sup>14</sup>

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9 For a critical assessment of the Tenth Ministerial Council, cf. Victor-Yves Ghebali, The decisions of the 2002 Porto Ministerial Council Meeting: Technically relevant but overly ambitious, in: *Helsinki Monitor* 2/2003, pp. 136-147.

10 Jaap de Hoop Scheffer, Address to the OSCE Permanent Council, 13 January 2003.

11 Halfway between Porto and Maastricht, CIO.GAL/64/03 from 20 June 2003 and CIO.GAL/68/03 from 25 June 2003.

12 Cf. Richard Murphy, Dutch Chairmanship sets brisk pace at helm of OSCE, in: *OSCE Newsletter* 1/2003, pp. 1-2.

13 Other cultural events included the exhibition of Dutch photographers' work "Crossing the Line. Human Trafficking", held in Vienna's *Kunsthalle* in the summer of 2003 and a similar exhibition in Prague during the OSCE Economic Forum from 19-24 May 2003.

14 See *OSCE Newsletter* 1/2003, p. 29.

Building on the tasks defined at Porto, the Chairman-in-Office created several groups of “Friends of the Chairman”. These groups, whose members differed in each case, were expected to complete their work by the start of the Maastricht Ministerial Council. The Friends of the Chairman represented a new approach that was intended to improve the consultation process and enhance transparency, and promised to reduce workloads and make it easier to achieve the necessary consensus. One of these groups, led by Iceland, prepared the document on combating terrorism; a further came together under Danish leadership to develop the new strategy; a group led by Finland was formed to examine the question of peacekeeping measures; and a group led by Canada considered how to improve the work of the missions.

The Netherlands also made use of the usual means available to the Chairman-in-Office, appointing Personal Representatives, Special Representatives, and Special Envoys. For instance, Adriaan Jacobovits de Szeged was named the Chairman-in-Office’s Personal Representative for the Moldova conflict, the resolution of which was a high priority of the Dutch Chairmanship, and the former Finnish President Martti Ahtisaari was appointed the CiO’s Personal Envoy for Central Asia.

From the start, the Dutch Chairmanship declared that it placed great importance on communication with non-governmental organizations (NGOs). This is characteristic of the Netherlands and reflects the prominence of Dutch “civil society”. Opportunities to make contacts were offered from the start and several meetings were organized.<sup>15</sup>

Efforts related to the OSCE’s field activities and hence to the resolution of regional problems require an enormous amount of travelling on the part of the OSCE Chairman-in-Office. In 2003, this saw the CiO visit each of the OSCE’s crisis regions: Moldova, and countries throughout South-eastern Europe, Transcaucasia, and Central Asia. Nonetheless, the CiO’s itinerary reflected the previously stated intentions of the Dutch Chairmanship to concentrate on Moldova, Chechnya, and Central Asia.

The Chairman-in-Office’s tasks include making important appointments and managing the Organization’s personnel policy. Installing Christian Strohal as the new director of ODIHR was a notable success. The Dutch Chairmanship failed, however, to appoint a successor to Freimut Duve in the office of OSCE Representative on Freedom of the Media.

#### *Regular Conferences, Forums, Meetings, Seminars, and Sessions of OSCE Bodies*

For every Chairmanship, the OSCE year has its basic structure, routines, and ongoing activities.<sup>16</sup> These include the weekly sessions of the Permanent

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15 A meeting between the Chairman-in-Office and representatives of NGOs took place in Vienna on 12 May 2003.

16 Cf. Tentative Calendar of OSCE Events January - December 2003, CIO.INF/3/03/Rev.2.

Council, the Prague Economic Forum in the spring together with its preparatory seminars, the Human Dimension Implementation Meeting in Warsaw and its Supplementary Meetings, and the concluding Ministerial Council convened shortly before Christmas in the country holding the Chairmanship.

A number of one-off and first-time events also take place each year. In 2003, these included – to mention just one meeting for each of the OSCE's three dimensions – the Security Review Conference, the Conference on Globalization, and the Conference on Racism, Xenophobia and Discrimination.

Meetings with NGOs were a distinctive feature of the Dutch Chairmanship.

### *The Three Dimensions*

The key event for the politico-military dimension was the first Annual Security Review Conference, held in Vienna on 25 and 26 June 2003. Its aim was to enhance links between the Permanent Council and the Forum for Security Co-operation (FSC), thereby contributing to the Chairmanship's goal of improving the balance between the dimensions. The conference was also seen as an opportunity to establish a European security forum that would bring together all interested parties in a forum for discussion under the auspices of the OSCE – above all bringing together NATO and the EU.<sup>17</sup> Sceptics highlighted the risk of the conference doing nothing more than duplicating the Annual Implementation Assessment Meeting at great expense, while undermining the FSC.<sup>18</sup> Nevertheless both the first Security Review Conference and its follow-up in 2004 fulfilled neither the exaggerated hopes mentioned above nor the fears of the pessimists but proved rather to be what it was expected to be: a framework for wide-ranging security-policy dialogue focused on current concerns.

The substance of the economic dimension was on display at the 11th Prague Economic Forum, which was held from 20 to 23 May 2003 and dedicated to the topic of "Trafficking in Human Beings, Drugs, Small Arms and Light Weapons: National and International Economic Impact". The Forum was preceded by three preparatory seminars: on small arms and light weapons (Sofia, 11 and 12 November 2002), trafficking in human beings (Ioannina, Greece, 17 and 18 February 2003), and drug trafficking (Tashkent, 17 and 18 March 2003). An additional seminar on "arms brokering" was organized jointly by the Netherlands and Norway and took place in Oslo on 22 to 24 April 2003.

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17 Cf. Reinhard Bettzuege, *The OSCE of the 21st Century – A Departure for New Horizons?* in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 39-45, here: pp. 43ff.

18 Cf. Ghebali, cited above (Note 9), p. 136.

Despite repeated statements of intention to rebalance the three dimensions, the greatest weight was still placed on the human dimension, as revealed by the number of meetings and conferences. As always, the key event in the human dimension was the regular Human Dimension Implementation Meeting, which was held in Warsaw from 6 to 17 October 2003. Following the opening week, devoted as usual to current developments, the second week took up three specific topics: *first*, racism, xenophobia, and discrimination *second*, anti-Semitism, and *third*, migrant workers.

Three Supplementary Meetings took place in Vienna. The meeting on the Roma and Sinti, which convened on 10 and 11 April 2003, aimed to kick start development of an action plan for improving the situation of these groups. This task had been defined as early as the OSCE's 1999 Istanbul Summit. The second Supplementary Meeting, on 17 and 18 July 2003, focused on "Freedom of Religion and Belief". The third was dedicated to "Prevention of Torture" and took place on 6 and 7 November 2003.

In 2003, the annual seminar on the human dimension dealt with the participation of women in public and political life. It was held in Warsaw from 13 to 16 May 2003.

### *Regional Problems and Conflicts*

The Dutch Chairmanship threw itself energetically into efforts to resolve the conflict in Moldova. Right from the start, however, it underestimated the extent of Russia's strategic interest in the country, falsely assuming that a resolution to the conflict would be possible. As the year progressed, the negotiations became more and more complicated; Russia's foreign policy was always more concerned with increasing its influence on parts of the former Soviet Union by means of the troops it has stationed there.<sup>19</sup> In the end, as the Chairman-in-Office attempted to make a personal intervention on the occasion of his visit to Moldova in November 2003, it was already impossible to reconcile the procedural and substantive positions of the parties involved.

It was also the Chairmanship's intention to restore the OSCE presence in Chechnya or at least to discover new opportunities for the OSCE to exert an influence there. Here, too, however, a considerable effort was expended in vain.

Finally, the Chairmanship wanted to breathe new life into the stalled negotiations on the conflict over Nagorno-Karabakh. Several meetings between the conflict parties were called, and a few even took place. However, real or superficial differences suddenly arose that the Dutch Chairmanship could not resolve in the time available.

With the European Union assuming the leadership role in the Balkans, the OSCE was supposed to focus more strongly on Central Asia. In this con-

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19 Cf. Adriaan P.R. Jacobovits de Szeged, *Het is lastig om Transdneïstrie tot realisme te dwingen*, in: NHC, cited above (Note 5), p. 4.

nection, one event that was remarkable in several respects was the invocation of the Moscow Mechanism against Turkmenistan by ten participating States. The Turkmen government, however, refused any form of co-operation. The Dutch Chairmanship resorted to flying diplomacy to try to avoid a split.

### *The Maastricht Ministerial Council*

For the Chairman, the Ministerial Council Meeting held in his own country at the end of his year in office is an opportunity to take formal stock of the year's achievements. It is also the last opportunity for the Chairman to improve the overall record of his Chairmanship by means of small – but sometimes vital – additions, as well as to tie up some final loose ends. On the whole, however, the Ministerial Council is merely an opportunity to formally present a pre-written account of the year's activity. The net result of this statement of accounts – whether positive or negative – is the profit or loss that the departing Chairman-in-Office has created for the Organization, and for which he must take responsibility.

The Dutch Chairmanship was keen to ensure that it left a solid record of achievement. It was clear in advance that there was no hope of a glowing set of annual results given the contrast between the inventive, ambitious programme and the lack of real political breakthroughs. Nevertheless, the presence of the foreign ministers of the vast majority of OSCE participating States made the Ministerial Council in Maastricht appear more powerful than its predecessor in Porto. Moreover, the dramatic political changes in Georgia gave the meeting an unexpected significance. Following an appeal from the Chairmanship and in the presence of a representative of Georgia's new leadership (the president of the Georgian parliament), many participating States spontaneously expressed their willingness to provide financial assistance towards the holding of the new elections that were now needed. For the rest, the Maastricht Ministerial Council followed the minutely detailed agenda laid down in advance by the Permanent Council as always. According to this schema, the welcoming address is followed by short, five-minute statements from the representatives of international organizations and then the participating States. No discussion is scheduled. After this, the Chairman officially presents the documents and draft decisions that have been agreed upon, and they are formally adopted by the delegates. Finally, he reads the Ministerial Council's Joint Declaration, which in this case admittedly represented but his own position. Participating States have the opportunity to append their statements to this document.<sup>20</sup>

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20 On the importance and problems of such statements, see: Richard Müller, *Interpretative Statements at the Permanent Council: A Quantitative and Qualitative Analysis*, in: *OSCE Yearbook 2002*, cited above (Note 17), pp. 347-359.

A novel aspect of the Maastricht Ministerial was the conference for non-governmental organizations held at the same time and in the same building. It had been called by the International Helsinki Federation for Human Rights (IHF) and was supported by the Chairmanship. The topics of the conference included religious freedom and the fight against terrorism, trafficking in human beings, exemption from punishment in the OSCE region, and civil and political rights in transition countries. However, the NGO representatives neither had access to the main hall where the plenary sessions took place (which was strictly cordoned off) or the meeting rooms used by the delegations, nor – with the exception of the Chairman-in-Office, his Personal Representative, and his disappointingly reticent successor – did any representatives of the participating States find their way to the meetings of the NGOs.

The Ministerial Council of Maastricht adopted two strategy documents, made a declaration on South-eastern Europe, and passed eleven decisions of varying import.<sup>21</sup> Despite meetings between the Chairmanship and the representation of Russia, including the then Russian foreign minister, Igor Ivanov, that often extended late into the night, no agreement was reached on the text of a Joint Declaration. As a result, the declaration was presented by the Chairman-in-Office as the “Chairperson’s Perception Statement”. This was followed by eight statements by representatives of other participating States, some of which were concerned to distance themselves from the Statement. An unpleasant confrontation interrupted proceedings, as a failure to understand the agreed procedure led to a heated exchange between the Armenian and Azerbaijani representatives. Nevertheless, it became clear that the only reason no Joint Declaration had been adopted was Russian opposition.<sup>22</sup>

The agreement of the Ministerial Council to the following three documents was the main achievement of the Maastricht Ministerial. The title of the first, the “OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century”, sounds impressive enough on its own. It also evokes the Lisbon Document from 1996 (the “Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-first Century”) and the Istanbul Document from 1999 (the “Charter for European Security”). Comprising 58 points, the new strategy is indeed comparable in scope with the Summit Documents mentioned. The second document adopted in Maastricht, the “OSCE Strategy Document for the Economic and Environmental Dimension”, is a watershed in the history of the OSCE for other reasons. After 14 years, it largely replaces the “Document of the Bonn Conference on Economic Co-operation in Europe” of 1990, which was the first to be concluded after the collapse of the “actually existing socialist” regimes of East-

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21 Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, at: <http://www.osce.org>.

22 That was also confirmed by the Chairman-in-Office, the Dutch Foreign Minister, Jaap de Hoop Scheffer, in answer to a question posed by the author at a press conference on 2 December 2003.

ern and South-eastern Europe and was geared towards the transformation of the state-trading countries into market economies.

The third document adopted in Maastricht, the “Statement on South-Eastern Europe as a Region of Co-operation”, is the shortest of the three, comprising merely an enumeration of the OSCE’s and other organizations’ activities in this area, a call for all those involved to co-operate, and a reaffirmation of their efforts to stabilize the region. It begins with an astonishingly positive report of the progress made in consolidating security, stability, and democracy. In Kosovo at least, only three months later, an observer would have seen a very different picture. Against this background, it is not even particularly polemical to claim that statements of this kind from the Ministerial Council represent examples of wishful thinking.

While the Ministerial Council does still function (or is still able to function) as a negotiating and decision-making body with regard to the above-mentioned documents, when it comes to what are called its “Decisions”, it plays a role more like that of the OSCE’s notary general. From a procedural point of view, the eleven Decisions, to be sketched briefly below, therefore rather resemble notarial acknowledgements of resolutions that had already been amicably negotiated by the Permanent Council or the FSC. Depending on the significance of the material they deal with, the Decisions may nevertheless be extremely important for the Organization.

The first Decision concerned the OSCE’s Annual Report. Its aim is to provide a general overview of activities undertaken in the preceding year, and to function both as a key point of reference for participating States and as a source of information for the general public and interested organizations. The Annual Report must be published by 31 March of the following year. Although it is not an official document requiring the formal approval of all participating States, it is to be presented to the Preparatory Committee four weeks prior to publication. The Decision also sets out the Report’s structure, the methods to be used in preparing it, and the main items that are to be included.

Building on the Declarations made since the 2000 Vienna Ministerial Council, and especially on Permanent Council Decision No. 557 of 24 July 2003 on the OSCE Action Plan to Combat Trafficking in Human Beings, the Decision on combating trafficking in human beings establishes a mechanism to support participating States in fighting this illegal and inhuman trade. In this regard, it was agreed that a Special Representative should be appointed by the Chairman-in-Office and a special unit created in the OSCE Secretariat. The Decision specifies a number of rules for this new mechanism, governing internal co-ordination and external co-operation. As an annex, it also reprints the comprehensive OSCE Action Plan to Combat Trafficking in Human Beings, which has already been adopted, and the relevant norms from earlier Declarations and Decisions.

The Decision on the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area merely formally endorses without amending Permanent Council Decision No. 566 of 27 November 2003 on the Action Plan on Improving the Situation of Roma and Sinti. The complete Action Plan is also attached to this Decision as an annex.

Invoking earlier Declarations and Decisions, the Decision on tolerance and non-discrimination simply recapitulates 16 previously formulated plans, tasks and commitments in this area, reaffirming well-known and important points.

The Decision on elections remains within the criteria adopted on the basis of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE from 1990 and the supplementary provisions made at the Summit Meetings in Lisbon in 1996 and Istanbul in 1999. In June 2003, ODIHR had submitted a summary of the preconditions that have to be fulfilled to ensure democratic elections to all participating States.<sup>23</sup> The Decision on elections now calls on ODIHR to improve its assistance to participating States in implementing the recommendations made in ODIHR election-observation reports and tasks the Permanent Council with examining the need to Define additional preconditions relating to elections. The Decision repeats the decision adopted at the Porto Ministerial Council on the same topic virtually word for word.<sup>24</sup>

The Decision on the terms of reference for the OSCE Counter-Terrorism Network, which deals fairly briefly with the tasks and commitments of the various organs and states involved in the network, builds upon the various Decisions on combating terrorism taken since the 2001 Bucharest Ministerial, especially the Bucharest Plan of Action for Combating Terrorism.<sup>25</sup>

The Decision on travel document security likewise refers back to the counter-terrorism measures developed by the OSCE since the 2001 Bucharest Ministerial – reiterating them, calling for more progress, and making some enhancements. In doing so, the Ministerial Council invokes a number of UN Security Council resolutions.

By passing the Decision on man-portable air defence systems (MANPADS) and the Decision on the OSCE Document on Stockpiles of Conventional Ammunition, the Ministerial Council confirmed existing FSC decisions that call for tighter export controls and security checks.

Finally, the Ministerial Council decided that Belgium would hold the OSCE Chairmanship in 2006 and that the next Ministerial Council Meeting would convene in Sofia in December 2004.

After the failure of discussions – particularly with the Russian Federation – on the proposed Joint Declaration, the Dutch Chairman-in-Office de-

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23 Cf. ODIHR.GAL/39/03.

24 Reprinted in: *OSCE Yearbook 2003*, cited above (Note 3), pp. 451-452.

25 For more details see: Heinz Vetschera, The Bucharest Ministerial Council, in: *OSCE Yearbook 2002*, cited above (Note 17), pp. 315-328; and Kirsten Biering, Efforts and Possibilities of the OSCE in Combating Terrorism, *ibid.*, pp. 31-38.



cided to present the draft declaration as his personal “Chairperson’s Perception Statement”. The text makes clear that it was impossible to overcome the differences of opinion over the process for resolving the conflicts in Moldova and Georgia. While the participating States from the European Union and the EU candidates for accession had explicitly insisted upon the fulfilment of the commitments Russia had entered into at the 1999 Istanbul Summit Meeting to withdraw its forces from Moldavia and Georgia, Russia denied that any such commitments existed and criticized the linking of their fulfilment with ratification of the CFE Treaty. In this context, the Russian delegation also warned that the CFE Treaty was being eroded by the accession to NATO of countries that were not subject to the CFE regime – a reference to the Baltic states in particular. Faced with this warning and the vague mention of the possibility of alternative security measures, Portugal – with the support of all the NATO states – gave a statement expressing its commitment to the CSE Treaty, to its ratification, and to the accession of new countries to its provisions.

The statements by Georgia and Moldova also make clear that despite all the efforts of the Chair and other participating States – the German ambassador was mentioned by name – the Russian Federation proved unexpectedly intransigent. Moreover, all mention of the war in Chechnya was omitted from the short draft of the Joint Declaration.

In contrast to its predecessor in Porto, the Maastricht Ministerial Council willed no major new tasks to the succeeding Bulgarian Chairmanship.<sup>26</sup> This meant that 2004 would be less concerned with new developments than with implementing what has already been agreed and testing the viability of what has already been achieved, although the OSCE will continue to fill its latent role as an emergency service and its manifest function as a forum.

#### *The Year from the Dutch Perspective*

The OSCE has grown in both strength and relevance – that was how the official representative of the Dutch Chairmanship viewed his country’s achievement in 2003.<sup>27</sup> In his view, the Netherlands had strengthened the OSCE as an organization by accelerating developments, even if these had their origins in previous years. Examples include improving co-ordination between the various parts of the OSCE, such as the Chairmanship and the Secretariat, increasing the transparency of decision-making processes, such as the budget, professionalizing recruitment processes, and monitoring expenditure. A new

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26 The position of OSCE Representative for Freedom of the Media, which had been left unfilled the previous year, was filled by appointment of Miklos Haraszti in March 2004.

27 See Daan Everts, *De OVSE heeft aan kracht en relevantie gewonnen*, in: NHC, cited above (Note. 5), pp. 2f.

department located in the Secretary General's office would lead to greater continuity despite the rotation of Chairpersons.

Daan Everts, the Head of the OSCE Task Force in the Dutch foreign ministry, considers the first concrete success of the Dutch Chairmanship to have been improving the balance between the OSCE's various fields of activity. For example, the Organization's over-concentration on the Balkans was successfully countered by paying more attention to the Caucasus and Central Asia. The imbalance between East and West was also redressed, for example by placing the issue of human trafficking on the OSCE's agenda, formulating an action plan, appointing a Special Representative on Combating Trafficking in Human Beings, and earmarking funds within the OSCE budget for relevant activities.

A second success from the point of view of the Netherlands was the adoption of the OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century. This represented the fulfilment of a task assigned to the Dutch Chairmanship by the Porto Ministerial Council.

The third positive result was the improvement of co-operation between the OSCE and the EU, the UN, and the Council of Europe, and, in particular, the strengthening of relations between the OSCE, the EU, and NATO.

The fourth achievement welcomed by the Dutch Chairmanship was the creation of closer links with the FSC, which had been charged with performing tasks relating to small arms, travel documents, and MANPADs by the Maastricht Ministerial Council.

The Dutch Chairmanship laid particular weight on the passing by the Maastricht Ministerial of the OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century. Finally, efforts to improve contacts with non-governmental organizations were adjudged fruitful, and the succeeding Chairmanship was recommended to continue this course.

Everts noted, however, that efforts to resolve the "frozen" conflicts had failed. While the Chairmanship had written off Nagorno-Karabakh and South Ossetia from the start, efforts concentrated on Moldova were also finally fruitless. The same was true of the attempt to persuade Russia to allow the former Assistance Group in Chechnya to take up its work once again, or to agree to the creation of a new mission. No progress was made either in the question of improving the effectiveness of decision-making by loosening the rule of consensus, e.g. in budgetary or personnel questions. As already mentioned, the Dutch Chairmanship also failed to secure the appointment of a new OSCE Representative on Freedom of the Media. Nor did plans to gain legal personality for the Organization amount to anything. The prospects of a long-overdue repeat of the earlier CSCE/OSCE Summit Meetings remained uncertain at the end of the year. As did the question of whether and under what conditions the OSCE could carry out (military) peacekeeping missions.

Finally, at Maastricht it once again proved impossible to agree on a Final Joint Declaration – the Dutch Chairmanship failing in this respect just as the Austrian Chairmanship had two years previously for the first time in the OSCE's history.

In spite of this, an attempt was made to put on a brave face and make the most of the situation, and it was stressed that the temptation had been resisted to reach a watered-down compromise merely to preserve the appearance of unanimity. All kinds of criticisms can be levelled at the OSCE; perhaps the OSCE Troika, consisting of the Chairman-in-Office, his predecessor and his successor, should have laid a milestone by taking up the suggestion of creating a panel of eminent persons to develop proposals for OSCE reform.<sup>28</sup> But that would have been a risky course of action – a similar initiative had ended in debacle.<sup>29</sup> Nonetheless, whatever could have been, no one can accuse the Dutch Chairmanship-in-Office 2003 of choosing the easy route of inactivity.

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28 The suggestion was made, for example, by the semi-official Dutch Advisory Council on International Affairs to its own government before the start of the Dutch Chairmanship.

29 The former Dutch foreign minister, Hans van Mierlo, had proposed the institutional integration of the Council of Europe and the OSCE and had presented his proposal to a conference in The Hague for debate by representatives of both organizations; the discussion was a complete fiasco.



## Regional Interests in Maintaining and Diversifying OSCE Field Operations: Supporting a Trend

The European security landscape is divided once again. While the wave of state founding that followed the end of the Cold War and the collapse of the Soviet and Yugoslav federations – and which was accompanied by significant bloodshed – has come to a standstill, the results of this process are extremely diverse. One part of old, politically defined “Eastern Europe” has attached itself to the West: The enlargement of NATO in March 1999 and 2004 and, more importantly, the enlargement of the EU in 2004 provide the institutional foundation for the new division of Europe. On the one hand, the EU area has become the centre of political stability in Europe and the EU has become the continent’s most important non-military security organization. At the same time, a number of (relatively) weak states have emerged, above all in Eastern Europe, the South Caucasus and Central Asia, where the process of (formal) democratic reform that started in the early 1990s has conspicuously halted or looks likely to halt. These states are confronted with considerable domestic and external potential for conflict, which leads them to develop their own specific security interests, which vary considerably from region to region. Nevertheless, all of them are interested to some degree in cooperating with the EU states.

Independently of these European developments, the USA has become increasingly unilateral in its decision making, while Euro-Asiatic Russia may have a European focus, but is characterized by strategic uncertainty.

This raises the question of what conceptual implications the new regional differentiation of security interests may have for the OSCE and, in particular, for one of the Organization’s most important instruments for implementation – its field activities. The Informal Open-Ended Group of Friends of the Chair on Improving the Functioning and Effectiveness of OSCE Field Operations has been considering this question since 2003. The present text aims to contribute to the group’s discussion. It seeks to analyse potential connections between the security interests of the EU group of OSCE participating States and those of participating States from four important regions within the OSCE area: South-eastern Europe, Eastern Europe, the South Caucasus, and Central Asia. It also seeks to examine the influence of Russia and Turkey on security policy in these subregions, which is at times of primary importance. This should make it possible to make suggestions for the future development of OSCE field operations.<sup>1</sup>

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1 A working group on “OSCE Field Activities” was set up at the Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg. It consists of the authors of the current text, together with Claus Neukirch and Wolf-

### *Points of Departure for the Discussion of OSCE Field Operations*

Clearly, Europe's new regional arrangements in Europe must be at the centre of the current discussions on OSCE reform. Remarkably, however, they are not being discussed directly but indirectly by means of talks on what is identified as the geographic and thematic imbalance of the OSCE agenda and OSCE field operations. In order to contribute to this discussion, it will be necessary, in the first place, to systematically survey, region by region, the most obvious interests of the 55 OSCE participating States in making use of the OSCE and its field operations. Of course, many of these interests are mutually incompatible. Nevertheless, reducing regional disparities has been a leitmotif of European international relations for a long time.

### *Inadequate Perception and Articulation of Interests*

The OSCE encompasses the interests of a variety of participating States and their regional arrangements. This may be a trivial observation, but it highlights all the more effectively the fact that important organizations and states (EU, USA, Russia) fail to articulate their concrete interests in making use of the OSCE and its field operations adequately or precisely.

For example, although the EU has considerable political influence and economic attractiveness throughout Eastern Europe, this finds only limited expression in the OSCE context. Over the years, the EU has elaborated a number of policy instruments that are or can be made relevant for direct or indirect security engagements and co-operation with the OSCE. Embedded in basic concepts like the Common Foreign and Security Policy (Maastricht 1993, Amsterdam 1999) and the Wider Europe framework (2003), these policy instruments include Common Strategies, individual partnership and co-operation agreements, and association and co-operation schemes. Programmes such as TACIS support these policy options. Anticipated direct crisis management operations (Laeken 2001) may open a new dimension in EU security engagements. However, most of these policy instruments have been designed to fulfil specific purposes. There is virtually no overarching conceptual framework to apply these and other instruments in the context of OSCE security-building efforts.<sup>2</sup>

Alongside the EU's interests, the intentions of the CIS may also be of crucial importance for the current discussion on OSCE reform. However, the CIS appears to be too loosely structured to develop common positions on the OSCE that could be implemented at present. The high-profile statement made

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gang Sporrer. Frank Evers also took part in an advisory capacity in several meetings of the "Group of Friends of the Chair" mentioned above, which were held in Vienna. These took place in 2003 under the chairmanship of the then head of the Canadian delegation to the OSCE, Ambassador Evelyn Puxley.

2 At the time of writing, the EU was expected to make initial policy statements on these matters at the end of 2004.

by nine CIS states on 3 July 2004<sup>3</sup> was thus typical in containing only criticism of the OSCE, although a further statement made in September 2004<sup>4</sup> expressed a willingness to enter into discussions for the first time. The GUAM group (Georgia, Ukraine, Azerbaijan, and Moldova – formerly the GUUAM group, with the participation of Uzbekistan) occasionally adopts a joint position on OSCE matters, but does not do so explicitly as a group of CIS states. Although Russia continues to see itself as a major force in European security, it still appears to be looking for the right way to deal with the OSCE. The agenda of the USA with respect to the Organization also seems to have been poorly defined and overlaid with other concerns for some time now. The Group of Like-Minded States, which consists of Canada, Switzerland, Iceland, Liechtenstein, and Norway, makes occasional collective statements.

Finally, there are the states that host OSCE field operations. It is surprising to find that, at least in their public statements, they demonstrate little awareness of common institutional interests within the OSCE.

It would benefit the current discussion on the future of the OSCE and its field operations if the most important (groups of) OSCE participating States would make a greater effort to formulate their interests in deliberately making use of the Organization. The OSCE's potential to act as a forum for political debate – one that could be made use of by the EU, but also by other regional organizations and countries – is often ignored. This is still true even though documents such as the Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions (Copenhagen 1997) and the OSCE's Charter for European Security, which includes the Platform for Co-operative Security, (Istanbul 1999) explicitly support this approach. The misunderstanding of the situation is illustrated best with reference to Albania, whose delegation – despite that country's democratic constitution and its participation in the EU Stabilization and Association Process – has openly attacked the OSCE Presence, and its democratization activities in particular.

#### *Critical Comments on the OSCE and Its Field Activities*

For some time now, the OSCE has been debating the form its field activities should take in the future. This has been occasioned above all by highly critical comments made by some host states of OSCE field activities – in part jus-

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3 See Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, Statement by CIS Member Countries on the State of Affairs in the OSCE, Moscow, 3 July 2004, at: [http://www.ln.mid.ru/brp\\_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument](http://www.ln.mid.ru/brp_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument). The statement was signed by nine CIS states, but not by Azerbaijan, Georgia, and Turkmenistan, and was presented to the Permanent Council of the OSCE on 8 July 2004 by the Russian delegation.

4 See Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, Appeal of the CIS Member States to the OSCE Partners, Astana, 15 September 2004 (unofficial translation from the Russian), at: [http://www.ln.mid.ru/brp\\_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument](http://www.ln.mid.ru/brp_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument). The appeal, which was distributed electronically, was signed by eight CIS states, not including Azerbaijan, Georgia, Moldova and Turkmenistan.

tifiable, but also threatening to distract from the core of the discussion. They take up both general questions of the OSCE's approach and matters of operational management. The following are the most important points that have been raised:

- (a) the regional imbalance inherent in the policy transfer from West to East and the Organization's restrictive focus on certain states in the former Yugoslavia and the former Soviet Union;
- (b) the interference of field operations in the domestic affairs of host states. This criticism particularly focuses on activities in the areas of democratization, disregarding the principles of the Moscow Document (October 1991);
- (c) the imbalance between the OSCE's three baskets – the emphasis placed on the human dimension at the expense of the politico-military and economic-environmental dimensions;
- (d) double standards in the application of OSCE commitments;
- (e) the open question of limited-term field missions, which was raised above all by the closing of the missions in Estonia and Latvia (followed by the accession of these countries to the EU, despite ongoing problems with regard to minorities) and the closure of the OSCE Assistance Group to Chechnya (despite the continuing conflict);
- (f) the lack of transparency and efficiency in the area of human resources, especially with regard to recruiting procedures and the use of secondment;
- (g) hotly contested budgetary questions, which begin with discussions of the Organization's scale of contributions (and are not restricted to field operations) and extend to extra-budgetary contributions to individual projects run by the missions that do not require consensus.

A number of these criticisms are summed up in the position paper presented by Belarus, Kazakhstan, Kyrgyzstan, and Russia on 4 September 2003,<sup>5</sup> in the declaration made by nine CIS states of 3 July 2004 (as mentioned above), and in the appeal made by eight CIS states on 15 September 2004 (mentioned above). Questions of inadequate transparency are also discussed in a paper submitted by Norway on 28 September 2003.

#### *Various Degrees of Criticism*

Criticism of the OSCE's field operations varies strongly from region to region. The EU states, the USA and the Group of Like-Minded States tend to concentrate on pragmatic considerations that aim at further improving the successful field-operations concept. The one-sided geographic focus of the

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5 Cf. *On the Issue of Reform of the OSCE Field Activities – A Food-For-Thought Paper*, PC.DEL/986/03, 2003.



current security transfer, the existence of which is not denied, is seen as the necessary consequence of the actual security situation in Europe. In non-military contexts, regional organizations, such as the OSCE and the Council of Europe together with the field activities they carry out in parallel with the efforts of the United Nations, are considered to have a role to play in the implementation of major undertakings, such as the EU's Common Foreign and Security Policy.

Criticism of OSCE field operations on the part of host countries start with a widespread rejection of the Organization's missions in several countries in South-eastern Europe (statements of this kind are most clearly heard from Albania, as already mentioned). In Eastern Europe, Belarus and Russia stand out, the former on account of its less than productive relationship with the OSCE Advisory and Monitoring Group in that country, the latter especially during the closure of the OSCE Assistance Group to Chechnya. Criticism of host countries' limited ability to influence OSCE activities played a role in the transformation of the OSCE Mission in Ukraine into the OSCE Project Co-ordinator in Ukraine, whose mandate is far narrower than that of its predecessor. In the South Caucasus, criticism tends to focus on the OSCE's failure to mediate in the "frozen conflicts" (Armenia/Azerbaijan, Georgia). In Eastern Europe, the same criticism applies to the Transdnistria conflict in Moldova. In Central Asia, the democratization activities of the OSCE Offices have come in for more (Turkmenistan) or less harsh (Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan) criticism.

The variable intensity of actors' engagement with the strategies and *modus operandi* of the OSCE and its field operations can partly be explained by differences in the need to co-operate with the Organization. That applies both to the individual participating States and to the international organizations represented indirectly in the Organization. It also demonstrates the differences in how the various actors perceive both the actual security situation in Europe's subregions and the OSCE's security offering (considered as a public good).

#### *Interpenetration of Regional Political Goals*

There can be no doubt that, simply by virtue of its economic power and social stability, the EU is the decisive regional organization for non-military security building within the OSCE area. Furthermore, the EU carries significant political weight within the OSCE itself. The EU, the Group of Like-Minded States, and the USA together account for 31 of the 55 OSCE participating States. This alone makes it necessary to examine the mutual penetration of the two organizations' political goals. In doing this, it will of course be borne in mind that neither of the organizations considers itself to be or can be seen as the implementation agency of the other.

### *Regional Differentiation of EU Interests in Co-operation with the OSCE*

Although the OSCE can by no means be considered an agency for the implementation of EU policy, it is nevertheless in the interest of the EU group of OSCE participating States to represent the EU's various regionally specific interests in co-operation within a broader forum for security matters. For the EU group, the OSCE is perfect for this purpose, as it provides a permanent and institutionalized security dialogue with other European countries. The task of formulating appropriate policy positions is a matter for the EU group of states and not for the OSCE. Regional focuses for co-operation between the EU and the OSCE could be set in the following areas:

- (a) *for South-eastern Europe*: stabilization and promoting reforms to assist European integration;
- (b) *for Eastern Europe*: promoting reforms to assist European co-operation;
- (c) *for the South Caucasus*: conflict management and promoting reforms to assist European co-operation;
- (d) *for Central Asia*: promoting reforms to support links with European security structures and European co-operation.

Focuses of this kind also reflect more or less accurately the interests of individual states and sub-regions in co-operation with the EU – considered as the centre of European stability.

#### *Key Areas for Co-operation in South-Eastern Europe*

As well as post-conflict rehabilitation, the OSCE's engagement in South-eastern Europe is likely to continue to include support for regional and national stabilization and for convergence with European standards – in the OSCE's own terms, the dissemination of OSCE values. The countries in that region that host OSCE missions have already entered into co-operation and association agreements with the EU or have signed preliminary versions of such agreements. These agreements particularly stress the targets of cross-border co-operation. For OSCE field operations, specific opportunities for co-operation are available in fields including the following:

*Post-conflict rehabilitation and conflict prevention.* Following the end of the violent phase of the Yugoslav wars, the long-term interests in co-operation between the affected states of South-eastern Europe and the OSCE field missions lie in monitoring bilateral and inter-ethnic relations. The conflict in Macedonia in 2001 and the outbreak of violence in Kosovo in 2004 have underlined once more how inter-ethnic tensions continue to threaten the region. The interests of South-eastern European countries in preventing and regulating the situation overlap with those of the OSCE and the EU.

*European integration and promotion of democratic standards.* The prospect of joining the EU or at least of co-operating closely with the Union is a key motivating force in South-eastern Europe. The accession of Slovenia, the Czech Republic, Hungary, and Slovakia in the course of EU enlargement in May 2004 is likely to have strengthened the Union's role as the centre of political gravity in the region and its surroundings. The trend is further encouraged by the prospective accession of Bulgaria and Romania in 2007 and the recently announced candidacy of Croatia. Turkey, a major South-eastern European regional power, is also a candidate for accession negotiations. It is clear from this that EU-centred co-operation is eclipsing the previous political focus on the OSCE. However, the desire to join the EU and the related economic motivation can be made to work as a motor of reform precisely within the OSCE context. The Copenhagen Criteria for accession to the EU provide an opportunity for the OSCE and its most important participating States to become involved in countries that host OSCE missions, and are clearly compatible with those countries' interests. It is enough to note that the content of the Copenhagen Criteria (stable democracy, respect for human rights, rule of law, protection of minorities, a functioning market economy, adoption of the EU *acquis*) is virtually identical with that of the OSCE commitments. The goals defined by instruments such as the EU Stabilization and Association Agreements with Macedonia and Croatia and similar negotiations with Albania, can be adopted by the OSCE as they stand. In particular, the OSCE can contribute to democratic institution building and the promotion of good governance.

*Involving Russia.* The potential for Russian engagement in the security of South-eastern Europe is touched upon only briefly here. Russia has historical and ethnic links to the region – and especially to Serbia – even if at present it does not take a clear public stance on the region. Although Russia's participation in the KFOR operation in Kosovo was not without its problems, it did show that it is possible in principle to involve Russia in international conflict management operations in the region.

*Involving Turkey.* Traditionally a major power in the region, Turkey once again enjoys a strong presence in South-eastern Europe. It has strong ethnic, religious, and economic links with the region. The EU's dialogue with Turkey, which aims at democratization and security building, can certainly be extended to encompass South-eastern Europe. The same applies to involving Turkey in security building in the South Caucasus and in Central Asia, less so to Eastern Europe. Recently, the process of Cyprus's accession to the EU has proved a source of positive experience in Turkey-EU relations.

#### *Key Areas for Co-operation in Eastern Europe*

The closure of the OSCE Missions to Estonia and Latvia and the accession of the Baltic states to the EU means that OSCE field operations in their tradi-

tional form have become largely irrelevant for this sub-region. Nevertheless, the potential for the OSCE to carry out long-term mediation activities relating to the Baltic states' bilateral relations with Russia and to resolve questions concerning the Russian-speaking minorities should not be forgotten. The involvement of the OSCE High Commissioner on National Minorities and ODIHR will clearly be necessary for the foreseeable future. The Baltic region also contains the Russian exclave of Kaliningrad, which is highly relevant to regional security. However, discussions of transit questions, for example, lie outside the OSCE's remit and are being discussed bilaterally and between the EU and Russia.

Aside from the Baltic states, the rest of Eastern Europe – the East Slavic states of Belarus, Russia, and Ukraine together with Moldova – remains relevant for OSCE field activities. The following section considers a number of important areas for co-operation. Russia and Turkey will be considered separately in a later section.

*Conflict management.* There continues to be a considerable need for OSCE conflict management activities in Eastern Europe. This is true of the conflict region of Transdnistria (Moldova), which affects Russia, Ukraine (at least with regard to the border regime), and – touching South-eastern Europe – Romania. Moldova is in favour of OSCE involvement.

The situation in Ukraine is less acute. Latent potential for inter-ethnic conflict exists in the Crimean Autonomous Republic and possibly also – though to a significantly lesser degree – on the mainland. The minorities affected by this include Crimean Tatars, ethnic Russians, and other non-Ukrainians. Ukraine is opposed to the OSCE becoming involved, but may be open to accepting mediation under certain circumstances. Recent differences of opinion between Russia and Ukraine over the Kerch Strait in the Crimea also indicate potential for international conflict.

In Russia, the Chechen conflict remains unresolved. Despite its peripheral geographical position, this conflict indicates clearly that a potential for inter-ethnic conflict exists in Russia, especially within those of Russia's 89 administrative subdivisions that are densely settled by non-Russians.

*European co-operation.* As in the case of Europe's other regions, the states of Eastern Europe have a strong interest in all kinds of co-operation relations within the OSCE area, and especially, in their case, with the states of the EU. As mentioned above, co-operation agreements and lines of co-operation with the EU have already been established. Further links to Western Europe also exist, above all with NATO and the Council of Europe. Turning to the individual states, Belarus is again seeking to move closer to Europe, despite its authoritarian regime and traditional closeness to Russia. The desire to leave behind the country's current isolation is not only being expressed as a goal within Belarus's internal political discourse: Sabre-rattling in the international arena has been replaced by disillusionment and a certain desire for European co-operation. Belarus has tried to indicate its desire in a variety of

contexts for a while now. To some extent, this change of direction was indicated by the replacement of the OSCE Advisory and Monitoring Group in Belarus, which had existed since 1997, by the OSCE Office in Minsk in January 2003.

Romania's talks over EU accession – which may occur as early as 2007 – forced the Moldovan public to take account of their own country's potential for development and co-operation.

Ukraine believes it is capable of converging with the EU in the medium term. Or, at least, the political leadership of that country tends to frame long-term political goals in such terms in its public statements. It is not uncommon for it to describe Ukraine as the geographical centre of Europe: midway between the Atlantic and the Urals. The political connotations of this are clear and are evoked quite deliberately. Nonetheless, the idea of Ukrainian association with the EU or even talk of accession have little to do with the domestic political situation and economic reality. They do however demonstrate the existence of a certain basic attitude – one that is also evident in Ukraine's co-operation with NATO (Partnership for Peace, KFOR/Kosovo, SFOR/Bosnia and Herzegovina, Sea Breeze).

Poland's entry to the EU and, most recently, its adoption of new visa regulations have brought home starkly to Belarus and Ukraine in particular (but also to Moldova) the fact that Europe is once again divided. It is no coincidence that the EU "Wider Europe – Neighbourhood" initiative explicitly favours co-operation that goes beyond the Union's new eastern external borders. The policy areas identified in the initiative provide opportunities for OSCE involvement in Eastern Europe, in areas such as convergence with European standards, especially with relation to democratization and human and minority rights.

*State building and security-sector reform.* A particularly relevant area for the OSCE's engagement in Eastern Europe is in promoting the establishment of state institutions. Support for security-sector reform is an aspect of this and is strengthened by a shared interest in combating extremism and terrorism.

*Involving Russia.* Historically, Russia sees itself more as a European than an Asian power and has traditionally had a strong interest in European integration. Russia or rather its forerunner, the Soviet Union, was one of the initiators of the CSCE process. Besides economic co-operation, Russia's orientation towards Europe is currently driven by dialogue with the EU carried out within the scope of the Partnership and Co-operation Agreement (1994) and the Common Strategy of the European Union on Russia (1999). Moreover, Russia is taking part in a separate security dialogue with the 19 NATO member states. Within the NATO-Russia Council (until 2002, the NATO-Russia Permanent Joint Council), Russia has its own working- and high-level agenda for co-operation. Russia is one of 46 members of the Euro-Atlantic Partnership Council (EAPC) and participates in NATO's Partnership for

Peace. Russia is also a member of the Council of Europe. Looking beyond Europe, but with a strong European focus, Russia is in negotiations to join the World Trade Organization (WTO). It is highly defensive of its right to be included in the G8 framework. Russia's European focus is supplemented by activities in Asia. As well as reviving bilateral economic relations (e.g. with China and India), and co-operating with Asian regional organizations such as ASEAN, Russia has also instigated its own political initiatives, e.g. by founding the Shanghai Co-operation Organization with China, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. Activities of this kind do not indicate that Russia is turning away from Europe, rather they signify the options that Russia possesses for international relations outside the European sphere.

The following are the key areas for co-operation with Russia in the OSCE context:

- (a) Military security
- (b) European reintegration
- (c) Conflict management
- (d) Migration
- (e) Combating terrorism and other asymmetrical threats
- (f) Combating trafficking.

Russia is ostensibly concerned with its *reintegration* in Europe. However, it shows little sign of applying relevant initiatives in the context of the OSCE. This is the case, despite the fact that such initiatives have already been formulated for co-operation between the EU and Russia and could be applied to the OSCE without further ado. The Common Strategy of the European Union on Russia, as mentioned above, aims at the consolidation of democracy, the rule of law, and public institutions, the integration of Russia in a common European social and economic space, stabilization, and security in Europe, and – beyond that – at meeting common challenges in areas such as the environment, organized crime, and illegal immigration. The Partnership and Co-operation Agreement with Russia, which entered into force in 1997, covered the same ground. The OSCE and Russia should be able to take up the same topics that have already been agreed by the EU and Russia.

Russia is less appreciative of the OSCE's activities in the field of conflict management. It needs to be familiarized with these anew. Russia was responsible for the closure of the OSCE Assistance Group to Chechnya. It continues to move slowly towards implementing its Istanbul commitments (1999) with respect to Georgia and Moldova. Meanwhile, it is relatively straightforward to identify the entire Caucasus, i.e. the North as well as the South Caucasus, as a key locus of potential co-operation between Russia and the OSCE, simply because of the latent threat that potential developments in this region may spread throughout multiethnic and multiconfessional Russia. Russia is at least hesitant to discuss this cross-border regional security con-

text and the potential use that can be made of the OSCE and its field operations. And yet, OSCE conflict management is potentially interesting for Russia – certainly in the cases of the Caucasus and Central Asia, less so in the case of Moldova.

Migration is another important area where Russia could gain from co-operation. The regions where it could be most productive to involve Russia in relevant OSCE activities are the South Caucasus, and – above all – Central Asia. The scale of both legal and illegal immigration from these regions makes them extremely urgent for Russian security policy.

While the fight against terrorism serves Russia to some extent as a pretext to avoid resolving the question of Chechnya and broader matters of governmental reform, it cannot be denied that Russia faces genuine internal and external threats. These may be found in the form of ties between Turkic and Muslim population groups within Russia and neighbouring regions, but also have their roots in domestic social and economic conditions. Efforts to combat terrorism provide the OSCE with an opportunity to link co-operation with Russia to questions of democratization and supraregional activities. This includes activities undertaken to combat the illicit trade in weapons and drugs, trafficking in human beings, and (to a lesser extent) product piracy.

*Involving Turkey.* In terms of economics at least, Turkey is increasingly being recognized as a major regional power in Eastern Europe and is extraordinarily successful in this area. Turkey's unique ethnic and confessional composition means it could play a vital role in resolving minority issues in the region, in particular with regard to the concerns of Turkic peoples living in the Crimea (Ukraine), in the North Caucasus (Southern Russia), and in certain administrative subdivisions of Russia, such as Tatarstan. However, both the governments and the Eastern Slavic majorities of Ukraine and Russia tend to reject Turkish involvement in their countries' domestic affairs. Relations with Turkey are significantly affected by historical baggage. It should nevertheless be possible, not least for Turkey itself, to identify potential areas for co-operation.

#### *Key Areas for Co-operation in the South Caucasus*

The South Caucasus region is home to numerous latent security threats. Alongside the well known “frozen conflicts”, there are many other examples of potential tension between states and ethnic groups. In addition, relations between Armenia, Azerbaijan, and Georgia, on the one hand, and Russia, Turkey, and Iran, on the other, are characterized by varying degrees of difficulty. The region is home to efforts to co-operate with the USA and Europe, and, in different ways, with Russia and Turkey. Competition over security arrangements and economic co-operation determines the foreign policy climate in the region. In all three countries, efforts to co-operate with the USA dominate, and, especially since the 11 September 2001, the USA is clearly

understood to be a regional power. All in all, continuing instability in the South Caucasus suggests a number of potential items for the long-term agenda of the OSCE.

*Resolving the frozen conflicts/conflict prevention.* The three South Caucasus states have a long-term and many-sided interest in security co-operation with the OSCE. That applies not only to the resolution of the frozen conflicts in Georgia (South Ossetia, Abkhazia) and Armenia/Azerbaijan (Nagorno-Karabakh), but also to avoid potential developments in inter-ethnic relations, especially in Georgia. Within Georgia, the situation in Ajaria is delicate, as is that in the district of Samtskhe-Javakheti, which has an Armenian majority, in Kvemo-Kartli, which is populated by Azeris, and in the ethnically Chechen-dominated Pankisi Gorge. A contentious issue is the much-discussed return of the Meskhetian Turks from Russia and Central Asia, also to Samtskhe-Javakheti. Throughout the South Caucasus, there is a long term role in mediation for the OSCE and its four field operations (the OSCE Mission to Georgia, the Offices in Baku and Yerevan, and the Personal Representative of the Chairman-in-Office on the Conflict Dealt with by the Minsk Conference). Classical OSCE topics such as minority protection and democratization will remain relevant in this context for some years to come.

*Incorporating bilateral relations.* As mentioned above, Armenia, Azerbaijan, and Georgia are competing in reshaping their relations to Russia, Turkey, and the USA. Political intervention in regional processes by these three countries and their economic and military presence in the South Caucasus are seen as relevant for security purposes in various – and partly contradictory – ways. The dominant tendency is to aspire to partnership with the USA. The EU and its member states play a secondary role.

Of the individual countries, Azerbaijan and Georgia are striving to disentangle themselves from Russia and to establish co-operative relations with Turkey and the USA, while Armenia has a troubled relationship with Turkey and has adopted a highly pragmatic attitude with regard to Russia and the USA. Several parties have a problem with the presence of Russia and the CIS in Georgia and with Russia's control of the Armenian-Turkish border. Looking beyond Europe, Azerbaijan's relations with Iran are significant. Here, there is no acute threat, but there may be a long-term danger of developments that could exert a negative influence on the rest of the South Caucasus and Central Asia. The most important factors here are Azerbaijan's relationship to the Azeri population in the north of Iran, the demarcation of the Caspian Sea, and the exploitation of the region's mineral wealth.

The OSCE has so far dealt with some of these interests primarily through its efforts to manage the frozen conflicts by means of the Minsk process and the activities of the OSCE Mission to Georgia. Scope also exists to take up these various concerns in other ways, for example in terms of the OSCE's economic and environmental dimension via discussions of cross-border resource use or transnational environmental issues. The OSCE already



has considerable relevant experience. Of course, it must be noted that the OSCE's involvement is directly dependent on the desire for co-operation on the part of individual OSCE participating States.

*Military security.* In institutional terms, Armenia's, Azerbaijan's, and Georgia's efforts in the area of military co-operation tend to focus on NATO. In addition, Russia has a military presence in Armenia and Georgia, while Turkey and the USA are involved in military activities in Azerbaijan and Georgia. The OSCE has concerned itself in particular with resolving issues relating to Russia's military presence in Georgia, above all at the Istanbul Summit (1999), but also during the Maastricht Ministerial (2003). Azerbaijan is concerned at the military consequences of a possible crisis in Iran. The background to this situation is the dispute between Iran and the USA, Israel, and other Western powers over Iranian nuclear projects and the production of weapons-grade fissile materials. For a non-military organization such as the OSCE, there are several fields of activity that suggest themselves here: related non-military topics, such as security-sector reform, arms smuggling, or conflict-prevention in the Caspian Sea area.

*Economic co-operation.* The work of the OSCE also has a certain resonance for economic affairs in the South Caucasus. However, links between security and economic matters in that region tend to be explored bilaterally, and it is difficult for international organizations such as the OSCE to establish themselves. Bilateral co-operation efforts in sectors such as energy and raw materials have rarely been leveraged to support international security efforts. As a result, the region's largest economic project – the Baku-Tbilisi-Ceyhan pipeline, which links Azerbaijan, Georgia, and Turkey – has not been exploited for security purposes.

The most effective way for the OSCE to engage in the economic sphere is by addressing items from the agendas of the EU and, to a lesser extent, the WTO. The potential exists to make use of the cross-border exploitation of natural resources, which are distributed unequally throughout the region (principally oil and gas in Azerbaijan and water in Armenia), for security-political purposes, but it has so far barely been discussed by the OSCE. To do this it would be necessary to define the interests of relevant discussion partners (Russia, the USA, together with Germany, France, Britain, and Turkey, but also Greece and – not to forget – Iran). The demarcation and exploitation of the Caspian Sea's resources by the five states that border on it (Azerbaijan, Iran, Kazakhstan, Turkmenistan, and Russia) have, in recent years, already led to Iran and Russia flexing their military muscles and could mean that the OSCE is one day called upon to fulfil a classical conflict mediation role.

Through its economic and environmental dimension, the OSCE is also active in the region in political facilitation efforts, such as the promotion of good governance, post-conflict rehabilitation, local cross-border trade, and cross-border water management.

*Reform activities.* Against a background of regional instability, Armenia, Azerbaijan and Georgia see the establishment and maintenance of foreign relations as a key national priority. The urgent need for co-operation faced by all three states also entails, among other things, an increased openness to co-operation in domestic matters. In the long-term, this creates opportunities for the OSCE in all sorts of activities related to democratization. From the point of view of the EU, this provides fairly obvious opportunities for co-ordinating approaches with EU co-operation activities in the South Caucasus.

*Involving Russia.* Russia's economic and military presence in the South Caucasus is traditionally strong. Russia participates in the OSCE's activities and leads CIS operations in the region. It is directly or indirectly involved in developments in South Ossetia, Abkhazia, Ajaria, Samtskhe-Javakheti, in the Pankisi Gorge, and in relations between Armenia and Azerbaijan. Developments among the ethnic groups of the South Caucasus and the small nations of the North Caucasus, which are always striving for autonomy to some degree, have tended to interact with each other and can have an effect that reaches deep inside multi-ethnic Russia. As mentioned, such developments are largely of domestic-political importance for Russia, as is most clearly demonstrated by the case of Chechnya. These considerations alone are enough to demonstrate the necessity of involving Russia in OSCE activities in the South Caucasus. Precisely the same topics are relevant here as were mentioned above. They have, to a large extent, already been covered by co-operation agreements between Russia and the EU.

*Involving Turkey.* Turkey, like Russia, is a regional power in the South Caucasus. Its presence in the region is traditionally based upon ethnic and confessional links to Azerbaijan and several ethnic groups in Georgia. Although Turkey shares a border with the Azeri exclave of Nakhichevan, it is nevertheless separated by Armenia and Iran from Azerbaijan itself and thus also has no direct land or sea links to the ethnically related states of Kazakhstan, Kyrgyzstan, Turkmenistan, and Uzbekistan. This geographical detail has a significant influence on Turkey's regional and supraregional interests. Turkey has recently regained its economic strength in the region and is working towards developing military activities.

At the same time, Turkey's involvement in the South Caucasus is strongly influenced by the interplay between its domestic and foreign policies. For this reason, the interdependence of human and minority rights in Turkey and the placing of Turkey's relations with its neighbours on a peaceful basis (above all with Armenia) could be of prime importance for the OSCE. Developments in these two areas are mutually dependent. Special attention should be paid to opportunities for resolving the conflict over Nagorno-Karabakh and the conflicts in Georgia, as well as to the problem of Turkish-Armenian relations. In this connection, Turkey's strong interest in

co-operating with and joining the EU is, of course, significant for its co-operation with the OSCE.

#### *Key Areas for Co-operation in Central Asia*

Opportunities are emerging for the OSCE to carry out co-operation activities in Central Asia by, firstly, linking conflict management activities and the need for reform with the strong interest on the part of several Central Asian states in establishing security ties to Europe. Moreover, the West has obvious economic interests in the region, above all because of the presence of large quantities of mineral resources in Kazakhstan, Turkmenistan, and Uzbekistan. The following specific opportunities present themselves for co-operation with Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan:

*Conflict management and conflict prevention.* No armed conflicts are currently taking place in Central Asia. However, with its multi-ethnic population, the region remains vulnerable to ethnic conflict and religious radicalization. The OSCE has already mediated successfully in Tajikistan. Post-conflict rehabilitation remains a vital aspect of the OSCE's work in that country and primarily takes the form of promoting dialogue between Islamists and representatives of secularism. The different economic situations in the five Central Asian states and the asymmetrical distribution of natural resources mean that some degree of social inequality is likely to continue in the region. The OSCE's economic and environmental dimension, in particular, is called upon here, although its ability to intervene is limited, as demonstrated by the Organization's attempts to mediate in the dispute over water management in the region.

*Combating terrorism.* The prevention of (largely) religiously motivated extremism and terrorism is a highly relevant topic in Central Asia. The urgency of the situation was brought home most recently by terrorist incidents that occurred in Uzbekistan in 2004. There is also a supraregional dimension, thanks to Central Asia's border with the OSCE's Partner for Co-operation, Afghanistan, and its nearness to Pakistan. There are obvious, if subtly varied, interests in co-operation here. A further factor that has placed the need to tackle extremism and terrorism on the agenda is the entanglement of radical movements – from Afghanistan via Tajikistan to Eastern Europe – with structures of the international drug trade.

*Integration with European security structures.* Central Asia's orientation towards Europe in matters of security policy is influenced by attitudes towards China (informed by history), a variety of experiences with Russia to the north, and the uncertain situations in Afghanistan and neighbouring regions, as mentioned above.

Europe frequently underestimates the extent to which the Central Asian states desire closer links with European security structures. Since the early 1990s, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan have pinned key

security hopes on the OSCE – the only organization of its kind that provides them with an equal voice and a politically significant veto right. Although the extent to which the Central Asian states make their security hopes explicit varies, the ability the OSCE gives them to participate as equals and to have a permanent influence on the formation of security policy in European capitals mean that the Organization has come to be valued as a guarantor of security in the region. Turkmenistan appears to be the solitary country that does not share this view.

The Central Asian states' security relations with Europe are not limited to their participation in the OSCE but also encompass membership of NATO's Euro-Atlantic Partnership Council. Membership of the Commonwealth of Independent States also has an important European dimension via Russia – even if this is not generally recognized.

*Reform activities.* The OSCE needs to take advantage of the Central Asian states' interest in closer links to European security structures and to link it with topics such as security-sector reform, democratization, economic reform, and the promotion of good governance. Of these topics, security-sector reform creates particularly valuable opportunities for co-operation in Central Asia. Ranging from police activities to border management, this area is relevant to both domestic and foreign policy. The OSCE is capable of placing the provision of security-sector-related legal advice and technical support in a broad context of democratization. In general, the parties involved should be made aware of and encouraged to discuss the inevitable connection between domestic political reform, regional stabilization, and European security building.

*Involving Russia.* For Russia, Central Asia is a potential corridor for the import of insecurity, especially as a result of mass migration and the threat posed by religious extremism and terrorism. Trafficking is also relevant for Russian security policy. In addition, Russia is interested in the region's raw materials and has traditionally played a role in their exploitation.

*Involving Turkey.* Turkey has a special interest in Central Asia, thanks in particular to its ethnic links with Kazakhstan, Kyrgyzstan, Turkmenistan, and Uzbekistan. This is the most important basis for co-operation. Turkey is also a major economic player in the region. This is a further opportunity to involve Turkey more permanently in OSCE activities.

#### *Recommendations on Developing OSCE Field Operations*

1. *Understanding sub-regional features of the OSCE.* While the CSCE focused mainly on bipolar East-West communication, the range of interests involved in European security-building has broadened considerably since the 1980s. One new feature is the emergence of a clearly discernible sub-regional differentiation. As a result, the OSCE may be consid-

ered to be transforming into a platform for dialogue between European regions – specifically between the enlarged political European West (accompanied by the US and the Group of Like-Minded States), South-eastern Europe, Eastern Europe, the South Caucasus, and Central Asia. This inter-regional dialogue is increasingly coming to make up the real substance of OSCE security-building. And it is thus clearly necessary to determine what the specific requirements and preconditions will be for making future use of the OSCE in each region. Achieving the necessary understanding is mainly a task for (a) the Organization’s main players, such as France, Germany, Russia, Turkey, the UK, and the USA, (b) participating States in the various peripheral European regions mentioned above, and (c) regional organizations within the OSCE area, such as the EU or the CIS.

2. *Diversifying cross-regional efforts.* Over three decades, the OSCE has developed values, principles, and norms for regulating security affairs across Europe. They amounted to what is called the OSCE *acquis* – the outcome of permanently evolving security talks between the Organization’s participating States. The *acquis* essentially reflects a blend of 55 national interests in anchoring cross-regional security guarantees for the continent. These interests have been manifested primarily in the negotiations and discussions carried out under the aegis of the Organization, in its central institutions, and in its field operations. It is imperative that current discussions on reforming the OSCE bear in mind the inseparability of these three elements. The OSCE’s activities will be unable to develop their stabilizing effect without solid cross-regional bonds in both dialogue and implementation. Implied in this assertion is a clear statement of support for maintaining and diversifying the Organization’s implementation vehicles – the field operations.
3. *Setting regional focuses.* Reflecting the variety of security requirements in the different regions of the OSCE area, the general provisions of the OSCE *acquis* have to be applied in a differentiated manner to the needs of the various participating States and European sub-regions. Conceptually, this requires the outlining of regional focuses for the OSCE’s cross-regional efforts. In practical terms, it means resolving to gradually reform the forms and tasks of OSCE field operations.
4. *Shaping field operations.* The new regionalization of the OSCE area suggests diversified cross-regional co-operation and regional differentiation in the shaping of OSCE field operations. Regional diversification of certain areas of the OSCE’s work would partially answer the question “*Quo vadis, OSCE?*” It would likewise refocus discussions from the OSCE’s alleged imbalances (in terms of geography and the issues it focuses on) to more productively exploring interests in and capacities for cross-regional co-operation within the OSCE area.

The following suggestions try to interlink the aforementioned regional interests to cross-regional OSCE security building. They also take into account the fact that OSCE on-site engagements already encompass a range of activities that go beyond the classical scheme of country-based field missions. These include cross-border networking between OSCE field operations, for instance in the South Caucasus; field activities carried out directly by centralized OSCE institutions (HCNM, ODIHR, FOM); and OSCE-supported activities that are not managed directly by the OSCE, but which enhance OSCE networking and the dissemination of OSCE values in a given region, such as the recently established OSCE Academy in Bishkek.

*Thematic Missions or Common Concern Groups (CCGs).* Thematic missions or Common Concern Groups would be networks of field activities focused on a specific topic and operating in a number of host countries simultaneously. A CCG would have a Head Office in one country and would interact with Correspondence Offices in other host countries. Possible examples are a “CCG on Migration”, a “CCG on Trafficking in Human Beings” or a broad-based “CCG on Trafficking”. They would co-ordinate activities between interested countries of origin, transit and destination along the whole migration or trafficking process. Existing OSCE expertise in the field (mission departments or desks, mission officers, focal points, etc.) could easily integrate with CCGs. Furthermore, one could integrate the specific interests of other relevant international organizations (CIS, CoE, EU). Depending on the particular concerns involved, the geographic scope of CCGs might be inter-regional or regional (South-eastern Europe, South Caucasus, Central Asia, etc.).

*Thematic Regional Co-operation Agencies.* This proposal is for the OSCE to promote regional co-operation on specific issues. This could be achieved by utilizing existing OSCE networks in each region. Co-operation on particular topics would be formalized by setting up co-ordination agencies. This would also facilitate the involvement of relevant international organizations (CoE, CIS, EU) that were interested in co-operation on specific issues. Examples of this kind of activity would be an “OSCE Environmental Protection Agency in Central Asia” or an “OSCE Stabilization Facilitator in South Eastern Europe”.

*Thematic Country Missions.* This proposal enlarges upon the concept of traditional OSCE missions. Its essence is to focus the aims of a mission on one specific subject. This scheme could involve establishing new operations as well as restructuring existing OSCE field operations. An example of this kind of activity would be an “OSCE Office for Security Sector Reform in Country XYZ”.

*Mobile Missions or Roving Ambassadors.* This long-discussed proposal enlarges upon the idea of the established schemes of Special Rep-

representatives or Special Envoys. Mobile Missions or Roving Ambassadors would be temporarily established operations to investigate a specific subject and assist in its concerted solution. The subject matter, the criteria for assuming and concluding activities in the relevant countries or regions, the reporting procedures, and other details would be delineated in advance in the mission or ambassadorial mandates. Head Desks would be based in Vienna. An example for this kind of operations might be a “Special Envoy on Visa Regimes”.

*Outsourced Operations.* This concept would involve OSCE field engagements with no direct OSCE ownership or OSCE supervision. It would provide non-institutional forms of OSCE involvement like participation in regulatory, monitoring or advisory bodies as well as making financial contributions to institutions that directly or indirectly act in the interests of the OSCE. Those participating in these activities would be acting in the interests of the OSCE and may receive special orders from the OSCE. An example for this kind of activity has been the participation in the OSCE Academy in Bishkek.

The suggestions made here do not intend to call the established forms of OSCE field operations into question, but – at the most – to complement them or to stimulate discussion over the further development of the OSCE’s field activities. One way in which new forms of OSCE field operations can develop is through the adaptation of existing operations to changing needs and circumstances. That is nothing new. The existing range of field activities already reflects – not only in the variety of designations used, but also in substantive ways – a significant development in a comparatively short space of time. However vital flexibility is in the debate on the forms of OSCE field operations, it should be matched by an equal level of constancy with regard to their content: The OSCE’s field activities are a powerful expression of the Organization’s will to co-operative security. They help participating States act in their own interests by complying with their OSCE commitments, which, since the 1991 Moscow Document, have ceased to be considered merely domestic concerns.





## Six Years as OSCE Representative on Freedom of the Media – An Assessment<sup>1</sup>

In 1997, I was elected as the Representative on Freedom of the Media by the foreign ministers of the then 54 OSCE participating States. I served for two three-year terms. Six years ago, there was great hope in the world for those countries just emerging from a dark period during which freedom for writers and journalists had been non-existent. As a publisher, I brought some of the authors who were forbidden in their own countries to the attention of the public. Back in the nineties, we all felt confident that we would be able to overcome the burden of the past in the pluralizing media landscapes of the newly emerging democracies.

At that point, it seemed that media freedom had taken hold in almost all OSCE participating States, and that what was then needed was to cement this successful start with vigorous monitoring and support, mostly of a legal nature. This was how my two-fold work started.

We had not foreseen that in the following six years the situation would change not for the better: Many of the new governments used innovative and established methods of countering criticism of their policies. The result was a change of climate. The new media openness in some states was replaced by nervousness, self-censorship, and a constant fear of oppression. This difficult situation for the media was exacerbated by the murder of thousands of civilians on 11 September 2001.

Due to a shift in priorities among OSCE participating States, civil liberties, including freedom of expression, were pushed to the sidelines by what many countries believed were more pressing needs. Many of the new priorities were justified, but we also saw the misuse of the September 11 tragedy by certain governments for their own selfish reasons.

In 2003, an organization that prided itself on being a community of declared democracies, shifted its policy outlook more towards global threats to security than to its own deteriorating human rights record.

When I left the OSCE after six years, the record of some of our participating States concerning freedom of the media was more problematic than when I took on this job in 1997. Who at that time would have thought that in democratizing Russia, the Kremlin would again have direct or indirect control of many of the print media and of most of the electronic media? Who could have predicted that the recently concluded Russian State Duma elections would be so widely criticized for failing to meet international standards

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<sup>1</sup> The current contribution is based on the final regular report made by the OSCE Representative on Freedom of the Media to the Permanent Council on 11 December 2003.

precisely because of the lack of media independence, balanced coverage and the absence of a broad range of information for voters, thus casting a dark shadow, perhaps for years to come, over Russia's true democratic intentions?

Who at that time would have foreseen, that an elected prime minister of a founding member of the European Union would frame media legislation so as to help his political agenda and his and his family's economic interest?

It was with great concern that I viewed the passage in Italy in December 2003 of a new media law. As I understand it, the law would allow Prime Minister Silvio Berlusconi's family holding company to buy into radio and newspapers starting in 2009. Prime Minister Berlusconi, through his political office and his business interests, already has direct and indirect influence over an estimated 95 per cent of Italian TV. In this respect, Italy is setting a very dangerous precedent that could have a significant influence on the structure of media ownership in other OSCE States, not to mention undermining the position of this Office regarding media monopolization.<sup>2</sup>

I would now like to focus on some of the methods that are being used in the OSCE region by both governments and big business to stifle public debate and curtail independent journalism.

Since my very first report to the OSCE Permanent Council in 1998, I have highlighted what I called *structural censorship*. Many governments, in order to avoid open censorship, have introduced various indirect methods of media harassment, which have a chilling effect and often force journalists and editors to practise self-censorship. Structural censorship encompasses using the tax police, the fire department, owners of office space, and distribution and printing companies to exert pressure on the media by means such as repeated unnecessary inspections designed only to harass or the denial of services under a range of economic pretexts.

In the end, journalists and editors are forced to compromise their editorial policy so as to be able to continue to publish and broadcast. I have brought dozens of such cases to the attention of the Permanent Council, and they are well enough known that I do not need to repeat them here. To mention just one example: One newspaper in an OSCE participating State was forced to endure over forty tax inspections in a single year before radically changing its attitude towards the authorities. It has not seen a tax inspector since.

*Censorship by killing* remains a threat in the OSCE region, despite the fact that ours is one of the areas in the world with the lowest number of journalists killed each year. There were two murders of journalists in Russia during 2003. But even one case of this ultimate form of censorship is extremely disturbing. It is also a notable fact that rarely anyone is ever charged

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2 The law was passed for a second time in an amended form by the Italian parliament in April 2004 after the Italian President, Carlo Azeglio Ciampi, refused to put his signature to the first version. The amendments, however, are restricted to limitations on advertising. Critics consider them to be inadequate. For more details, cf. <http://news.bbc.co.uk/1/hi/world/europe/3671991.stm>).

with murdering a journalist. These cases often drag on for years with no arrests ever being made.

When threats of this kind – and structural censorship in particular – do not produce the required effect, direct legal harassment through the use of both criminal and civil codes is put into gear. The weapon of choice here is usually libel legislation. That is why I have taken a very strong stand concerning criminal defamation and insult laws that provide undue protection for public officials.

In late November 2003, I held a Round Table in Paris on this matter and issued a joint set of recommendations with *Reporters Without Borders*. Among other things, the recommendations call for the decriminalization of defamation in OSCE participating States. That is why I continue to stress that the two main pillars of a democracy are free media and the independence of a country's legal institutions.

Libel is not the only legal means to target an offending journalist. When all else fails, a criminal case might be fabricated that could involve any allegedly unlawful activity: from bribery to having sex with a minor. Again, I have brought several such cases to the attention of the OSCE Permanent Council. The depth of cynicism of some of the governments that belong to this Organization never ceases to amaze me. Journalists who had the courage to criticize these governments are locked up for years on trumped-up charges that appear on the surface to have nothing to do with the exercise of one's right to freedom of expression. I would like to mention just two names: Sergei Duvanov, who is serving time in Kazakhstan, and Ruslan Sharipov, who is incarcerated in Uzbekistan. Even after I leave this job, I will continue fighting for their freedom.

There is one country in the OSCE region where I have put all the activities of my Office on hold. This is Turkmenistan, a dictatorial regime within our Organization, where the only function of the media is to glorify the President-for-Life and destroy his opponents. Until civil liberties are reinstated, I do not see any reason to work with the government. Of course, I will continue defending those reporters who run afoul of this racist dictatorship.

Now, I will provide a review of some of the themes we have worked on over the past years.

*Freedom of the media and the internet.* This is becoming an important topic, with governments and civil society debating the future development of information technologies and the pros and cons of the global information network. I convened a meeting of experts in June 2003 in Amsterdam, where we all agreed that illegal content must be prosecuted in the country of its origin but that all legislative and law enforcement activity must clearly target only illegal content and not the infrastructure of the internet itself.

Another theme I have been pursuing concerns media in multilingual societies. Our latest effort is a publication issued in several languages on what is happening in this field in five OSCE countries: the former Yugoslav Re-

public of Macedonia, Luxembourg, Moldova, Serbia and Montenegro, and Switzerland. The five country reports were presented at a conference in March 2003 in Berne, Switzerland. I also presented them in Belgrade in October. In the digital global future, there will be no completely monolingual country in the OSCE or elsewhere.

*Journalists working in conflict zones* has been an ongoing theme that I have focused on over the past years. There are two dimensions here: the security of those reporters who follow events from the frontlines, often filing from conflicts where dividing lines are blurred and combatants represent complex formations of groups and communities. The second dimension concerns the relationship that is established between journalists and the military, as came to prominence during the war in Iraq.

How to balance fair and unbiased reporting with security when covering a conflict area is a theme that all of us – inside and outside the OSCE – should continue to discuss. Any military action by a democracy can only be preceded by informed public debate and monitored scrupulously if the public has access to all kinds of information from a variety of sources. This established practice should not be jeopardized.

We all understand that the moment a democracy sends its soldiers to war, the arguments for and against lose some of their urgency and we tend to “support our troops”. But any military action a democracy feels it has to take needs to be debated critically.

After September 11, national security matters started once again to be cited as reasons to censor the media. Overly intrusive legislation is being passed in several OSCE States. Some media outlets feel the full burden of being targeted for allegedly undermining national security. When I point an accusing finger at a country East of Vienna, that country points its own finger at the West: “If they can get away with it, why can’t we?” I believe that in the developed democracies, the glitches in the system that we come across will in the end be fixed through the efforts of civil society assisted by an independent judiciary and a vigilant media. However, these glitches still set a bad precedent for the developing democracies, where civil society is weak, independent judiciary mostly non-existent, and the media hounded into submission. That is why, no matter how often I am criticized for raising what might appear to be minor issues, I will urge my successor to do the same. A minor issue in the US that will be ironed out in a week or two may set a precedent in another country that will become law for years to come. We know that this must be avoided.

Since 2003, I have been looking at commercial aspects of the media and how they may affect editorial policy and independent journalism. Again, this is not strictly a black and white issue; shades of grey prevail, and that is why it is essential to be very careful when making recommendations and offering advice. In July 2003, I proposed a set of *Principles to guarantee the editorial independence of media* in Central and Eastern Europe and in Central Asia.

These *Principles* concern media outlets that have been or are in the process of being acquired by Western conglomerates, as is happening in Bulgaria, the former Yugoslav Republic of Macedonia, Croatia, and several other OSCE participating States.

These *Principles* set out the criteria that the media owners take upon themselves to adhere to once they are in a position to financially control one or more media outlets in the developing democracies. For the time being, only two media giants have signed up: the German *WAZ Group* and the Norwegian *Orkla Media AS*, although I have invited many more to support these *Principles*. I hope that my successor will continue this lobbying effort so that we will be able to ensure that pluralistic media takes hold in all of our countries.

A report by my Office on the *Impact of Media Concentration on Professional Journalism* looks at the situation in four EU countries: Germany, Finland, the United Kingdom, and Italy; three new member-states: Hungary, Lithuania, and Poland; and one applicant country: Romania.

Besides our Vienna work, I have developed, with the help of donations by participating States and the Open Society Institute, some very concrete projects dealing with the future of the media and the younger generation: Five years ago, I supported the establishment of several school newspapers in Central Asia. This was followed by my largest project targeting young people: *In Defence of Our Future – mobile.culture.container*, a long-term undertaking that ended in 2003 after three years on the road in South-eastern Europe. During the course of its existence, the project increasingly concentrated on media development, including establishing student newspapers, and radio and video groups. I hope that these initiatives will continue to foster understanding between the young in a region that was torn apart by war only a decade ago. That is why I called our project *In Defence of Our Future*. Its focus was on the 14-to-18 generation, who are now facing a dilemma: to stay where they were born and to help rebuild their countries or to emigrate. *In Defence of Our Future* was geared at persuading them to stay.

This contribution, our 2002-2003 Yearbook *Freedom and Responsibility*, and our regular *Central Asian Conference Review* are the latest publications of my Office. During my tenure, we have published over three dozen books in several languages and in several countries. I gather this is a first for any OSCE institution.

I would also like to draw attention to the *Veronica Guerin Legal Defence Fund*, which aims to provide support to journalists being prosecuted in OSCE participating States. The Fund is named after Irish journalist Veronica Guerin, who covered organized crime for Ireland's *Sunday Independent*. She was killed on 26 June 1996. The purpose of the Fund is to assist, through voluntary donations by OSCE participating States, human rights organizations and individuals in making available appropriate legal defence for reporters who are in need of it. Relevant cases involving journalists are to be

referred to the Fund by OSCE field presences and *bona fide* non-governmental organizations. The Fund will be administered by the Office of the Representative on Freedom of the Media.

All of us at some point move on to new pastures but we do leave a legacy. It is in our work, in our books, in the effect we had, or the lack of an effect – that is also a legacy.

I leave a fully developed and well-organized Office of the Representative on Freedom of the Media, working in accordance with a functioning mandate in support of free media in the OSCE region – an Office that is well known and respected and staffed by a dedicated group of professional experts from half a dozen countries. I very much hope that our work was not in vain and will continue under a new Representative.

One last remark: One of my staff members just came back from a country where the OSCE observed how election results were pre-arranged in a very cynical fashion. My Office was looking into the terrible situation that journalists in that country faced. On several occasions, my staff member was informed, by journalists in particular, how much they need the attention of OSCE institutions such as the Representative on Freedom of the Media and ODIHR to their problems and the dangers they face, and how much they were disappointed by the decline in interest on the part of many journalists and public figures in the West in their extremely dangerous situation.

## The OSCE Academy in Bishkek

### Overview

The OSCE Academy in Bishkek was called into life at the end of 2002 on the initiative of the Kyrgyz government with support from the OSCE under its outgoing Portuguese Chairmanship. The key factor behind the positive reaction on the part of several participating States to the project proposal was its regional orientation. The idea of establishing a think-tank in and for the region, dedicated to OSCE-specific topics and OSCE principles, and with the intention of introducing future experts and decision makers to these topics and principles as part of their education was and remains unique, not only in Central Asia. At the same time, the intention was to create a research and teaching institute specializing in Central Asian security issues and acting as a service provider for the OSCE.

Since the Academy's festive opening on 17 December 2002, the concept has been able to take shape and find expression in concrete activities.

During 2003, a number of fundamental decisions have been passed and several administrative bodies established. These are vital preconditions to ensuring the Academy's start-up phase is followed by practical success.<sup>1</sup>

The Academy's Board of Trustees, which met in Vienna in October and December of 2003, made decisions on fundamental budgetary questions, the pilot programme for the planned master's degree course, and the appointment of the Core Management Team. At the same time, general agreement was reached on the form the Academy should take. The call for applications was put out for the pilot semester in "Political Science (Central Asia)", which took place in summer 2004, and the process of selecting candidates began. In December 2003, a committee with members from Central Asia and Western Europe chose 25 participants from the 318 applicants using criteria drawn up by the Board of Trustees. The selection procedure was notable for its transparency and stringent adherence to the rules.

Also in preparation from the end of 2003, another vital step in securing the Academy's future was completed in time for the start of the pilot summer semester: the move from rooms in Kyrgyzstan's Diplomatic Academy to generous premises provided by the Kyrgyz government. The two-storey building, complete with a garden and a canteen, provides the ideal setting for a modern campus. Following renovation and the installation of computers

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1 On the creation of the OSCE Academy in Bishkek, see: Frank Evers, A New Think-Tank for the OSCE and Central Asia: Establishing the OSCE Academy in Bishkek, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 337-345.

and DSL internet access, the building was ready for employees, students and visiting academics to move in by the start of February 2004.

Nevertheless, the preparation and teaching of the summer course mentioned above (from 2 February to 5 June 2004) was only one – if the most visible – aspect of the work of the OSCE Academy in Bishkek in the first half of 2004.

Because the decision to found and support the Academy was largely the result of political will, it commenced its work without a clear conception of what its concrete activities would be. A preliminary working plan created in the first half of 2003 defined three basic fields of activity: professional training, postgraduate education, and research. At this point, there was still no budget for the medium term. Up to the end of 2003, a key priority was the question of the Academy's financial future, which was at first only secured until mid-2004. Against this background, preparing a detailed proposal for the Academy's operations and its finances became a matter of considerable urgency. The budget proposal was prepared during the first three months of 2004 and, after approval by the Board of Trustees, was circulated and formally presented to representatives of the delegations in Vienna on 27 April 2004. Intensive fundraising based on sound conceptual and financial planning and the necessity of winning international trust through its existing activities was and remains a key task for the OSCE Academy and its regional and international partners. The budget proposal stipulates that the Academy should achieve long-term sustainability by 2006, the end of the extended pilot phase. There is also the related question of the Academy's future legal status. In line with a number of legal opinions commissioned by the OSCE Centre in Bishkek, negotiations with the Kyrgyz government led to the signing on 22 July 2004 of an agreement giving the Academy the status of a public foundation under Kyrgyz law. The Academy thus ceased to be an OSCE project and became an independent entity. The agreement is valid for two years and may be prolonged on mutual agreement.

#### *Activities in the Academy's Three Areas of Operation*

##### *Professional Training*

From the beginning, the central areas of the Academy's work were defined as professional training, postgraduate education, and research.<sup>2</sup> In its inaugural year, the Academy concentrated on the first of these areas, running two training courses. The first, a Summer School on conflict prevention, was organized by the Austrian Study Center for Peace and Conflict Resolution (ASPR) and held from 6 to 12 July 2003 with participants from four states (Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan). A second course, on

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2 Cf. *ibid.*, p. 342.



“International and Regional Security Policy”, was held from 29 September to 3 October 2003 in collaboration with the Geneva Centre for Security Policy and attracted participants from Kazakhstan, Kyrgyzstan, and Tajikistan. Both courses were attended by a mixture of public-sector experts and NGO representatives. This group, consisting mainly of young professionals, will be the Academy’s main focus in the future – and not only in the area of professional development in a narrow sense. At the same time, established senior officials who were trained in Soviet times will not be excluded from these kinds of skills development activities, something that takes into account the needs of a number of OSCE participating States.

According to the operational plan of the Academy developed in 2004, professional training should make up the bulk of its activities in the medium and long term. For the immediate future, it is planned to hold further courses similar to those organized in 2003 and related to the Academy’s core area of security policy. The establishment of the Academy as a unique regional training centre matches the needs of the states in and around an area whose problems and security risks do not respect national borders. The regional framework for discussion established by the Academy creates added value above and beyond its role as a provider of training services. The Academy has already begun to gain experience and develop organizational skills in recruiting participants from within the region and co-operating with regional and extra-regional partners. As this experience and these capacities grow, they will be made available to the OSCE, the OSCE Centres on the ground, and other interested partner organizations.

Nonetheless, both the management and staff of the Academy and their European partners are aware that the vision of a regional training centre is about more than just organizational competence and logistic support. Far more important is the joint regional and international effort to adapt existing generic models of professional training and development to the regional context and to develop new, tailor-made programmes. In this spirit, the Academy’s budget proposal already makes provision for follow-up activities to build on training courses. This coincides with the partner institutions’ interest in enhancing their capacities in the region. In October 2004, the Academy offered training courses run in co-operation with the ASPR. It is also planned to offer courses run jointly with other partners.

#### *Postgraduate Education*

The first complete one-year postgraduate course “Master of Political Science (Central Asia)” commenced in September 2004. The programme is open to interested university graduates, young professionals, and teachers from the region, OSCE participating States, and other countries. The aim of the degree is to provide professionals with education and training in security-related matters and OSCE principles within a framework shaped by the concept of

comprehensive security. This postgraduate degree course thus not only provides a specialized form of professional training but will also lead to the production of experts in regional affairs for the areas of research and teaching, politics and international relations. The award of this master's degree – currently accredited by the Kyrgyz authorities and due to be granted international recognition in the medium term – will not only enhance participants' knowledge but will also provide them with a title that should smooth the path of professional advancement.

The course is aligned with both international standards and regional interests. Based on several existing European master's courses, the curriculum was developed in 2003 by regional experts and European partners, especially the Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH). The curriculum is unique in its regional specificity, but still adheres to the standards of comparable internationally accredited degree courses. The modular nature of the curriculum of the Master of Political Science (Central Asia) degree makes it easier to attract highly qualified experts from the region and further afield to teach specific units. The course begins with an intensive teaching semester (consisting of nine separate modules), which is followed by a month-long internship, a colloquium, the writing of the master's thesis, and state examinations/thesis defence. The programme is unique for a number of reasons:<sup>3</sup>

- Its regional approach: The curriculum was developed jointly with experts and academics from Central Asia and Europe, rather than being imported wholesale. It aims to impart both general theoretical knowledge and regionally specific content. The current student body and teaching staff consists of individuals from four countries in the region.
- Its practical focus: In workshops, which form a central element of the curriculum, practitioners from the region introduce the activities of government institutions and international and non-governmental organizations. Teaching in the workshops is particularly oriented towards interactive methods and includes the use of simulations of relevant situations. Other practice-based elements of the curriculum include training in conflict management and a month-long internship taken at the start of the second semester. The experiences gathered during the internships, which are performed at international organizations (mostly in Central Asia but also occasionally in Europe), are discussed at the subsequent colloquium and written up in the master's thesis.
- Its embeddedness in the work of the Academy as a whole: The Academy's postgraduate course is closely interlinked with its other two main areas of activity. The participants' master's theses should be seen as an opportunity for them to establish themselves as the experts of the future and to forge durable links to the Academy's network of academics and

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3 According to the budget proposal of the OSCE Academy in Bishkek, April 2004.

practitioners. Up-and-coming talents will have the opportunity of integration in the Academy's future education and research activities. Finally, the Academy's alumni work will come to play an important role.

The Master of Political Science (Central Asia) has been recognized not only by the Kyrgyz foreign ministry, but also by its opposite numbers in Kazakhstan and Tajikistan. In the future, the academy aims to achieve international accreditation within the Bologna Process. The necessary steps are being set in motion during the 2004/5 academic year.

*Summer Course "Political Science (Central Asia)", 2 February to 5 June 2004*

The programme for the 2004 pilot semester was identical with the first semester of the actual master's degree course and was carried out using the study regulations governing the master's degree as adopted by the Academy's Board of Trustees. The summer course was thus a crucial test for the postgraduate programme as a whole. Not only the individual teaching components were evaluated, but also the coherence of the lectures, seminars, and workshops within each module and the balance of the modules within the semester as a whole. Evaluation questionnaires and special meetings ensured intensive student involvement in the debate on the programme. This has resulted in considerable improvements to the curriculum on which the actual master's course that commenced in September was based.

During the summer course, the mechanisms for selecting students were also successfully tested. Once more, an international committee selected 25 candidates from over 300 applicants using agreed criteria. Quotas were used to distribute places on the course, with five students selected from each of Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. As there were no applications from Turkmenistan, the results of the selection procedure were used to fill the remaining five places: Three additional students were selected from Kyrgyzstan (making eight in total), and one each from Italy and the United Kingdom. The fact that applications were received from outside the region demonstrates the course's international attractiveness. The Academy itself benefits considerably from international participation: This meant that the students dealt more intensively with a variety of teaching and learning methods, and, most importantly, benefited from the challenges involved in daily contact with people from other cultures and the process of discovering what they have in common.

Besides participating in seminars and lectures offered within the core curriculum, summer course attendees also had the opportunity to participate in discussions with visiting politicians and diplomats. These meetings were not only interesting for the students, but also for the visitors, who encountered an informed and critical audience. The positive comments of these guests have reinforced the hopes invested in the Academy and support the

view that this young institution will one day be able to produce leaders in the worlds of research and practice. There has been a high level of interest among summer-course participants to continue their studies towards the degree of Master of Political Science (Central Asia) by enrolling in the second semester of the master's course proper, due to begin in February 2005. This confirms the view that the Academy has achieved a major success with its first significant project.

### *Research*

While the Central Asian academic landscape has become much more lively in recent years, it remains underdeveloped compared to other regions. However, expert analysis is needed to accurately identify both opportunities for development and potential conflicts in the region and to turn them into practical strategies for conflict prevention and conflict management. Two factors indicate an important role that the Academy could play: First, Research projects developed outside the area are often based on inadequate regional knowledge – as suggested above with regard to professional training – and, second, research competencies within Central Asia are often heavily focused on descriptive analysis at the expense of theory. This suggests that the Academy could do well to use its existing network of regional and international partners to develop innovative regional research projects with a direct or indirect practical application. There are two basic forms this could take: undertaking fundamental research into OSCE-relevant topics aimed at generating practical recommendations for security and development policy (and ensuring that the results of the research are not determined in advance by the framing of the questions) and researching specific topics or questions on demand (which could include project evaluation).

Although this area of its work is still being built up, the Academy certainly offers considerable scope for strengthening practice-oriented research on Central Asia. It is hoped that the first year's crop of around 35 master's theses, due in 2005, will already make a significant contribution to this area, bringing the Academy closer to its goal of establishing itself as a fully fledged think-tank. Projects planned for 2004-5 include one on "Rule of Law and Local Traditions" and a project on local conflict-resolution strategies (to be carried out jointly with CORE). Both projects will involve co-operation with regional partners from at least two states.

### *Outlook*

Since summer 2003, the OSCE Academy in Bishkek has lived up to the hopes invested in it by carrying out highly successful activities in the areas of professional training and postgraduate education, and by improving the con-

cept of the academy. The Core Management Team appointed by the Board of Trustees has moved to build up its own capabilities, thus increasing its independence from the OSCE Centre in Bishkek. The number of states that have promised material support for the Academy has risen: Alongside Germany, Austria, and Switzerland, by June 2004, Finland, Denmark, Slovenia, and Turkey had also pledged financial support. France will once again pay the salaries of teaching staff for the master's degree course. The Kyrgyz leadership will continue to support the Academy by providing the necessary infrastructure. Even more important, however, is the willingness of the Academy's initiators to support its attempt to achieve institutional independence. With national elections due in 2005, the Kyrgyz leadership is currently making its support very public, and the visit by President Askar Akaev to the Academy, where he reiterated his country's commitment to support it in its goal of becoming a regional centre of excellence and a think-tank for Central Asia can be seen as a sign that further positive developments may be expected. However, to achieve this, the Academy will require a greater involvement and commitment on the part of Kyrgyzstan's neighbours. Tajikistan and Kazakhstan are already represented on the Board of Trustees and the Academy's selection committee, and Kazakhstan's involvement is likely to increase, given that country's rapidly growing need for regional expertise. Uzbekistan has so far been less enthusiastic, but Uzbek academics and other experts have already been involved in the planning of the academy via their participation in the informal Advisory Council of regional and international partners. Turkmenistan should be integrated in selected practical activities where possible. In this connection, the Academy has an extremely important potential to become a "virtual centre" that need not restrict its activities and discussions to events and projects in Kyrgyzstan, despite having its physical headquarters in Bishkek. The regional partners will show their growing commitment to the Academy, to the extent that they become increasingly involved as both active supporters and users. These – partly also political – considerations on how all the Central Asian states can be more closely integrated into the Academy project highlight challenges whose difficulty should not be underestimated, and which the Academy will have to face in the coming months. Considering both what has already been achieved and the precisely defined medium- and long-term goals for the Academy's development, it is clear that significant medium- and long-term commitment on the part of all OSCE participating States is required. A strong Academy is not only in the interest of the Central Asian states themselves: Security in Central Asia is of more than local interest and can only be established on the basis of competent analysis and expertise, carried out in tandem with reliable partners. The OSCE Academy in Bishkek needs to prove that it is itself a successful regional co-operation project just as it needs to contribute to co-operation in education, training, and research.



## Training Civilian Experts for OSCE Peace Missions – What Progress Five Years after Istanbul?

With the adoption of the REACT programme,<sup>1</sup> the OSCE Summit in Istanbul in November 1999 emphasized in a striking way the need to build up reserves of civilian experts in the participating States for future missions. These carefully chosen specialists must be available to the Organization at short notice, especially for deployment in acute crisis situations. The decision to establish REACT was primarily adopted in view of the difficulties that had arisen in the deployment of 2,000 personnel for the Kosovo Verification Mission (KVM) in 1998. The aim of this paper is to offer a critical assessment of the training arrangements existing for civilian personnel for OSCE operations five years after that decisive moment. Following a description of recently established structures in this area, remaining weak spots will be indicated and specific requirements for action on the part of those supplying personnel as well as those employing personnel will be discussed.

### *Preparation Is Everything*

While military and police personnel generally receive adequate operational training, the need to provide civilian experts for international peacekeeping operations with appropriate training has only recently been placed on the political agenda. The demands on modern peacekeeping operations have increased considerably over the last ten years and are now characterized by multidimensionality, the diversity of the actors and organizations involved and, not least, significantly greater risks for the personnel deployed. The experiences of the KVM confirmed the glaring shortcomings of personnel without military training, first and foremost with regard to the necessary security training. Since the need for well-trained and professional civilian personnel is expected to continue to increase in the future, there is a need for urgent action. Moreover, the quality of the civilian component is becoming more and more decisive to the success of international multidimensional intervention. In view of the predominantly civilian nature of OSCE field missions, it is not surprising that the OSCE was the first of the relevant international organizations to deal with this development – or to have to deal with it.

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1 REACT: Rapid Expert Assistance and Co-operation Teams.

At first, however, very little attention was paid to the training aspect. It was decided to establish new structures in the OSCE participating States so that suitable personnel could be made available to the Organization in sufficient number and, if necessary, at very short notice. The OSCE Secretariat was to be strengthened to enable a swift selection of candidates to take place more efficiently, using transparent selection criteria. The systematic training of these civilian personnel reserves was given no specific mention in the OSCE Charter for European Security of 1999 but was increasingly recognized as a complementary measure for personnel selection in the participating States during the implementation of the REACT programme. The factor that speaks most strongly in favour of systematically preparing the personnel reserve is the need to secure the desired level of deployability. This can only be achieved on the basis of thorough training. In acute crisis situations, the Organization will not have enough time to make the experts assigned to it “crisis-proof” by means of two-week training courses.

Both the concluding report of the meeting between the REACT Task Force and representatives of the participating States on 28 March 2000 and the subsequent concept paper drawn up by the REACT Task Force under the leadership of Ambassador Victor Tomseth emphasized the training dimension of REACT, and the OSCE Secretariat was instructed to develop standards for the preparation of OSCE field personnel. Since their publication in November 2000, the OSCE Training Standards<sup>2</sup> have served as a framework for a constantly increasing number of training activities, and are recognized outside the OSCE as general guidelines for basic preparation for field operations regardless of the professional expertise involved. The decision of the Permanent Council of 29 June 2000 on the strengthening of OSCE operational capacities<sup>3</sup> explicitly mentions for the first time the importance of training and preparation and calls for close co-ordination between the training processes in the participating States and the OSCE measures for integrating new mission members.

This aspect was expanded – albeit modestly – in February 2002 in the OSCE Training Strategy for the period 2002 to 2004,<sup>4</sup> in which the OSCE Training Co-ordinator was called upon to support the participating States in their efforts in this regard. He was also instructed to exploit synergies through closer co-operation with partner organizations within the framework of the Platform for Co-operative Security. Since then, the Training Co-ordinator and the staff of the Training Section in the OSCE Secretariat have

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2 Training Standards for Preparation of OSCE Mission Staff, first release November 2000, Training Section, OSCE Secretariat.

3 See OSCE, Permanent Council, Decision No. 364, Strengthening of OSCE Operational Capacities, 29 June 2000, PC.DEC/364.

4 See OSCE, Permanent Council, Decision No. 465, Adoption of the OSCE Training Strategy for the Period 2002 to 2004, 7 February 2002, PC.DEC/465.



actively supported numerous training activities in a total of ten participating States, either by directly providing training or arranging for external personnel to give lectures, or in the form of training material, handbooks, etc.

### *Unmistakable Progress – Discernible Shortcomings*

If we compare the situation today with that of 1998, it is clear that an ever-increasing number of participating States have taken up the systematic training of civilian peacekeeping personnel and in some cases have invested considerable resources in these activities. Several approaches can be seen here, corresponding to the respective requirements of each country and the number of experts being made available to the OSCE in the form of secondments. For example, some states have created a permanent reserve of experts and provide them with regular training. In other countries, pools of experts have existed for a considerable time already, and their experienced members are no longer in need of basic preparation for deployment in dangerous situations. There are other countries that use online courses to prepare potential candidates for OSCE operations. Another group can rely on private or partly state-run training facilities that have considerable experience in providing training to multinational groups of civilian staff for OSCE or UN missions.<sup>5</sup>

The OSCE Training Section was involved in virtually all developments in an advisory capacity and tries to ensure that minimum standards required by the receiving organization are observed. In that connection, it is particularly important in view of scarce resources and the great needs of other organizations (especially the United Nations) not to ask too much of participating States by insisting on an OSCE-specific orientation. In the interests of interoperability, i.e., to ensure the flexible use of these personnel reserves by various organizations, each in accordance with its mandate, the training activities should impart general skills, knowledge, and abilities that are of relevance in the field – and of relevance regardless of the organization ultimately mandated by the international community. A model is provided by the Centre for International Peace Operations (*Zentrum für Internationale Friedenseinsätze*, ZIF), established in Berlin in 2002, which trains German civilian peacekeeping personnel for operations within the framework of the United Nations, the European Union, and the OSCE. The personnel reserve, which is to be expanded to include 2,000 individuals, can be made available according to the specific needs of the mandated international organization. However, in view of the OSCE's secondment principle and the relative ease this brings when planning deployment,<sup>6</sup> the OSCE is the Centre's largest customer.

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5 Such as the Austrian Study Center for Peace and Conflict Resolution in Stadtschlaining and the Sant'Anna School of Advanced Studies (*Scuola Superiore Sant'Anna*) in Pisa, Italy.

6 The United Nations recruits civilian personnel directly on the basis of individual applications but has recently begun to consider making use of the secondment of civilian experts under certain circumstances.

Despite these very positive developments, the most recent statistics on OSCE induction courses for new mission members show that only around a third of the members can be regarded as experienced and well-prepared. A further third possess prior mission experience, often gained working for the United Nations or a non-governmental organization, but have not been formally trained. The remaining – and most problematic – third consists of persons who, despite possessing appropriate professional qualifications, have neither undergone adequate training nor gained experience in previous deployments abroad. This clearly shows that, despite all the progress, a further redoubling of effort will be required to ensure that all mission members receive suitable training that will bring civilian experts up to somewhere near the training level of military and police personnel.

*EU Training for Civilian Experts for Peace Missions – Also a Positive Stimulus for the OSCE*

The strengthening of the EU's capacity to react to crises decided on at the summits of the EU in Feira (2000), Göteborg (2001), and especially Thessaloniki (2003) relates mainly to the development of personnel capacities in the areas of the military, the police, and civilian expertise in the framework of crisis management, broadly understood. These reserves are intended for future EU-led missions, but can also be made available to the United Nations, the OSCE, or the Council of Europe for their field operations. Against this background, the European Commission launched in 2001 the project entitled Training for Civilian Aspects of Crisis Management, which has since led to a multitude of training activities. The training institutions in nine EU states brought together in the EU Group on Training<sup>7</sup> have developed, along with the core courses designed according to OSCE training standards, a series of specialization courses in various key civilian areas. These cover subjects such as rule of law, human rights, democratization, civil administration, conflict transformation, press and public information/media development, and mission administration. The particular experience of the OSCE in civilian crisis management was incorporated from the beginning and made a decisive contribution towards the preparation and organization of both core and specialization courses.

If we take a look at the OSCE Staffing Matrix first published in the year 2000, which indicates the twelve most important areas of expertise in field

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7 The Austrian Study Center for Peace and Conflict Resolution (Austria), the Danish School of Administration (Denmark), the Diplomatic School (*Escuela Diplomática*; Spain), the Abo Academy University, Helsinki (Finland), the National School of Administration (*Ecole nationale d'administration*; France), the Centre for International Peace Operations (Germany), the Sant'Anna School for Advanced Studies (Italy), the Folke Bernadotte Academy (Sweden) and Peaceworkers UK (United Kingdom).

operations,<sup>8</sup> it becomes apparent that the fields of activity of civilian experts in the two organizations largely correspond. Since EU member states, of which there are now 25, provide over 60 per cent of the experts assigned to OSCE missions, these training activities will, in the medium term, also have a positive effect on the quality of civilian personnel in the OSCE. In the short run, however, some structural impediments to the flexible use of the civilian personnel trained need to be overcome – for example, an absence of mutual recognition of such training. Although the future of this project beyond 2004 is still uncertain, the EU Group on Training has already given a decisive, continuing impetus to the systematic selection and preparation of civilian experts for crisis management operations.

#### *The OSCE Training Strategy for 2005-2007*

The in-depth discussions – which take place every three years – between the OSCE Training Co-ordinator and the participating States on the general direction to be given to training measures in the OSCE context have proved an appropriate tool for gearing all training activities to the continually changing needs of the staff of the Secretariat, the institutions, and the missions, and also for mobilizing the necessary political support for them.

The area of mission training – that is to say, the first and perhaps most important part of the training process through which a mission participant should ideally pass – will, on the proposal of the Training Co-ordinator, be given considerably more emphasis within the strategy in the future. In the framework of the negotiations regarding the Training Strategy for 2002-2004, this aspect was only partly taken into account (see above), because some participating States wished to entrust the preparation of all the seconded personnel to the OSCE Secretariat. For reasons of cost, this idea did not obtain consensus. The significant increase in predeployment training in some participating States confirms, however, the growing appreciation that a basic provision of essential training must take place in the sending state, in view of the time factor and not least as part of the responsibility of the state to provide due support for its nationals.

Nevertheless, the continuing lack of involvement in these initiatives of many participating States that do not have capacities of their own impedes the exploitation of important potential synergies. Such networking – that is, the development and maintenance of a training network of this kind – is a key area of work being assigned to the OSCE Training Co-ordinator for the years 2005-2007.

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8 Human rights, rule of law, democratization, elections, economic and environmental affairs, press and public information, media development, political affairs, administration, monitoring, military affairs, and civilian police.

The first OSCE training and recruitment conference in the autumn of 2004 brought those responsible for recruitment and training from the participating States together with delegations, missions, and partner organizations and provided a forum for exchange, sharing of best practices, and dialogue, which should ultimately promote increased co-operation among the participating States. Hitherto unutilized potential exists on a wide front: Thus nearly all national training courses allow at least some participation by persons from other countries. This is not only useful for didactic reasons (because in this way work in international teams can be practised already during the training stage) but also provides an opportunity to those states for which, because of the small numbers of staff being seconded and consequently the absence of a critical mass, investment in national training programmes is not economical. Joint planning and a better exchange of information would give a second chance to the idea already put forward in the REACT context, but not realized, of regional or subregional co-operation in the training of civilian experts.

In this connection, a particularly noteworthy example of co-operation is the memorandum of understanding between the Diplomatic Academy of the Russian Federation and the OSCE Secretariat on support for training activities for the benefit of future Russian members of OSCE missions, which was signed in January 2004. The OSCE Training Section is not only offering active support and advice for the development of a Russian national training centre to be situated in the Diplomatic Academy, but will also function as a catalyst for the establishment of links with training institutions in other OSCE States. For example, co-operation with ZIF and other institutions is being initiated, and will undoubtedly expand in the coming years.

#### *Predeployment Security Training Is a Matter of Survival*

In the past, the need for thorough training in the sending state was questioned on the grounds that there were induction courses for new staff in the various organizations and that therefore the programmes (supposedly) involved duplication or were simply redundant. In the first place, however, the OSCE is the only organization to have established a system of compulsory induction and, second, such programmes cannot in any case be compared with predeployment training; both activities are vital and should certainly be co-ordinated.

Predeployment training has the primary task of making civilian experts “crisis-proof” by transmitting knowledge and, above all, skills that could be critical to their survival as part of a security training exercise. In an organization that bases recruitment on the principle of secondment, it is clearly the responsibility of the participating States to provide this basic training. Induction courses for staff in the various organizations are too short in duration to

allow for more than a very superficial level of training. New staff must already be familiar with the fundamental principles when they are introduced by a given organization to specific procedures, work routines, and standards. To give an example, to offer a security briefing during the general induction programme and another on arrival at the mission undoubtedly is and will continue to be the responsibility of the receiving organization. But the organization should be able to assume that the experts made available can handle radio equipment, steer four-wheel-drive vehicles, find their way alone in open country with the help of a compass, and that they are aware of possible danger from mines. The security aspect cannot be sufficiently emphasized. In view of the existing risks faced by international mission members, which have grown exponentially, there must be no slackening of efforts to provide really comprehensive training for civilian experts, even in the context of the OSCE, whose 18 missions have in recent years seen a gradual improvement in the security situation, going against the worldwide trend. The latest rioting in Kosovo in March 2004 confirmed in a striking manner that civilian personnel must always be prepared for the "worst case". Events and developments are difficult to predict, by their very nature, in a crisis operation. It would therefore be extremely irresponsible to allow any let-up or complacency in the preparation of civilian experts. This is a joint responsibility of which sending states and the receiving organization must be aware. Much still remains to be done to ensure that this unit receives the attention and, above all, the resources that it deserves on the basis of objective conditions and its increased significance.



## Is E-Voting Relevant for the OSCE?

At almost exactly the same time as the Council of Europe was finalizing its recommendation on judicial, operational, and technical standards for electronic voting, or e-voting, in Strasbourg, the OSCE participating States and ODIHR were discussing the same topic in depth for the first time. The Supplementary Human Dimension Meeting on “Electoral Standards and Commitments”, held in Vienna in July 2004, considered, among other things, what e-voting would mean for the future of the OSCE. The overall attitude of the participants was cautious optimism about the potential of this new technology.

### *Starting Point*

Awareness of and interest in e-voting, in all its many forms, has grown considerably in recent years. Those involved include states, international organizations, the scientific and academic community – especially experts in law and ICT – and businesses, and each has its own specific and not necessarily mutually reconcilable goals.<sup>2</sup>

The field of e-voting currently possesses neither a unified terminology nor, in many cases, relevant standards. This will be considered in detail in the current contribution. There is also no broad agreement on the current potential for implementing e-voting, nor on the fundamental benefits that it would bring. This is due to differences of opinion among experts and, above all, a traditional rejection of any fundamental changes to electoral law, particularly where technology is involved whose workings are hidden from view. Various types of resistance to e-voting can also be voiced by the political opposition, individual academics, and NGOs, which may be politically manipulated.

On the other hand, certain states and groups of individuals have a strong interest in the technology’s introduction. This may, for example, reflect their desire to see more effective or simpler voting procedures, higher participation rates, or may be bound up with commercial or academic interests. The positions taken by individual states on e-voting reflect specific national conceptions of the state, the civil service, and the citizens – even where technical

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1 This article reflects the personal opinions of the author. Translated from the German.

2 E.g. speed (market leadership) versus caution (building acceptance and trust), ease of use versus confidentiality, the development of academic specializations versus integrated, multidisciplinary approaches. An attempt has been made to co-ordinate activities through OASIS, see, in particular: [http://www.oasis-open.org/committees/tc\\_home.php?wg\\_abbrev=election](http://www.oasis-open.org/committees/tc_home.php?wg_abbrev=election).

details may be identical in various cases. Cultural factors of this kind play an important role in every discussion of e-voting.

Electoral law is a particularly difficult legal subfield – one that not only touches upon every individual and political group, but also broaches fundamental questions of democracy. As a rule, it can be assumed that those with the power to change electoral law will not accept reforms unless they can expect to gain – or at the very least can guarantee that they will not lose out. The requirement in many countries for a qualified parliamentary majority to change the law on elections is a significant hurdle to reform and can be abused to serve other ends.

E-voting raises not only these political and cultural questions, but also others of a legal and technical nature. It thus creates a need for co-operation between politicians, civil servants, lawyers, and technical experts. Such close co-operation between experts from so many fields is difficult to arrange but indispensable to understanding the full extent of the challenge and the range of possible solutions, mastering them, and ensuring acceptance of the solutions that are found.

### *What Is E-Voting?*

In popular discourse, the term “e-voting” is currently used to refer to a variety of very different processes. The single factor they all have in common is the use of electronic media for gathering and/or registering votes and opinions.

E-voting should not be confused with non-binding electronic surveys (e-consultation<sup>3</sup>) such as online opinion surveys – however easy to perform and superficially effective these appear to be. Surveys of this kind suffer above all from the fact that only internet users can take part, which means they can easily present a distorted picture. More importantly, such surveys may be based on opinions that are given lightly and are, in particular, legally meaningless.

Moreover, the debate on e-voting should be kept separate from the debate over the enhancement or expansion of democracy – in particular, in terms of (more) participatory and/or direct democracy (e-democracy, e-participation). These debates – as valid as they are – should be pursued separately from the matter of electoral reform, which is already complicated enough.

To clarify and simplify the discussion, the term “e-voting” should be used exclusively to refer to the use of electronic media to political elections and referenda. According to this definition, e-voting refers to methods used by citizens to register their votes in elections (and maybe also for voter and candidate registration) and methods used by authorities to gather, store and

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3 In contrast, the term “e-polling” can be used for both elections and opinion surveys.



manage data related to elections. E-voting thus comes under the categories of both e-government and e-administration – electronic communication between citizens and authorities and among local and national government departments – and is generally considered to be an improved (because supplementary) service that authorities could or should provide to their customers.

Basic e-voting applications include maintaining an electronic register of voters<sup>4</sup> and calculating and communicating the results of elections. Mechanical voting machines that count votes electronically (and may also transmit the results instantaneously) are a further option, as are ballot boxes with a reading device built into the slot, which can count votes as they are cast and may also be capable of transmitting the data for further processing. Displaying ballot information on a (single) screen in the voting booth presents a greater technical challenge than using printed ballot papers, especially when there are many candidates.

Remote e-voting, where voters cast their ballots in the physical absence of electoral officials, is both legally and technically more difficult. The greatest challenge here is the transfer of the “ballot paper” to the voter’s computer (which may be at home, in the office, on board a plane, etc.), where it can be completed and returned to the electoral commission (remote i[n]ternet-voting).<sup>5</sup>

With some simplification, we can distinguish between two basic forms of e-voting: e-voting in the polling station – monitored in person by electoral officials – and e-voting from elsewhere, i.e. remote e-voting.<sup>6</sup> Further differences in the type of e-voting result from the kind of device used and the means by which the data is transferred. E-voting systems may be implemented using existing technologies or custom-made devices: voting machines, PCs, keypad telephones, palmtop computers, mobile phones or digital television systems. Some of these technologies are suitable for use in both supervised and unsupervised environments. E-voting data may be transferred by telephone, internet, via state and/or private data networks, or may be physically transferred on data storage media.

E-voting creates challenges in several areas, not all of which have yet been mastered. It must be demonstrated *with absolute certainty* that only eli-

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4 The electronic register of voters may also be made accessible to individual electoral commissions on election day and may allow members of the public to both view its contents and to enrol or change their details online. See, for example: <https://oevf.aec.gov.au>.

5 Remote i-voting combines features of remote voting – no electoral official is present while ballots are cast (to authenticate voter identity and ensure that voters are not physically intimidated) – and internet voting, state authorities cannot carry out a technical examination of the device used to vote and information on votes cast is transferred without inspection by the electoral authority). However, in contrast to (paper-based) postal voting, the transfer of ballot information in i-voting does leave a traceable audit trail. The definition of i-voting used here does not encompass internet voting at a polling station.

6 Composite forms are also conceivable, e.g. the supervised casting of ballots using electronic means in local government offices, embassies, consulates, and state post offices.

gible voters cast votes (identification<sup>7</sup> and authentication), that they vote without physical duress, that each votes only once, that their votes are not interfered with while being transferred to the electoral commission (or that any interference could be detected), that – at least after a certain length of time has passed – individual votes cannot be traced back to the individuals that cast them (anonymity to ensure election secrecy), that, nonetheless, an audit trail enables ballots to be inspected both during and after voting, and much more. As well as respecting the basic principles of electoral law, it is also necessary to take into consideration the individual electoral regimes in specific countries and what this means for their practical application.<sup>8</sup> Unless the introduction of e-voting is to coincide with a change to the electoral law, it is necessary to translate all these features into electronic functionality.

As well as choosing between the various technical solutions available, it is also necessary to explain the system chosen to the electorate in order to create the requisite level of confidence in the e-voting procedure. This is generally a time-consuming process that requires a significant investment in publicity materials and persuasive effort but one that is vital if the new technology is to win acceptance for use in general elections.

### *E-Voting in the OSCE Area*

E-voting in its many forms is becoming ever more widespread in the OSCE area. E-voting systems are already being planned, tested, and implemented for use in polling booths, public buildings, public spaces, and from home computers. This section provides an overview of efforts to implement e-voting systems in the OSCE area (as of mid-2004).

E-voting systems planned or already implemented in OSCE participating States can be classified as follows:

- The implementation of a complete e-voting system for specific elections (at least in certain districts or for certain groups of people)
- Legally binding test implementations of e-voting (“pilots”)
- Non-binding test implementations (“tests”)

It is also possible to distinguish among implementations of e-voting

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7 It requires a minimum of two separate elements to demonstrate this conclusively: an object held by the voter (e.g. a voting card, proving entitlement to vote), and a piece of information known only to the voter (such as a PIN – whether freely chosen or allocated centrally). These may be augmented by the use of technologies such as barcodes and biometric data.

8 E.g. list systems, various kinds of preferential voting, a requirement to vote in person, proxy voting, voting before polling day (“advance voting”), the requirement for postal votes to be witnessed, holding several elections on the same day, allowing for the rights of candidate representatives and independent domestic or foreign observers.

- in nationwide elections (for head of state, national parliaments, the European Parliament) or national referenda;
- in regional and local elections and referenda;
- in “non-political” elections (elections to company boards, works councils, offices within private clubs and associations, etc.). Here it is important to distinguish between corporate bodies under public law (e.g. municipal corporate bodies or corporations or institutions directly established by statute) and those under private law (e.g. clubs and publicly listed companies).

At present, implementations of e-voting tend to be limited to legally binding pilots and non-binding tests, on the one hand, and regional elections or referenda and “non-political” elections, on the other. Polling-booth-based e-voting, however, is already in widespread use in nationwide elections in Belgium, the Netherlands, the USA, Russia, Azerbaijan,<sup>9</sup> and in restricted areas or test implementations in Germany, Canada, Portugal, and Denmark,<sup>10</sup> to name but a few. Preliminary plans or concrete initiatives to roll-out e-voting following successful testing already exist in Ireland, Portugal,<sup>11</sup> and Kazakhstan.<sup>12</sup>

In recent years, legally binding i-voting pilots in political elections and referenda have been carried out in England (regional elections since 2002),<sup>13</sup> Switzerland (regional referenda since 2003),<sup>14</sup> the Netherlands (European Parliament elections in 2004), and Spain (a local referendum in 2004). Mention ought also to be made of a large i-voting pilot carried out in the election of the High Council for French Expatriates (*Conseil supérieur des Français de l'étranger, CSFE*), which elects twelve members of the French Senate, and which can thus be considered a political election.

Plans exist to expand i-voting in Estonia (local elections in autumn 2005), and Spain (possible EU referendum 2005). The i-voting system SERVE (*Secure Electronic Registration and Voting Experiment*), whose implementation for US citizens living abroad was planned for the US presidential election in November 2004, was put on ice in spring 2004. France is planning a cautious transition to i-voting, beginning with elections to institutions under public law (judges in labour courts, officeholders in professional associations) and only later extending to encompass political elections. Germany is continuing along the path of non-binding tests and legally binding

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9 Not to mention Brazil, Paraguay, and India.

10 As well as Australia.

11 Tests carried out since 1997.

12 And in Mexico, Venezuela, Peru, and Colombia.

13 An overview of 2003 is available at: [http://www.odpm.gov.uk/stellent/groups/odpm\\_localgov/documents/page/odpm\\_locgov\\_608479.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/page/odpm_locgov_608479.pdf). Further details are available, for example on the project in the town of Swindon, at: [http://www.odpm.gov.uk/stellent/groups/odpm\\_about/documents/page/odpm\\_about\\_608652.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_about/documents/page/odpm_about_608652.hcsp).

14 2003/2004 in the canton of Geneva (Anières, Cologny, and Carouge).

pilots in “non-political” elections (student elections, elections of employee representatives, works councils, and bodies representing senior citizens). In Switzerland, new tests are due to begin in 2004 and 2005 in the cantons of Zurich and Neuchâtel.

Several countries and regions – including France<sup>15</sup>, Italy<sup>16</sup>, Catalonia<sup>17</sup>, Spain<sup>18</sup>, Germany<sup>19</sup>, Austria<sup>20</sup>, and Portugal – have also carried out non-binding trials of i-voting in both state (political) and private (non-political) elections.

In Slovenia, Hungary, and Bulgaria, plans for e-voting systems exist in the form of draft laws, which have, however, not been approved by the countries’ parliaments. The Czech Republic and Romania plan to carry out trials. In Canada, legal provision has been made for carrying out e-voting research and trials.

A number of other states – including Sweden, Norway, Austria, Luxembourg, and Bulgaria – have established political or administrative commissions to examine the potential use of e-voting, or have entrusted existing bodies with this task.<sup>21</sup> In general, their aim is to gather information at home and abroad, to identify the wishes of voters and the technical parameters, to commission and evaluate feasibility studies, and to produce roadmaps – and to do all this before rash or overhasty actions are taken that could lead to practical problems or issues of trust and thus undermine the actual goal of introducing e-voting.

In many countries, discussions and activities relating to e-voting have been carried out in tandem with efforts and initiatives in the area of e-government. One way that this has been achieved is through multilateral agreements, such as the EU’s eEurope action plans and the related benchmarking processes.<sup>22</sup> Another question that is closely linked to the e-voting issue in some countries is that of electronic signatures, which allow the appending of legally effective signatures to electronic documents. Multilateral EU standards have also been introduced in this area.<sup>23</sup>

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15 Parliamentary elections June 2002 in Vandoeuvre-lès-Nancy and an i-referendum in Issy-les-Moulineaux in November 2002.

16 E.g. in the local elections of 17 November 2003 in Avellino, Campobasso, and Cremona.

17 Catalan expatriates were able to vote via internet in a test held in parallel with the regional parliamentary elections of November 2003; 730 took advantage of this possibility.

18 Most recently, held alongside the parliamentary elections of 14 March 2004 in Lugo (Mosteiro-Pol), Zamora, and Toro (Zamora).

19 See, for example, <http://www.i-vote.de> and <http://forschungsprojekt-wien.de>.

20 See <http://www.e-voting.at>.

21 E.g. the Task Force E-Letzeburg, Commission Nationale de la Société de l’Informatique (CNSI), Luxembourg, and the “E-Voting” working group of the Austrian Interior Ministry, which is charged with determining the legal, technical, and economic requirements for the implementation of any e-voting model in Austria. See under “E-Voting”, at: <http://www.wahlinfo-bmaa.at>.

22 Cf. [http://europa.eu.int/information\\_society/eeurope](http://europa.eu.int/information_society/eeurope).

23 See Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures.

As well as laws and regulations in individual countries that make explicitly mention of e-voting<sup>24</sup> and the most recent recommendations of the Council of Europe (CoE), there are other national and international sources that need to be taken into consideration. These include national specifications on matters such as data protection<sup>25</sup> and technical standards.<sup>26</sup> Government or non-government roadmaps<sup>27</sup> and government programmes<sup>28</sup> that aim at the implementation of e-voting are also relevant to policy making in this area. Especially important, and also relevant for other interested parties, are implementation reports on completed projects, particularly when they are presented in a transparent fashion and provide room for alternative, independent opinions that differ from those of the project managers.

Several academic studies of e-voting have already been published.<sup>29</sup> Some of these have provoked such strong public or political reactions that e-voting projects were put on hold in the USA and Ireland in 2004 as a result.<sup>30</sup>

In the multilateral arena, significant developments include the report by the Commission for Democracy through Law, known as the “Venice Committee”, on “the Compatibility of Remote Voting and Electronic Voting with the Requirements of the Documents of the Council of Europe”.<sup>31</sup> The report

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- 24 E.g. Articles 27a to 27q of the Swiss Decree on Political Rights, in combination with the amended Federal Law on Political Rights, both of which became effective on 1 January, 2003; in the UK: Part II, Representation of the Peoples Act 2000, and e.g. The Sheffield (Electronic Voting Scheme) Order 2003; the Netherlands Interim Rules on Experiments Conducted as part of the Remote Electronic Voting Project (Remote Electronic Voting Experiments Act) from spring 2004; and Paragraph 43, Sections 4 and 5 of the Austrian Law on the Representation of Students (*Hochschülerschaftsgesetz*) 1998, BGBl. I No. 22/1999 as amended by BGBl. I No. 18/2001 with effect from 6 March 2001.
- 25 On this, cf. the French Commission nationale de l’informatique et des libertés in its Délibération no 03-036 du 1er juillet 2003 portant adoption d’une recommandation relative à la sécurité des systèmes de vote électronique, at: [http://www.cnil.fr/index.php?id=1356&delib\[uid\]=12&cHash=d4482266b8](http://www.cnil.fr/index.php?id=1356&delib[uid]=12&cHash=d4482266b8).
- 26 E.g. *Online-Wahlsysteme für nichtparlamentarische Wahlen: Anforderungskatalog* [Online Voting Systems for Non-parliamentary Elections: Catalogue of Requirements], Physikalisch-technische Bundesanstalt, Berlin, April 2004.
- 27 E.g. in Switzerland and England; or non-governmental or semi-official roadmaps, such as: Recommendation report of the French Internet Rights Forum: What is the future of electronic voting in France? 26 September 2003, at: <http://www.foruminternet.org/en/publication/lire.phtml?id=11>.
- 28 E.g., in the coalition agreement of the current German government: “Universal access to the Internet can strengthen the political decision-making process as an aspect of e-democracy. This goal is also served by conducting trials of online voting in political elections at the sub-state level.” (editor’s translation), the original can be found at: [http://www.bundesregierung.de/Bundesregierung/Koalitionsvertrag-I.-Praeambel-,1774/VIII.-Sicherheit\\_-Toleranz-und.htm](http://www.bundesregierung.de/Bundesregierung/Koalitionsvertrag-I.-Praeambel-,1774/VIII.-Sicherheit_-Toleranz-und.htm).
- 29 E.g. Alexander Prosser/Robert Krimmer (eds), *Electronic Voting in Europe – Technology, Law, Politics and Society*, Gesellschaft für Informatik, Bonn 2004.
- 30 E.g. David Jefferson et al., A Security Analysis of the Secure Electronic Registration and Voting Experiment (SERVE), 20 January 2004, at: <http://www.servesecurityreport.org>, and Margaret McGaley/J. Paul Gibson, Electronic Voting: A Safety Critical System; Department of Computer Science, National University of Ireland, Maynooth, March 2003, at: <http://www.cs.may.ie/research/reports/2003/nuim-cs-tr-2003-02.pdf>.
- 31 European Commission for Democracy through Law (Venice Commission), Report on the Compatibility of Remote Voting and Electronic Voting with the Requirements of the Documents of the Council of Europe, on the basis of a contribution by Mr. Christoph Graben-

concludes that remote voting is compatible with the CoE's standards, provided certain precautionary measures are taken when postal voting or electronic voting procedures are carried out. But where e-voting takes place without supervision by election officials, compatibility is only ensured when systems are secure and reliable. Above all, it is essential to ensure that voters can correct their choice before it is transmitted and can obtain confirmation of their vote. The system must also be transparent.

### *Council of Europe Standards*

A year and a half in preparation, the text of the Recommendation of the CoE Committee of Ministers to member states on legal, operational and technical standards for e-voting and the Explanatory Memorandum that accompanied it were adopted at expert level on 6 July 2004.<sup>32</sup> This recommendation is the first to create multilateral standards on e-voting, and places the CoE at the cutting edge of developments.<sup>33</sup> It was drawn up by a multidisciplinary group of experts in a very short time, despite the fact that they had to start from scratch. The recommendation was approved by the Committee of Ministers of the Council of Europe on 30 September 2004.

Building on generally accepted electoral principles, the recommendation consists of e-voting-specific legal and operational standards and technical requirements that member states are obliged to uphold when implementing e-voting. The technical requirements directly address the ICT industry, whose products are required to fulfil these criteria if they are to be bought by CoE member states.

The recommendation makes no statement as to the necessity or desirability of e-voting. Nevertheless, it does list reasons given by individual states for their interest in the technology. Because details of electoral law differ from country to country, the recommendation contains only *minimal standards*, which may be augmented by domestic standards applying to e-voting procedures and technologies.

The recommendation goes beyond classical e-voting by referring many times to e-elections – political elections and referenda – in which electronic means play a role in *any* phase of the election (not necessarily or only in the casting of ballots).

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warter (substitute member, Austria), 12-13 March 2004, Doc. CDL-AD(2004)012, at: [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)012-e.pdf](http://www.venice.coe.int/docs/2004/CDL-AD(2004)012-e.pdf).

32 The texts are available at: <http://www.coe.int/democracy>.

33 The EU – with the exception of a few powers relating to elections to the European Parliament – lacks any competencies in the area of electoral law. The European Commission provided financial support for a number of early e-voting test projects and plans similar efforts of this kind as a follow-up to the “eDemocracy” seminar (Brussels, 12-13 February 2004), at: [http://europa.eu.int/information\\_society/programmes/egov\\_rd/events/edemocracy\\_seminar/agenda/index\\_en.htm](http://europa.eu.int/information_society/programmes/egov_rd/events/edemocracy_seminar/agenda/index_en.htm).

According to the recommendation, e-voting must comply with all principles of democratic elections and must be as reliable and secure as elections that are held using non-electronic means. When implementing e-voting, member states should examine their existing legislation to see if it needs to be adapted to deal with new conditions and threats that arise from the advent of e-voting, e.g. in criminal, privacy, or election-monitoring law.

Two years after the recommendation is adopted, the member states are to examine their policies and their experience of e-voting and of the recommendation and to present the results of this examination to the Secretariat of the Council of Europe. This is to provide the CoE and its members with an opportunity to take any additional steps related to e-voting that may prove necessary within the CoE framework.

The section of the recommendation dealing with legal standards applies the principles of democratic elections and defines appropriate standards for application to e-voting. It details 35 individual legal standards relating, among other things, to transparency, verifiability and accountability, and reliability and security. The recommendation also includes 25 operational standards, on notification, voter registration, candidates, voting, results, and auditing. The document's 52 technical requirements relate to accessibility, interoperability (between various technical systems), systems operation, security (broken down by phase), auditing, and certification.

#### *E-Voting as a Topic at the OSCE's Supplementary Human Dimension Meeting in July 2004*

On 15 and 16 July 2004, the OSCE's Supplementary Human Dimension Meeting on Electoral Standards and Commitments convened in Vienna. Its main objective was to discuss universal election principles, existing OSCE commitments, and best practices for democratic elections.

One point of departure for the meeting was a Russian proposal, made several years ago, that the OSCE conduct a general examination of electoral questions with reference to *all* OSCE participating States. This proposal had already formed the basis for a call for the Permanent Council to examine the need to elaborate further commitments in the area of elections, which was made at the OSCE Ministerial Council in Porto on 7 December 2002.<sup>34</sup> The Ministerial Council repeated this call in Maastricht on 2 December 2003, further charging ODIHR to examine opportunities to improve support for participating States in implementing recommendations made in ODIHR elec-

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34 Cf. OSCE, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), OSCE Yearbook 2003, Baden-Baden 2004, pp. 421-455, here: pp. 451-452.

tion observation reports.<sup>35</sup> The Vienna Supplementary Meeting consisted of three consecutive sessions:

- The OSCE/ODIHR 2003 Progress Report “Existing Commitments for Democratic Elections in OSCE Participating States”,
- Implementation of existing OSCE commitments for democratic elections and follow-up on OSCE/ODIHR recommendations,
- Identification of possible areas for supplementing the existing OSCE commitments and the potential need for additional commitments.

E-voting was identified as a subtopic of the third session in the annotated agenda of the Supplementary Meeting. Meeting participants were provided with the following ODIHR documents as working papers:

- Existing Commitments for Democratic Elections in OSCE Participating States (October 2003),
- Existing Commitments for Democratic Elections in OSCE Participating States: A Progress Report,<sup>36</sup>
- and the ODIHR discussion paper “Election Principles and Existing OSCE Commitments for Democratic Elections”.<sup>37</sup>

The discussion paper raised specific questions relating to elections, discussed them with reference to OSCE commitments and the experience of ODIHR, and submitted suggestions for discussion. This document noted that electronic elections and counting procedures, identified as “challenges of the future”, serve merely to accelerate processes and save paper and must retain all the main elements and options present in conventional voting systems. Technologies may not entail any new requirements or limitations that could have an impact on the execution of the right to vote.

Before e-voting is introduced, states are required to guarantee that the comprehensive technical preconditions needed to ensure accurate results are in place. It is also necessary for them to have gained the confidence of the general public. Necessary precautionary measures mentioned include effective complaint procedures and the ability to perform a manual recount. Moreover, voters must be able to change their electronic vote before finally casting it, and it must be possible to print out the electronic ballot paper before the vote is finally recorded. Further desirable features include the ability to create a real-time printout of the vote after it is cast and to perform manual counts. Irrespective of which e-voting system is deployed, all counts must be itemized in detail and broken down to the smallest possible unit, accessible to in-

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35 OSCE Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, Decision No. 5/03, Elections (MC.DEC/5/03), p. 81, at: <http://www.osce.org>.

36 ODIHR.GAL/39/03.

37 PC.SHDM.GAL/7/04, 9 July 2004.



spection by representatives of the candidates and by observers, and they must be published.

Several participants in the meeting in Vienna touched upon the subject of e-voting. The mood was interested and generally positive, and there was support for the idea that the OSCE should concern itself with the topic. Switzerland, Kazakhstan and Azerbaijan gave presentations on their e-voting systems and the results of studies they had carried out, while other participants dealt with the question of electronic registers of voters. The overemphasis placed on the matter of paper print-outs in the ODIHR discussion paper was criticized by two participants.<sup>38</sup> Austria noted, among other things, that transparency, trust, and public awareness can and must be secured by maximizing openness. There must be no state or corporate secrets. The state must always be in charge of the process. A prerequisite for the introduction of e-voting is that it is trusted by both the general public and the political opposition. The major challenges that need to be met concern, on the one hand, voter identification and authentication, and, on the other, anonymity and the audit trail.

### *Opportunities for the OSCE*

The OSCE, which has proved itself to be a forward-looking and “progressive” institution since its inception, cannot deny the reality of e-voting in its participating States. To what extent the Organization itself should become involved is another question.

It is hardly the OSCE’s task to determine the value or feasibility of introducing e-voting. Nor can the Organization decide on the best method by which participating States can introduce e-voting.<sup>39</sup>

Because the Council of Europe has already created standards on e-voting, there is no need for the OSCE to duplicate this work. However, the Council of Europe’s standards could also be examined by those OSCE States that are not members of the Council of Europe, who could be required to give an opinion within the OSCE framework. That could also be useful for the review of the recommendations scheduled to be undertaken by the Council of Europe in autumn 2006.

One area where it would be more sensible and productive for the OSCE to get involved is questions relating to the implementation of e-voting. In the

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38 The repeated emphasizing of the need for paper proofs of voting reflects but one of the expert views on the subject. In any case, it only applies to e-voting in polling stations. The underlying question can be answered in other ways. Recourse to paper does not in itself meet the challenges that have to be faced.

39 The author’s brief suggestions on the latter point can be found in: E-Voting: International Developments and Lessons Learnt, in: Alexander Prosser/Robert Krimmer (eds), *Electronic Voting in Europe – Technology, Law, Politics and Society*, Lecture Notes in Informatics (LNI), vol. P-47, Gesellschaft für Informatik, Bonn 2004, pp. 31-42, here: p. 40f.

form of the ODIHR election observation missions, the OSCE already has an effective instrument that could be applied here.<sup>40</sup>

E-voting is not limited to “Western” states, but even if it were, this would not exclude ODIHR election observation missions from addressing the issue, as evidenced by the missions conducted recently in the UK and the USA. Forms of e-voting are already being used in the eastern half of the OSCE area (in Russia and Azerbaijan), or are being planned (in Kazakhstan). In states where election results are frequently criticized or even challenged by opposition parties or international institutions, there is a special need to monitor the use of e-voting, which is often less transparent and familiar to the citizenry than conventional, paper-based voting.

This would require the creation or acquisition of the appropriate expertise. It would be possible here – as in other matters related to election observation – to make use of questionnaires and a pool of international experts in electoral law, ICT, and electoral practice. This would enable OSCE election observation missions, following expert examinations of e-voting systems in theory and practice, to either express criticisms and suggestions for improvement or to lay the fears of concerned parties to rest.

There follows a questionnaire on the subject of e-voting developed by the author. Its aim is to enable participating States that are planning to introduce e-voting (or to have their projects evaluated by a third party) to provide preliminary information *prior to* international evaluation.

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40 The ODIHR Election Observation Mission to the Presidential Election in Kazakhstan on 19 September 2004 may be considered as the first example of work in this area, in which context the following announcement was made: “The observers will monitor voting, counting, and tabulation of results, *including the possible use of information technology* in these important elements in the electoral process.” (Emphasis added); at: [http://www.osce.org/news/show\\_news.php?ut=2&id=4280](http://www.osce.org/news/show_news.php?ut=2&id=4280).

## *Annex*

### *Basic E-Voting Questionnaire*

The competent national authority is invited to provide detailed answers to all applicable questions. The hints given in brackets are merely suggestions; alternative answers may be given. We would be grateful for any further country-specific information, where this is available.

1. Type of e-voting system used
  - 1.1. Brief description of system used
  - 1.2. Where will the system be implemented? (at polling stations/elsewhere)
  - 1.3. What will the legal status of the implementation be? (legally binding result/test only)
  
2. What elections and individuals are affected?
  - 2.1. In what elections or referenda is e-voting to be used?
  - 2.2. Who will be entitled to use the system? (all voters/specific groups)
  - 2.3. What special conditions will apply to the use of the e-voting procedure? (need for separate registration [by paper/post/electronically]/use without prior notice)
  
3. In the case of polling-station based e-voting:
  - 3.1. Will individual voters only be able to vote at their designated polling station or at any polling station offering e-voting?
  - 3.2. How is the ballot cast? (paper and pencil, scanner at ballot box, mechanical/electronic machine, PC, paper printout of cast ballot ...)
  - 3.3. How is data on votes cast stored? (in ballot-box/on machines in individual polling stations/directly transmitted to election authority)
  - 3.4. Transmission of ballot data (physical transfer of hardware module/electronic transfer)
  - 3.5. Location for storage and counting of e-ballots
  
4. In the case of remote e-voting (i.e. not in polling stations):
  - 4.1. Where will electronic votes be cast? (e.g. local government offices, post offices, supermarkets, at home ... – where public venues are used, will voting be supervised by (electoral) authorities?)
  - 4.2. What will the time-frame for voting be? (is it identical with that for paper voting at polling stations?)
  - 4.3. What devices will be used? (provided by the authorities, certified by the authorities, provided privately – kiosk/PC/telephone [numbers/SMS]/digital TV/etc.)
  - 4.4. Voter credentials (username/password[s] – how obtained [e-mail, post]; smart cards; use of digital certificates/electronic signature)

- 4.5. What channel(s) will be used to transmit data? (post, internet, phone [which kind?], digital TV, ...)
- 4.6. Where will data be stored and counted?
5. By what means will universal, equal, free, and secret suffrage be ensured?
6. How will lists of electors be created, stored and how will access be managed? [lists of electors, *i.e.* of persons eligible to vote] (paper-based/ electronic storage/paper printouts/direct access by polling station officials – public accessibility)
7. How will candidates be registered? (in person/paper/electronically)
8. Recounts (electronic/manual; by the same or a different electronic system)
9. Consultation with candidates and/or political parties on the e-voting system (how/when/what participants/feedback/follow-up?)
10. Languages used on devices/websites used for e-voting
11. Informing and training the electorate (how/when/test sites)
12. Access by observers to individual stages in the e-voting process and to technical components of the system (partisan/independent, domestic/international – extent granted)
13. Hardware used (supplier[s], [independent] tests, certification ...)
14. Software used (supplier[s], [independent] tests, certification, made public ...)
15. Extent of use (incl. number/percentage of polling stations/electorate)
16. Risk assessment (undertaken, results, made public)
17. Audit trails of e-ballots
18. Previous tests (number, extent, occasion, whether by a hostile third party, made public, implementation of lessons learnt)
19. Previous use of e-voting in the country (same system/different system/ lessons learnt/public reaction/follow-up//in another country)
20. Option/requirement to perform end-to-end verification, *ex-ante* and *ex-post*.
21. Authority/authorities responsible for system security and operability/operation
22. Body certifying the system and date of certification (independent body? ... once/regularly)
23. Reasons for introducing e-voting
24. Strategies/action plans/roadmaps/timelines for introduction (*please enclose/attach relevant texts*)

25. Groups/individuals involved in the development/implementation strategies and concrete activities (including academia, opposition, civil society/NGOs ...)
26. Legislation (by which body, date, texts – *please enclose/attach*)
27. Implementation of national standards (what standards, issued by which body, extent of implementation)
28. implementation of international standards (in particular Council of Europe standards, and ICT and web standards), irrespective of formal binding force
29. International co-operation (multilateral arrangements/individual partners/time/follow-up)

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## External Relations and Influences





## The OSCE and the Anti-Corruption Movement in Armenia<sup>1</sup>

*Enlarging Co-operation between the OSCE and Transparency International*

### *Introduction*

The OSCE Office in Yerevan and the Center for Regional Development/Transparency International (CRD/TI) Armenia have been co-operating since 2000. The OSCE Office in Yerevan was formally established in February 2000, with a mandate that covers all the OSCE's dimensions, including the human, political, and economic and environmental aspects of security and stability. During the early months of its operation, the Office's main activity was to establish partnerships with governmental, parliamentary, and civil-society organizations in Armenia. A key priority of the newly established Office was work in the area of combating corruption.

Soon after the establishment of the CRD in July 2000, the Center's leadership approached the OSCE Office in Yerevan to ask for support for its first initiative, a South Caucasus conference entitled "Towards Good Governance through Regional Co-operation". Given the importance of cross-border, regional co-operation in the South Caucasus, Ambassador Roy Reeve, then the Head of the OSCE Office in Yerevan, agreed to make a presentation at the event, which was held in October 2000. Corruption was one of the topics discussed at the Conference, after which the TI Secretariat offered the CRD the opportunity of becoming TI's partner in Armenia. A year later, in October 2001, the CRD was accredited as the national chapter of TI in Armenia.

Since its foundation in 1993, Transparency International, a prominent non-governmental organization, has led global efforts to curb the world of its immense corruption problems. TI seeks to achieve its goal by working globally, regionally, and at country level. In the international arena, TI raises awareness about the damaging effects of corruption, advocates policy reform, works towards the implementation of multilateral conventions, and subsequently monitors compliance by governments, corporations, and banks. At the national level, TI chapters located in some 100 countries all over the world work to increase levels of accountability and transparency, monitor the performance of key institutions, and press for necessary reforms in a non-partisan manner. A key challenge for the TI movement worldwide has always been to organize itself so that its partners can benefit from each other's experience, thereby building global capacity to more effectively fight corruption.

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<sup>1</sup> The article covers the period up to December 2004.

This contribution introduces four aspects of successful co-operation between the OSCE Office in Yerevan and CRD/TI Armenia. Today, co-operation between these two organizations ranges from regular consultations and meetings related to the field of anti-corruption to specific projects and initiatives aimed at increasing the role of civil society in anti-corruption policy reforms, promoting public awareness in environmental issues, monitoring elections and making amendments to the electoral law, facilitating regional co-operation, etc. CRD/TI Armenia is a regular participant in OSCE meetings, workshops and conferences. In July 2003, recognizing the leading role of the OSCE Office in Yerevan and its leadership in supporting civil society initiatives aimed at combating corruption, CRD/TI Armenia granted its first award for “The Outstanding Contribution to the Anti-Corruption Movement in Armenia” to Ambassador Roy Reeve.

### *Involving Civil Society in Policy Making*

A few months after the opening of the Office, it became clear that there was an urgent need for better co-ordination between national and international anti-corruption efforts. Ambassador Roy Reeve took the lead and created a Joint Task Force (JTF) under the aegis of the OSCE Office in Yerevan. It consists of representatives of diplomatic missions and international organizations and aims to develop an overall anti-corruption strategy to enhance efficiency and avoid duplications. The Office also worked to promote active involvement of civil society and mass media in the fight against corruption, and has developed close co-operative relations with the local chapter of Transparency International.<sup>2</sup>

In July 2002, an anti-corruption strategy paper was drafted by a group of international and local experts. It had been financed using funds from a World Bank grant of 300,000 US dollars and was submitted to the Anti-Corruption Commission that had been established in 2001 under the chairmanship of the prime minister of Armenia, Andranik Margarian. The paper was discussed in detail by the international organizations represented in the JTF. Several civil society organizations, members of the Anti-Corruption NGO Coalition, which was formed under the CRD/TI Armenia umbrella in March 2001, had an opportunity to provide their feedback on the initial version of the strategy to the government working group.

In the following months, the strategy was revised, but it was never published or discussed. The drafting process was then frozen for the duration of the election campaign that lasted from January to May 2004. A new coalition government, formed in June 2003 by three political parties that together enjoyed a parliamentary majority, adopted a new anti-corruption strategy programme and an action plan for its implementation in November 2003, with-

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2 See e.g. Organization for Security and Co-operation in Europe, The Secretary General, *Annual Report 2001 on OSCE Activities*, SEC.DOC/3/01, 26 November 2001, pp. 41-42.

out public discussion. The public became familiar with the published strategy only in December 2003, after its approval. This was a serious setback in building a dialogue between civil society and government authorities in Armenia, despite the strong efforts of the OSCE Office in Yerevan to encourage such a dialogue in this field.

In January 2004, CRD/TI Armenia made a public statement to the effect that the implementation of any anti-corruption strategy would remain ineffective as long as the key principles of fighting corruption – transparency, accountability, and participation – were not ensured. The strategy itself has serious drawbacks, which have been raised in public by CRD/TI Armenia representatives on various occasions. Though the Armenian government received comments from other NGOs as well, there have been no further attempts to revise the strategy.

Another recent aspect of the OSCE-CRD/TI Armenia co-operation is related to the Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, Tajikistan, and Ukraine, as adopted at the fifth annual meeting of the Organization for Economic Co-operation and Development (OECD) Anti-Corruption Network for Transition Economies (ACN) at Istanbul in September 2003. The Action Plan obliges the named countries to draw up legislation and create institutions for fighting corruption in order to increase transparency in the public sector, encourage business ethics, and ensure public participation in the decision-making process.

After Istanbul, the OECD held a series of follow-up meetings to review the draft status reports prepared by the governments of the Action Plan countries. The aim of the status reports was to describe the state of the legal and institutional system in each country based on criteria developed by the ACN. The Armenian draft status report was presented at the second review meeting in Paris in June 2004. Prior to that, CRD/TI Armenia had been approached by OSCE representatives, who had asked to comment on the draft report from the point of view of civil society. The OSCE Office in Yerevan supported the participation of the CRD/TI Armenia expert at the Paris meeting, where the CRD/TI Armenia's comments were disseminated to all the participants. A CRD/TI Armenia representative presented an alternative assessment of the draft report and contributed to the joint development of the summary assessment and recommendations by the OECD experts and the members of the official governmental delegation of Armenia.

CRD/TI Armenia is also strongly committed to the further monitoring of the implementation of recommendations related to the OECD Anti-Corruption Action Plan, and of other obligations that Armenia has undertaken within the scope of international conventions and as a result of Armenia's membership of various international structures. The Commission on the Monitoring of Implementation of the Anti-Corruption Strategy was established in July 2004 within the State Anti-Corruption Council under the prime minister and tasked, among other

things, with examining Armenia's compliance with its international obligations in the field of anti-corruption.

CRD/TI Armenia has been made a permanent member of the Commission, largely thanks to the support of the OSCE Office in Yerevan, and its present Head, Ambassador Vladimir Pryakhin, in particular. Other NGOs are also involved in the Commission, on a rotating basis, which could help foster civil society involvement in monitoring the implementation of the anti-corruption policy. Meanwhile, given the lack of effective dialogue between the state and civil-society representatives, the OSCE Office in Yerevan is expected to make a more consistent effort to ensure public participation in the field.

### *Ensuring Access to Environmental Information*

The second important area of interactions and consultations between the OSCE Office in Yerevan and CRD/TI Armenia is environmental affairs. The Office has made a significant effort to encourage Armenia to ratify the UNECE Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention). It provided leadership in this effort by building a coalition of interested government institutions, civil society organizations, and international actors.

One of the most significant achievements carried out by the OSCE Office in Yerevan in the area of environment-related activities was the establishment of the Public Environmental Information Centre in 2002, in partnership with the Armenian Ministry of Nature Protection. The Armenian Aarhus Centre, as it is known, was the first of its kind in the region and served as a model for establishing similar resource centres in other countries. Its objective is to promote the basic principles of the Aarhus Convention in terms of access to information and public participation in environmental decision-making.

CRD/TI Armenia is represented on the Centre's Board of Experts, and its representative was the first co-ordinator of the Centre from September 2002 until January 2004, and worked closely with the OSCE Office in Yerevan to develop the Centre's strategy and activity plan. A CRD/TI Armenia representative was also assigned the task of making a presentation concerning the role of the Armenian Aarhus Centre in implementing the Strategy for Education for Sustainable Development at the third preparatory seminar to the Twelfth OSCE Economic Forum in Bishkek.

The first project under the umbrella of the Aarhus Centre, entitled "Who is Who in the Environment in Armenia?", was implemented by CRD/TI Armenia in 2002, with support from the United Nations Environment Programme (UNEP) and the OSCE Office in Yerevan. The project produced a print directory of all the environment-related information held by Armenian state institutions, including meta-data on more than 70 state institutions. The goal of the project was to promote the implementation of the Aarhus Convention in Arme-

nia and strengthen the role of the Armenian Aarhus Centre as a resource for all interested parties.

The OSCE Office in Yerevan was a strong supporter of another project conceived by CRD/TI Armenia, which aimed at improving environmental assessment legislation. The project was later funded by the British government. The Office also assisted the Coalition of Armenian NGOs, which includes CRD/TI Armenia, in initiating a dialogue between governmental and non-governmental organizations on environmental problems in Yerevan, which focused particularly on urban development.

The OSCE has also promoted public discussion of security-related environmental issues contributing to regional stability. A CRD/TI Armenia representative contributed to the discussions at the OSCE Seminar on “Strengthening the OSCE Role in the Realm of Environment and Security” in Berlin in July 2001, as well as at the third preparatory seminar for the Tenth OSCE Economic Forum on “Strengthening the Role of NGOs in Promoting Regional Co-operation on Water Issues” in Baku in April 2002.

Given the experience and recognition it has acquired, the OSCE should preserve and strengthen its leadership role in the aforementioned components of its economic and environmental dimension. However, there is a need for more focus on the sustainability aspect of the Organization’s endeavours. Specifically, the Aarhus Centre’s current management model should be reviewed to consider whether a new approach could make the Centre’s activities more sustainable. In addition, discussion of security-related environmental issues should be used to develop more practical steps to strengthen institutions and implement concrete projects. Given the lack of political will to ensure real access to information and public participation in the decision-making processes in Armenia, the OSCE should play a more prominent role in furthering co-operation between the government and civil society.

#### *Monitoring Elections and Improving Electoral Legislation*

In 2003, serious violations of both electoral legislation and basic civic freedoms occurred in Armenia. With its election-monitoring mandate, the OSCE, and its Office for Democratic Institutions and Human Rights (ODIHR) in particular, played a central role in observing the country’s most recent presidential and parliamentary elections and commenting on their compliance with international standards.<sup>3</sup> Western observers, local NGOs, and media representatives recorded numerous infringements, including the refusal to allow opposition candidates to register; threats to opposition members of election commissions and candidate proxies, and the removal of the former from the commissions; intimidation and harassment of the supporters of various candidates; restrictions on media free-

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3 OSCE/ODIHR, *Final Report on the Presidential Elections in Armenia*, 28 April 2003, OSCE/ODIHR, *Final Report on the Parliamentary Elections in Armenia*, 31 July 2003.

dom and mistreatment of journalists; misuse of state resources; vote buying; box stuffing, errors in voting and vote counting; and bribery of electoral commission members.<sup>4</sup>

Alongside other observers, CRD/TI Armenia also monitored parliamentary elections in May 2003 within the scope of the “Monitoring of Parties’ Campaign Finances” project, funded by the Open Society Institute. In the course of implementing the project, CRD/TI Armenia collaborated with eleven parties and blocs and established contacts with the Central Electoral Commission and representatives of media companies and publishing houses. The project team had several meetings with Peter Eicher, Head of the OSCE/ODHIR Election Observation Mission, and Lord Russell-Johnston, President of the Parliamentary Assembly of the Council of Europe, to discuss critical issues to be addressed during elections.

The results of the election-monitoring work performed by CRD/TI Armenia<sup>5</sup> have indicated that political competition in the country has become a race for power at any price, thus undermining the core values of the party system. Party finances are increasingly becoming an arena for political corruption. Poor economic conditions, an immature party system, an underdeveloped political culture, and a general mistrust of political actors limit the possibility of fundraising among genuine party supporters. Under such circumstances, parties are forced to use illegal and unethical ways of raising money, avoiding disclosure of revenues and increasing their dependence on donors that expect certain favours in return.

At the same time, there are also opportunities for corruption in party spending. The project found that the three parties that form the current government substantially exceeded the permissible campaign fund limits. While the official spending data presented by other parties did not match the results of monitoring either, the discrepancies were less pronounced. It should be noted, however, that one (opposition) party did provide the project team with reliable figures. In some cases, records were kept properly, but there were still discrepancies revealed between the financial reports submitted by parties and the results of independent monitoring (e.g. for TV advertisements). Serious violations were also recorded with regard to printed publications and other campaign materials and events.

Some parties spent far more money on their election campaigns than reported as a result of secret transactions aimed, for instance, at avoiding taxes or hiding the sources of donations. Secret discounts or other favourable deals were also made with service providers. Party leaders justified this with reference to the imperfection of legislation that, by limiting the campaign funds, forces parties to bypass the law. Others have argued that even the electoral law itself

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4 See the websites of hetqonline, Investigative Journalists of Armenia, at: <http://www.hetq.am>, Yerevan Press Club, at: <http://www.ypc.am>, and CRD/TI Armenia, at: <http://www.transparency.am>.

5 For more information, see: CRD/TI Armenia, *Monitoring of the 2003 National Assembly Election Campaign Finances*, Yerevan 2003.

leaves too much room for mismanagement and misinterpretation. Building on the results of the election-monitoring process as well as consultations with political parties and international experts, CRD/TI Armenia made specific recommendations for reforming the electoral law to promote a transparent, accountable, and fair system of campaign funding.<sup>6</sup>

The OSCE Office in Yerevan, along with the working group on elections, which it formed from representatives of interested international organizations, was regularly informed about the results of CRD/TI Armenia's monitoring activities. The project recommendations were submitted for consideration to the Venice Commission of the Council of Europe by the OSCE Office in Yerevan. Representatives of CRD/TI Armenia also presented their recommendations at an NGO meeting, organized by the Office in January 2004 to discuss election-related issues, and at a round table on electoral reform in Armenia, co-organized in February 2004 by ODIHR, the OSCE Office in Yerevan, the Venice Commission, and the Council of Europe representation in Armenia. Later, some of CRD/TI Armenia's suggestions were included in the Venice Commission's package of recommendations on amendments to the Armenian electoral code.

Almost a year after the elections, political rivalry between the ruling parties and the opposition manifested itself in rallies and a parliamentary boycott organized by members of the opposition, political repression, arrests, and intimidation of opposition supporters, general frustration among the citizenry, etc. In this context, it is critical for the OSCE Office in Yerevan to pay due attention to the serious violations of human rights and democratic freedoms that Armenia has recently been witnessing. Moreover, the Office should not only co-operate closely with the authorities in the drafting of new legislation, but should also strengthen efforts to build institutional capacity for its implementation and the monitoring of preparations for the next elections, with the active involvement of civil society and the media. Otherwise, the next round of elections is also likely to be flawed, which would inevitably deepen the current political crisis in the country, further slowing down its democratic development.

#### *Promoting Regional Co-operation and Stability*

The fourth area of co-operation between the OSCE Office in Yerevan and CRD/TI Armenia is the promotion of regional co-operation and stability. As already mentioned, the Office assisted the CRD in preparing and holding the conference entitled "Towards Good Governance through Regional Co-operation" in Yerevan in October 2000. The conference, funded by the US State Department, brought together graduates from US universities in the region, along with experts from the USA, France, and Germany, to discuss corruption-related issues. One of the main outcomes was the idea of a joint project aimed at promoting transparency in regional customs, which was later funded by the

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<sup>6</sup> For more details, see once again the website of CRD/TI Armenia, cited above (Note 4).

South Caucasus Co-operation Programme of the Eurasia Foundation and successfully implemented in 2001-2002 by CRD/TI Armenia together with the Azeri Entrepreneurship Development Foundation and the Georgian Association of Young Economists.

The success of the conference, which was attended by a representative of the TI Secretariat, raised TI's interest in making the CRD its NGO anti-corruption partner in Armenia. Soon after the conference, in November 2000, CRD representatives were invited to Tbilisi, Georgia, to meet with Peter Eigen, the chairman of TI, and Miklos Marschall, TI's regional director for Europe and Central Asia, to talk about possible co-operation. In December 2000, the CRD became a TI partner organization, in May 2001 it received the status of "national chapter in formation", and in October 2001 the organization was accredited as TI Armenia.

In September 2001, CRD/TI Armenia initiated the next regional event, a TI workshop on "Combating Corruption through Regional Co-operation" funded by the TI Secretariat and strongly supported by the OSCE Offices in Yerevan and Baku and the OSCE Mission to Georgia, representatives of which also participated in the workshop. Experts from TI chapters in Azerbaijan, Georgia, Russia, and Armenia, along with representatives of the TI Secretariat, Armenian state institutions, NGOs, and international organizations analysed the situation in the region and outlined several joint projects. The OSCE Office in Yerevan took this opportunity to organize a JTF meeting with representatives from the TI Secretariat and CRD/TI Armenia to share information about TI's goals and activities, find common interests in supporting concrete regional projects, etc.

In June 2004, TI organized its first ever regional meeting for Europe and Central Asia in Yerevan. The main objective of this initiative, which was closely linked with the decision to hold it in Yerevan, was to address the immense challenges of the South Caucasus in a constructive manner, and to reach out a hand of support to the governments and civil society of the region by offering to share the wealth of experience TI has gathered as a global organization. The regional meeting was attended by more than 130 participants from 26 countries in Europe and Central Asia, including representatives of TI national chapters and the TI Secretariat, international and local experts, government officials, NGOs, international organizations, and the media.

The extensive media coverage the event attracted raised the profile of the problem of corruption in the region, boosted public awareness of ongoing anti-corruption programmes in many countries in Europe and Central Asia, and showcased international best practices. The OSCE Office in Yerevan was not only one of the first international organizations located in Armenia that agreed to fund this regional initiative, it also called upon all JTF member organizations to support the meeting. The event was marked by an unprecedented level of support from international organizations such as the OSCE, the Council of Europe, the European Union, the Open Society Institute, as well as the British, Swiss, German, and US governments. This created a solid basis for future col-



laborative efforts between diverse international actors to promote regional anti-corruption efforts.

In addition, the OSCE decided to co-sponsor with the Eurasia Foundation the second joint project of CRD/TI Armenia and its regional partners, entitled "Trade Facilitation in the South Caucasus". Considering the promotion of economic stabilization to be one of the most important aspects of building security in the region, the OSCE Offices in Yerevan and Baku and the OSCE Mission to Georgia are all actively involved in the implementation of the 2004-2005 project. Its aim is to examine the current situation in customs authorities and other state bodies dealing with imports and exports in order to reveal key national and regional problems and to provide a regional forum for discussion between government officials and businesses.

Despite some positive developments towards trade facilitation in the region, imperfect legislation and vague procedures, poor law enforcement, a lack of transparency and information exchange, along with widespread corruption, are still hampering economic growth in Armenia and its neighbours. Among other factors, regional conflicts are also negatively influencing the economic stability of the South Caucasus. The OSCE should take advantage of input from non-governmental organizations, whose outsider perspective and neutral, non-political position may help facilitate dialogue between countries as an initial step towards actual economic stabilization. While national governments should be forced by the international community to move beyond declarative statements to take concrete action, the civil society of the countries in the region needs to be more effectively involved in monitoring reform processes, sharing information through regional networks, and finding applicable mechanisms and common solutions in the given field.

### *Conclusion*

Worldwide, Armenia is perceived as a very corrupt country. It was ranked 82nd of 146 countries in TI's 2004 Corruption Perception Index, gaining a score of 3.1 on a scale of zero to ten.<sup>7</sup> Corruption is one of the most critical factors hindering political, economic, and social development in the country and thus has a negative effect on regional security in the South Caucasus. The role of civil society in fighting corruption is as important as that of the national political leadership. In this respect, co-operation between CRD/TI Armenia and the OSCE Office in Yerevan is the best example of an effort to promote civil society participation in a diverse range of policy reforms that cover almost all aspects of the OSCE activities in Armenia.

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7 Cf. Transparency International, *Corruption Perception Index 2004*, at: <http://www.transparency.org/cpi/2004/cpi2004.en.html#cpi2004>. The index reflects the views of experienced businesspeople and country analysts on the level of corruption that is believed to exist in a country. The scale ranges from ten (no corruption) to zero (extreme corruption).

Alongside all that has been mentioned in this contribution, the OSCE Office also assisted CRD/TI Armenia in conducting and publishing the “Country Corruption Assessment: Public Opinion Survey”,<sup>8</sup> producing and broadcasting anti-corruption films; participating in numerous conferences and workshops in Armenia and abroad, such as the Eighth Human Dimension Implementation Meeting in Warsaw, 2003, the Ninth OSCE Economic Forum in Prague, 2001, and the preparatory and follow-up meetings to this held in Bucharest in March 2001 and July 2002. The OSCE Office has also raised support for various other initiatives and projects. The CRD/TI Armenia experts were offered the opportunity to carry out the “Arabkir Police Department Performance Public Opinion Poll” within the OSCE Police Assistance Programme<sup>9</sup> and to conduct training sessions on “Legal Aspects of Anti-Corruption Policy” as part of a training programme for the staff and experts of the Armenian parliament.

In the meantime, greatly expanded efforts and commitment are still needed to strengthen the anti-corruption movement in Armenia. Political developments during the last two years, mainly related to the 2003 elections, resulted in a growing rivalry between the ruling coalition and the opposition parties and led to general frustration and public mistrust. People see no genuine manifestation of a political will to promote democratic reforms and reduce corruption in the country, which would entail not only the adoption of strategies and laws, and membership in international structures, but also taking strong measures to detect violations and punish those responsible, uphold the rule of law and ensure social equality, sustain economic growth, and improve living standards.

Increasing the transparency and accountability of the system of governance and ensuring public participation in decision-making processes are necessary preconditions that must be fulfilled before Armenia can be considered for membership of the European Union. Under such conditions, it is critical for the current government to prove that its expressed willingness to implement true democratic reforms is to be taken seriously. This is where civil society, and CRD/TI Armenia, in particular, may become a watchdog with the task of ensuring the effective implementation of the reforms, increasing public awareness and participation, and making a valuable contribution to establishing democratic government and an open society. In this respect, the OSCE should assist both government institutions and civil society organizations in learning from the experience of the advanced Western nations, adjusting it to national and regional conditions, and facilitating the establishment of a partnership between the state and society that aims at ensuring the sustainable democratic development of Armenia.

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8 CRD/TI Armenia, *Country Corruption Assessment: Public Opinion Survey*, Yerevan 2002, also at: <http://www.transparency.am/Website/Publications/Survey/Survey-eng.pdf>.

9 CRD/TI Armenia, *Arabkir Police Department Performance: Public Opinion Poll*, Program Report, OSCE, Yerevan 2004, also at: [http://www.osce.org/documents/oy/2004/01/2332\\_en.pdf](http://www.osce.org/documents/oy/2004/01/2332_en.pdf).

## The “Helsinki Coup”: A Model for American Democratization Efforts in the Middle East?<sup>1</sup>

On 1 May 2003, as US President Bush announced to the crew of the aircraft carrier USS Abraham Lincoln that “major combat operations in Iraq have ended”, he may well still have believed that regime change by force in Iraq would serve as a signal for the democratization of the entire Middle East.<sup>2</sup> Iraq’s self-proclaimed liberators had no idea quite how much resistance they would meet in that ancient land.<sup>3</sup> Six months on – after the initial shine of the military victory had faded, and while terrorists were spreading fear and horror throughout the country, and political reconstruction was held ransom to the power struggle between ethnic, tribal and religious leaders – Washington revised its position. The US administration was no longer willing to stake everything on the domino theory, according to which the fall of Saddam Hussein should have been the beginning of the end for the region’s autocratic regimes.

### *A New “Forward Strategy”*

In the keynote speech he gave to members of the National Endowment for Democracy in Washington on 6 November 2003, George W. Bush declared the democratization of the Middle East to be a key goal of American security policy.<sup>4</sup> Two weeks later, speaking in London’s Whitehall Palace, he again raised the concept of a “forward strategy of freedom in the Middle East”.<sup>5</sup> In a free and democratic Middle East, he argued, the wellspring of hatred and terrorism would dry up. Spreading democracy is thus the strategy of choice for fighting the greatest contemporary danger: weapons of mass destruction in the hands of terrorists and the dictators that support them.

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1 The author would like to thank Bertram Kühnreich for the valuable research and critical comments he contributed to this article.

2 The name of the initiative and the designation of the region vary among “Middle East”, “Greater Middle East”, “Broader Middle East” “Broader Middle East and North Africa”, and “Broader Middle East and the Mediterranean”. In this contribution, the expression “Middle East” is used throughout.

3 Cf. President Bush Discusses Iraq in National Press Conference, 6 March 2003, at: <http://www.whitehouse.gov/news/releases/2003/03/20030306-8.html>.

4 Cf. President Bush Discusses Freedom in Iraq and Middle East, 6 November 2003, at: <http://www.ned.org/events/anniversary/oct1603-Bush.html>.

5 President Bush Discusses Iraq Policy at Whitehall Palace in London, 19 November 2003, at: <http://www.whitehouse.gov/news/releases/2003/11/20031119-1.html>.

Democratization as a preventive security measure is nothing new in the foreign policy thinking of US governments. As early as 1994, for the first time since the end of the Cold War, the Clinton administration's "National Strategy of Enlargement and Engagement" elevated the global promotion of democracy to a strategic goal of American foreign policy. In June 2000, a US-sponsored conference in Warsaw attended by representatives of some 100 states laid the foundations of a "Community of Democracies" – an informal coalition of states for the global promotion of democracy. In the conference's concluding document, the participating states declare the interdependence of peace, development, human rights, and democracy, assert the universality of democratic values, enumerate core democratic principles and procedures, declare transnational terrorism a challenge for democracy, and declare their intention to co-operate in promoting democratic institutions and procedures worldwide and in tackling threats to democracy, such as terrorism.<sup>6</sup> But it was only following the attacks of 11 September 2001 and the shocking realization that the majority of perpetrators and planners originated in Middle Eastern states seen as friendly to the USA that this region, a sphere of US vital interests,<sup>7</sup> became a key target for American democratization plans.

*Reform Plans for the Middle East*

A beginning was made with the "Middle East Partner Initiative" (MEPI)<sup>8</sup>, announced by Secretary of State Colin Powell in a December 2002 speech to the conservative Heritage Foundation.<sup>9</sup> In his speech, Powell paints a dismal picture of the Middle East that draws upon the staggering findings of the UNDP's first Arab Human Development Report (2002) and describes the situation in terms of a "hope gap". MEPI aims to support reforms in the areas of business (competitiveness, investment climate, encouraging entrepreneurialism), politics (democratic procedures, developing civil society, rule of law, independence of the media), education (access to schools, teacher training, curriculum development, IT skills, practical relevance of classroom teaching), and women's empowerment (e.g. the removal of cultural, legal, and economic barriers standing in the way of women's active participation in

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6 Final Warsaw Declaration: Toward a Community of Democracies, 27 June 2000, at: <http://www.state.gov/g/drl/rls/26811.htm>. For further details, see the Polish government's communiqué: Toward a Community of Democracies, at: <http://www.state.gov/g/drl/rls/26815.htm>.

7 Cf. State of the Union Address delivered in Congress on 23 January 1980 by the President of the United States, Jimmy Carter, at: <http://www.jimmycarterlibrary.org/documents/speeches/su80jec.phtml>.

8 U.S. Department of State, Middle East Partnership Initiative, at: <http://mepi.state.gov/mepi/>.

9 Cf. U.S. Department of State, The U.S.-Middle East Partnership Initiative: Building Hope for the Years Ahead, Secretary Colin L. Powell, The Heritage Foundation, Washington, DC, 12 December 2002, at: [www.opinionjournal.com/extra/?id=110002762](http://www.opinionjournal.com/extra/?id=110002762).

public life). The way to close the “hope gap” is based on co-operation: “a new American government effort to support the peoples and governments of the Middle East in their efforts to meet these challenging and pressing human needs”.<sup>10</sup> However, the programme based on this approach is only marginally better funded<sup>11</sup> than the projects of the Clinton administration, which consisted largely of measures in the area of development policy.<sup>12</sup>

One year after MEPI’s launch, Washington’s tone had changed completely. Although, in December 2002, Powell had described MEPI as independent from “9/11” and the war against terrorism, and had stressed his desire merely to place the existing policy on a broader footing, by February 2004, the talk was of a “sweeping change in the way we approach the Middle East”.<sup>13</sup> This announcement contains elements of both self-criticism and certainty of victory. According to former CIA Director James Woolsey, currently an advisor to Pentagon chief Donald Rumsfeld, the USA is not blameless with respect to the political situation in the region, which it has long tended to see as its own private “gas station”: “One of the reasons democracy has made no progress in the Middle East is our fixation on oil.”<sup>14</sup> In his London speech, President Bush struck a similar note, proclaiming that: “Your nation and mine, in the past, have been willing to make a bargain, to tolerate oppression for the sake of stability [...] Yet this bargain did not bring stability or make us safe. It merely bought time, while problems festered and ideologies of violence took hold.”<sup>15</sup> At the World Economic Forum in Davos, Switzerland, in January 2004, Vice President Richard Cheney drew the full consequences of this approach: “Helping the people of the greater Middle East overcome the freedom deficit is, ultimately, the key to winning the broader war on terror.”<sup>16</sup>

In the end, it was Deputy Secretary of Defence Paul Wolfowitz who knew how to overcome the freedom deficit and win the war on terror. He recalled the subversive effect of the Helsinki Process, whose human-rights principles once contributed to the victory over the Soviet Union, and argued for a repeat of the “Helsinki Coup” in the Middle East,<sup>17</sup> although it must be

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10 Ibid.

11 It received 29 million US dollars in 2002, 100 million US dollars in 2003, and a projected 145 million US dollars in 2004.

12 Cf. International Crisis Group, *The Broader Middle East and North Africa Initiative: Imperilled at Birth*, ICG Middle East and North Africa Briefing, 7 June 2004, p. 2, footnote 7.

13 Robin Wright/Glenn Kessler, *Bush Aims For “Greater Mideast” Plan. Democracy Initiative To Be Aired at G-8 Talks*, *washingtonpost.com*, 9 February 2004, at: <http://www.washingtonpost.com/ac2/wp-dyn/A24025-2004Feb8?language=printer>.

14 “Wir fangen mit dem Irak an.” [“Iraq is Just the Start.”], Interview with James Woolsey, by Carolin Emcke and Gerhard Spörl, in: *Der Spiegel* 4/2003, pp. 108f (author’s translation).

15 President Bush Discusses Iraq Policy at Whitehall Palace London, cited above (Note 5).

16 The White House, *Remarks by the Vice President to the World Economic Forum, Davos, Switzerland*, 24 January 2004, at: <http://www.whitehouse.gov/news/releases/2004/01/20040124-1.html>.

17 “Paul Wolfowitz, the number two in the Pentagon, thus confided to his European partners that it was necessary to repeat the ‘Coup’ of the Helsinki accords, which contributed sig-

noted that, in the current case, it remains unclear precisely what is to be overthrown: the region's regimes or the attractiveness of Islamist extremism.<sup>18</sup>

### *The Example of Helsinki*

In the neo-conservative appropriation of the CSCE Final Act, we can detect an instrumental attitude towards human rights. As long as double standards are applied and human rights are viewed as nothing more than a weapon to be yielded at opponents, this attitude can be condemned as cynical.<sup>19</sup> But Wolfowitz was by no means the only politician in Washington who saw Helsinki as a model for Middle-East reform. Democrat Senator John Edwards campaigned during the 2004 presidential primaries on the platform of establishing a "Helsinki-type organization" for the Middle East, to be tasked with helping to develop civil society and political parties, monitoring elections, and resolving conflicts. "Helsinki" had become a magic word, whose attraction was not limited by party affiliation.

Nor does Washington have a monopoly on the idea of applying Helsinki to fundamentally transform the systems of governance of the Middle East. For the Egyptian sociologist and dissident Said Eddin Ibrahim, who has recently completed a three-year prison term, Eastern European dissidents, who, supported by the "older democracies", successfully stood up to "their" despots, were an inspiration: "Similar post-Helsinki support in the 1970s and '80s hastened peaceful transformations of governance across the former Soviet sphere."<sup>20</sup>

### *The CSCE Process: An Original and Many Imitations*

Helsinki had inspired ambitious reform plans for the Middle East before. Shortly after the Helsinki Final Act was signed in 1975, the then Israeli President, Yitzhak Rabin, speaking at the Congress of the Socialist International in Geneva, suggested applying the model of the CSCE to the Middle East.<sup>21</sup> Since the end of the Cold War, there have been many similar propos-

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nificantly to the fall of the Soviet Union by providing opposition forces with a minimum of publicity, if not protection." Jacques Almaric, La gageure de Bush [Bush's Mission Impossible], in: *Libération* No. 7101, 11 March 2004, p. 44 (author's translation).

18 Cf. Wright/Kessler, cited above (Note 13).

19 Cf. Stephen Holmes, The National Insecurity State, in: *The Nation*, 10 May 2004, at: <http://www.thenation.com/docprint.mhtml?i=20040510&s=holmes>.

20 Saad Eddin Ibrahim, Dissident Asks: Can Bush Turn Words into Action?, in: *Washington Post*, 23 November 2003, also at: <http://www.washingtonpost.com/ac2/wp-dyn?PageName=article&contentId=A5291-2003Nov21&notFound=trues>.

21 Cf. Frank Schimmelfennig, *Konferenzdiplomatie als regionale Friedensstrategie. Lässt sich das KSZE-Modell auf den Vorderen Orient übertragen?* [Conference Diplomacy as a Regional Peace Strategy. Can the CSCE Model Be Transferred to the Middle East?],

als. The initial momentum came from the crisis and war in the Persian Gulf in 1990-91, which was precipitated by Iraq's invasion of its neighbour Kuwait. The USA succeeded in persuading most of the Arab states to join the military coalition against the Iraqi aggressor, and, in return for supporting American efforts – a decision that was unpopular in their societies – the governments of these states insisted upon a US commitment to resolving the deep-rooted and recurrently violent conflicts that plague the Middle East. At the time, the prospects of success looked good: The USA and the Soviet Union were co-operating in the UN Security Council on managing the Iraq-Kuwait conflict, which suggested that the former rivalry of the two superpowers would not stand in the way of a peace initiative. Four weeks after the start of hostilities, the German Social Democratic politician Willy Brandt presented his proposals for a peace regime [*Friedensordnung*] in the Middle East, which were based on the example of the CSCE. And, while the ceasefire negotiations were still underway at the end of the war, Jordan's Crown Prince El Hassan bin Talal – seeking to distract the international community from his country's solidarity with its powerful neighbour – argued for establishing a Conference on Security and Co-operation in the Middle East (CSCME).<sup>22</sup> The form taken by the Madrid Middle East Conference of October 1991 – the inclusion of participants from virtually every state in the region, the participation of important external actors, the creation of multilateral working groups on key regional problems beyond territorial conflicts, and the initialization of a follow-up process of negotiations and discussions – also clearly reveals its debt to the CSCE.<sup>23</sup>

### *The Limits of Transferability*

The mood of optimism lasted only a few years. Yet even before the peace process was shattered by the murder of Yitzhak Rabin in November 1995, expectations had faded that Europe's success story would exercise an irresistible attraction on its neighbouring region. Regional experts had been quick to point out that political arrangements designed by Europeans had a poor track record in the Middle East, which has a deeply rooted strain of resistance to external intervention. Systematic comparisons of the two regions, which revealed major differences in the histories and structures of the con-

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Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik, No. 60, November 1991, p. 7, footnote 9.

22 See Willy Brandt, Eine Friedensordnung für den Nahen Osten [A Peace Regime for the Middle East], in: *Europa-Archiv* 5/1991, pp. 137-142; Das Jordanische Konzept einer KSZNO. Basierend auf einer Erklärung des jordanischen Kronprinzen El Hassan bin Talal sowie seines umfassenderen Konferenzpapiers [The Jordanian Concept of a CSCME. Based on a Statement of Jordan's Crown Prince El Hassan bin Talal and his Detailed Conference Paper], in: *Österreichische Militärische Zeitschrift* 6/1991, pp. 308-311.

23 Cf. Claudia Schmid, Frieden auf Raten? Der Verhandlungsfrieden in Nahost [Peace by Instalments? The Middle East Negotiations], in: Margret Johannsen/Claudia Schmid (eds), *Wege aus dem Labyrinth? Friedenssuche in Nahost* [Ways out of the Labyrinth? Peace Initiatives in the Middle East], Baden-Baden 1997, pp. 12-42, here: pp. 20f.

flicts, likewise appeared to prove the sceptics right. During the Cold War, the conflict in Europe had a structure defined by a bipolar international system with a clear ideological outline, dominated by the leading powers of the two major blocs – the USA and the USSR. Europe’s major political disputes were settled by means of several treaties, and the status quo between competing political systems was accepted. Strategic stability was assured by the threat of mutually assured destruction. Finally, the relevant actors were all states and alliances of states. The Middle East conflict region, in contrast, is fragmented and multipolar. Various states are vying for the predominant role, and the USA does not act as the leader of a bloc but merely as the external hegemon. The region’s borders are disputed or awaiting recognition under international law, while the development of WMD arms races and asymmetrical warfare are hard to control. Finally, the key actors in the Middle East include not only nation states but also stateless peoples.

It is no accident that the two regions have been compared largely in terms of foreign policy and military strategy. The domestic policies of Middle-Eastern governments were of no importance for international relations during the 1990s. When, in 1991, the US president announced his intention of instigating a “new world order”<sup>24</sup> in the Middle East, his intention was two-fold: to counter the “legitimacy risk” to which the Arab states had exposed themselves by joining the coalition against Iraq, and to grasp the window of opportunity offered by US-Soviet co-operation in the Security Council to resolve the Arab-Israeli conflict and to tackle a variety of economic, social and security-related problems that stood in the way of the region’s peaceful development. The domestic political situation of the Arab states was largely irrelevant to the pursuit of these goals.

#### *Terrorism and Democratic Reform*

That was no longer the case after the terrorist attacks of 11 September 2001. Since then, the USA has seen the region as the breeding ground for transnational Islamist terrorism, which has declared war on the West. The deeper causes of this are considered to be the region’s lack of political and social modernization. Insufficient opportunities for political participation, backward education systems, and the increasing failure of some of the region’s economies to adapt in the face of falling revenues, high population growth, and rising unemployment: All provide the radical alternative – militant Islamism – with fertile soil in which to grow.

This diagnosis underlies the US offensive to reform the Middle East. It can be traced back to a variant of the Democratic Peace Theorem. According to this theorem, democracies never go to war against each other. Moreover,

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24 Cf. Stanley R. Sloan, *The US Role in a New World Order: Prospects for George Bush’s Global Vision*, CRS Report for Congress, Congressional Research Service, Washington, DC, 28 March 1991.



democratic institutions have a generally moderating influence on society, with the result that external conflicts in general are more likely to be resolved peacefully than in authoritarian systems.<sup>25</sup> The spread of democracy among the states of the world therefore reduces the risk of war and is in the interest of the security of the existing democracies.<sup>26</sup> However, the American campaign does not aim at security from war in its conventional form of a conflict between states, but rather at security from the terrorist activities of substate actors – with or without state support. Democratic states, according to this variation on the theorem, do not bring forth terrorists and are willing to and capable of neutralizing any terrorists acting from within their societies, removing not only the domestic threat, but also the danger to others. To eradicate something rotten in the heart of a society, it is necessary to deprive it of the environment in which it thrives. Democratic reforms rob terrorism, which has declared war on the West and the Western way of life, of the social milieu that gives it succour, they are thus in the interest of Western security.

#### *From Forward Strategy to Partnership*

Hot on the heels of the US announcement of a new forward strategy for the Middle East came a working paper, produced for the June 2004 G8 summit, and containing the American version of a “G8 Middle East Partnership”.<sup>27</sup> It recognizes the deficits identified in the Arab Human Development Reports 2002 and 2003 as risks for stability and a threat to the common interests of the G8 states. The draft, which was made public in February 2004, calls for medium-strength social, economic, and political measures, but stops short of challenging the region’s existing political systems.<sup>28</sup> The measures proposed under the title “Promoting Democracy and Good Governance”, such as technical support in registering voters, exchange and training programmes, and academic scholarships, assume that local elites are in favour of democratic reforms and that it is only necessary to provide the necessary knowledge and skills. At the G8 summit meeting on 9 June 2004, the American draft became the G8’s “Partnership for Progress and a Common Future with the Region of the Broader Middle East and North Africa”, which, at the EU-US summit held in Dublin on 25-26 June 2004, finally led to the “EU-U.S. Declaration

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25 Cf. for example, Bruce Russett, *Grasping the Democratic Peace: Principles for a Post-Cold War World*, Princeton 1993.

26 For a critique of the notion of inevitable historical progress in the philosophy of history, see: Bruno Schoch, Frieden als Progress? Ein Großbegriff zwischen politischem Projekt und Geschichtsphilosophie [Peace as Progress? A Major Concept Between Political Project and the History of Philosophy], in: Mathias Albert/Bernhard Moltmann/Bruno Schoch (eds), *Die Entgrenzung der Politik* [The Deterritorialization of Politics], Frankfurt/New York 2004, pp. 13-39.

27 U.S. Working Paper for G-8 Sherpas, in: *Al-Hayat*, 13 February 2004, at: <http://english.daralhayat.com/Spec/02-2004/Article-20040213-ac40bdaf-c0a8-01ed-004e-5e7ac897d678/story.html>.

28 Cf. *ibid.*

Supporting Peace, Progress and Reform in the Broader Middle East and in the Mediterranean”.

In the 18 months between Colin Powell’s speech and the Dublin Declaration, the initiative changed shape a number of times. As a general tendency, it can be seen to have become more compromise-oriented as the number of states involved has increased. While the earliest statements struck an imperious note, generating lukewarm reactions in Europe and strong protest in the Arab world, the language of the Dublin declaration focused on co-operation. It is politically significant that the reform agenda, which Arab governments had seen as an externally imposed diktat, was now – on the urging of the EU – based on the principle that the regional states were the “owners” of the reform process.<sup>29</sup> However, those who had already decried the February 2004 US working paper as insubstantial,<sup>30</sup> expressed their disappointment that the potentates of the Middle East would be able to relax once more, secure in their position, after this further watering down.<sup>31</sup> Moreover, while the participants at the G8 summit committed themselves to seeking a just peace in the Middle East, this had not yet been a requirement in the American working paper of February 2004. This fuelled suspicion that the democratization offensive had been launched in order to sideline serious efforts to resolve the conflict, especially given Richard Cheney’s comments at Davos that democratic reforms were essential preconditions for a peaceful settlement of the enduring Arab-Israeli conflict.<sup>32</sup>

### *Helsinki and Its Consequences*

The Neo-Conservatives have pushed for Helsinki to be used as a model for the democratization offensive. The following considerations address the implications and consequences of this renewed appeal to the CSCE process as carried out in the 1970s and 1980s, this time in seeking the democratic transformation of the Middle East. Beforehand, it is necessary to recall certain structural features of the Helsinki process – to the extent that they are relevant to its borrowing by the Neo-Conservatives. Then this approach needs to be tested for coherence. What interpretation of the CSCE process underlies

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29 On the principle of “ownership”, see the remarks of the EU Special Representative for the Middle East Peace Process, Marc Otte, Towards an EU Strategy for the Middle East, World Security Network, New York, 1 March 2004, at: [http://www.worldsecuritynetwork.com/showArticle3.cfm?article\\_ID=9094](http://www.worldsecuritynetwork.com/showArticle3.cfm?article_ID=9094).

30 Cf. Marina Ottaway/Thomas Carothers, The Greater Middle East Initiative: Off to a False Start, Carnegie Endowment for International Peace, Policy Brief 29, March 2003, at: <http://www.ceip.org/files/pdf/Policybrief29.pdf>.

31 Cf. Marina Ottaway, The Broader Middle East and North Africa Initiative: A Hollow Victory for the United States, Carnegie Endowment for International Peace, 2004, at: <http://www.ceip.org/files/Publications/2004-06-15ottawayARB.asp?from=pubdate>.

32 Cf. Zbigniew Brzezinski, The Wrong Way to Sell Democracy to the Arab World, World Security Network, New York, 8 March 2004, at: [http://www.worldsecuritynetwork.com/showArticle3.cfm?article\\_ID=9096](http://www.worldsecuritynetwork.com/showArticle3.cfm?article_ID=9096).

its appropriation? What consequences does this interpretation have for Middle-East policy? Under what conditions can experience gathered in the CSCE process be applied for democratic and peaceful development in the Middle East? How should the USA's new "forward strategy" be evaluated in this context?

If, in invoking Helsinki, the Neo-Conservatives wanted to suggest that the CSCE process was based on a master plan for the collapse of the Soviet empire, they were mistaken. There are certainly no documents in the public domain that support this interpretation. In the early 1970s, as the agenda of a pan-European security conference was being contested, it is highly unlikely that anyone expected it to have such wide-reaching consequences.<sup>33</sup> Nevertheless, this has no bearing on the question of whether the CSCE can stand godfather to a democratization offensive in the Middle East. In the end, history can only be planned to a limited extent. But it is still to the credit of strategists and politicians that they attempt to draw lessons from it and to make plans to implement them.

Two aspects of the CSCE process deserve particular attention, if talk of a repeat of the "Helsinki Coup" in the Middle East is to be taken seriously: First, the linkage of security and human rights, and second, the interaction of states and civil-society actors.

### *Security and Human Rights*

The main goal of the Helsinki Final Act of 1975<sup>34</sup> was the "dedramatization of system antagonism".<sup>35</sup> The Soviet Union, whose foreign policy was shaped by the fear of encirclement from the 1920s, had already raised the notion of a pan-European security conference at a meeting of the foreign ministers of the four victorious powers of the Second World War in 1954. The USSR's interest in this concept lay in the possibility of consolidating the territorial and political status quo in Europe by having these recognized by the West. This found expression in two principles of the Final Act of Helsinki: the principle of the inviolability of frontiers (Principle III) and the principle of non-intervention in internal affairs (Principle VI). To achieve this, the Soviet Union was prepared to make concessions; in these, however, it certainly did not see the seeds of a revolutionary transformation of Europe's political landscape.<sup>36</sup> The USA was originally sceptical towards the idea of a pan-

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33 Cf. Daniel C. Thomas, *The Helsinki Effect. International Norms, Human Rights, and the Demise of Communism*, Princeton/Oxford 2001, p. 257.

34 Final Act of Helsinki, Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 141-217.

35 Sabine Jaberg, *KSZE 2001* [CSCE 2001], Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik, Hamburg 70/1992, p. 7 (author's translation).

36 Cf. Peter Schlotter, *Die KSZE im Ost-West-Konflikt* [The CSCE in the Cold War], Frankfurt/New York 1999, p. 167.

European security conference. However, the USA ended its resistance when a forum to deal with America's primary interest of arms control was established in 1973,<sup>37</sup> in the form of the Vienna negotiations on mutual and balanced force reductions (MBFR),<sup>38</sup> – something America had been proposing behind the scenes for years. Thereafter, the USA began to work together with its allies and the neutral and non-aligned states to have confidence-building measures included on the agenda of the conference.<sup>39</sup>

While the interests of both the Soviet Union and the USA could easily be assigned to the dimension of “security”, matters were not so straightforward with regard to the principle of “respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief” (Principle VII). This principle was included in the document on the insistence of the Western European states, as were the clauses on human contacts and the freedom of information (Basket III). The states of the European Community saw the CSCE as a means for them to participate directly in the détente process, which had previously been limited to the relations between the superpowers and the bilateral treaties between the Federal Republic of Germany and Eastern European countries. In addition, the Federal Republic of Germany used the CSCE and the greater openness of borders it brought about to pursue the goal of improving the situation of the German minorities in the East. These were not questions of international high politics – which were genuine security concerns at a time of militarized confrontation between blocs – but concerned rather the domestic conduct of governments.

The linking of principles and practices of security policy, such as the inviolability of frontiers and confidence building through military transparency, with respect for individual human rights and fundamental freedoms was the result of a shrewd diplomatic compromise in the negotiations between East and West.<sup>40</sup> Even if the Western side did include proponents of the liberal view that democratic ruling structures are a prerequisite for stable and peaceful international relations,<sup>41</sup> in the context of Cold War Europe, there could be no question of assuming a necessary link between human

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37 Cf. P. Terrence Hopmann, The United States and the CSCE/OSCE, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 63-81, here: p. 64.

38 Cf. Reinhard Mutz (ed.), *Die Wiener Verhandlungen über Truppenreduzierungen in Mitteleuropa* (MBFR) [The Vienna Negotiations on Force Reduction in Central Europe (MBFR)], Baden-Baden 1984.

39 Cf. Wolf Graf von Baudissin, Vertrauensbildende Maßnahmen als Instrument kooperativer Rüstungssteuerung [Confidence-Building Measures as an Instrument of Co-operative Arms Control] in: Jost Delbrück/Norbert Ropers/Gerda Zellentin (eds), *Grünbuch zu den Folgewirkungen der KSZE* [Green Book on the Consequences of the CSCE], Cologne 1977, pp. 215-229, here: pp. 218f.

40 Cf. Götz von Groll/Berthold Meyer, *Noch eine Chance für den Verhandlungsfrieden. Lehren aus der KSZE für eine Konferenz über Sicherheit und Zusammenarbeit im Nahen Osten* [One More Chance for Negotiated Peace. Lessons from the CSCE for a Conference on Security and Co-operation in the Middle East], Hessische Stiftung Friedens- und Konfliktforschung, HSFK-Report 7/1996, p. 39.

41 Cf. Schlotter, cited above (Note 36), p. 163.

rights and security.<sup>42</sup> Finally, the interpretation of the right to self determination in a way that accorded all peoples the right to determine their internal *and* external political status without external interference (Principle VIII) did not see human rights as the means for social transformation and the overcoming of the divided Europe. The possibility of “peaceful change” was more a reflection of West Germany’s interest in keeping open the “German question” and the possibility of reunification.<sup>43</sup>

Following the adoption of the Helsinki Final Act in 1975, the principle of human rights had ambivalent effects. Those who, before the end of the Cold War, sought to regulate the framework within which the conflict was carried out, and to reduce the excessive numbers of soldiers and weapons deployed in Europe, prioritized arms control. Human rights was seen as a less effective instrument for anchoring international security in détente.<sup>44</sup> In contrast, those who evaluate the CSCE’s human-rights agreements retrospectively from the post-Cold War world tend to take the opposite view, seeing human rights as a dynamic aspect of the CSCE process.<sup>45</sup> These contrasting perspectives lead to a second difference: In evaluating the effectiveness of CSCE norms, the approach that emphasizes arms-control tends to deal with the level of states as actors and inter-state relations, while the human rights-based approach focuses on the CSCE’s effect in the sphere of domestic politics.

### *Helsinki from Below*

The signing of the Helsinki Final Act led to a mass mobilization in the socialist countries in the form of the “Helsinki Groups”, which established transnational links with the peace movement in the West.<sup>46</sup> They demanded the implementation of the agreements contained in Principle VII and Basket III and expected that the CSCE monitoring process would protect them from repression.<sup>47</sup> In their comportment towards the citizens’ movements, the regimes found themselves caught on the horns of a dilemma. The wish to preserve the hegemony of the one-party state by any means necessary contradicted the desire for international legitimacy. Which of these opposing tendencies dominated in a given situation depended on the prevailing climate in East-West relations: a cooling generally signalling increasing repression, a

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42 For a critical view of efforts to link arms-control measures (which are an instrument of security policy) with human-rights protection, cf. Reinhard Mutz, *Rüstungskontrolle und Menschenrechte* [Arms Control and Human Rights], in: *Aus Politik und Zeitgeschichte* B 44/87, 31 October 1987, pp. 13-18.

43 Cf. Egon Bahr, *Zu meiner Zeit* [In My Time], Munich 1996, p. 320.

44 Cf. Mutz, cited above (Note 42), p. 14.

45 Cf. Schlotter, cited above (Note 36), p. 162.

46 Cf. Ben Schennink, *Helsinki from Below: Origin and Development of the Citizens’ Assembly (HCA)*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 403-415, here: pp. 404-407.

47 Cf. the country overview in Thomas, cited above (Note 33), pp. 160-194.

political thaw bringing increasing tolerance, until the point was reached where the liberalization of the political system could only have been held back with the help of the army. Several explanations can be offered for the fact that the Soviet Union chose to discard this last option. The renunciation of violent repression was the price the Soviet Union had to pay for the Western economic assistance it hoped would counteract the falling productivity of its planned economy. Renouncing violence in this way was made easier for the Soviet political elites (in particular the reformers around the Soviet head of state, Mikhail Gorbachev) by the interaction of political mobilization within their societies with the international socialization of the USSR. These forces had transformed Soviet elites to the extent that they saw respect for human rights as a higher virtue than the survival of the one-party state.<sup>48</sup>

### *Helsinki: A Worthless Template?*

This is not the place to consider alternative explanations for the end of the Cold War and the implosion of the Soviet Union, such as the misallocation of resources in the Socialist states as a result of the arms race or the political system. It is enough to recognize that Neo-Conservatives' talk of repeating the "Helsinki Coup" in the Middle East is based on the premise that it was the power of the human-rights stipulations of the CSCE Final Act to dynamize domestic politics in the socialist states that finally led to the dissolution of the Soviet empire and allowed new democracies (which, according to the Democratic Peace Theorem, would no longer pose a threat to the democratic West) to emerge in its former zone of dominance. However, if Eastern and Western states had not both been interested in *improving the security situation* in Europe, the process of compromise that marked the start of the CSCE process would never have occurred. To consider Helsinki as a relevant model for the Middle East purely in terms of human rights and their significance for the transformation of the Socialist states is to ignore the fact that security was the incentive that enabled the Socialist states to accept the unreasonable demands entailed by signing the human-rights provisions of the Helsinki Final Act. The risks that these stipulations brought for the Socialist regimes weighed less, in their eyes, than the advantages promised by recognition of the territorial status quo. Considerations of stability also played a role for the West in discussions over the CSCE's agenda. Destabilizing the Eastern-European regimes could easily have entailed security risks in the overall context of the bipolar world.<sup>49</sup> But this was something that the West was willing to accept as long as Soviet foreign policy could be contained by agreed

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48 Cf. *ibid.*, pp. 229-231.

49 Cf. Henry A. Kissinger, testimony before the Senate Foreign Relations Committee, 19 September 1974, published in: Supplement to the Air Force Policy Letter for Commanders, 11/1974, AFRP 190-2, Department of the Air Force, Internal Information Division, p. 3.

rules of conduct.<sup>50</sup> To create the preconditions for the expansion of democracy and human rights in Eastern Europe it was thus necessary to first satisfy the complementary security interests of both sides.

### *The Middle-East Conflict and Democratization*

Without a comparable security-policy agenda, the prospects of the human-rights principle alone leading to thoroughgoing social transformation in the Middle East and eliminating the attraction of the religiously codified terrorism of Islamist extremist groups are slender.<sup>51</sup> The difference in the structure and history of the conflicts in Europe and the Middle East has already been touched upon. As far as security issues are concerned, the unresolved Arab-Israeli conflict, and, in particular, the core conflict between Israel and the Palestinians, is of paramount importance here.

This long-lasting conflict and the struggle between Arab states over how to deal with Israel have so far hampered regional co-operation efforts, which could have been a motor of economic development superior to the *rentier* economies typical of the region. Of course, there are no guarantees that resolving the conflict would trigger economic and social development and overcome the barriers to modernization. However, a sustainable solution to the conflict – or at least the prospect of one – would significantly raise the incentive for the rulers of the Middle East to take the American reform agenda seriously. It would also improve the chances for the region to develop in the direction of pluralism, and perhaps even democracy – which the American sponsors of the “forward strategy” hope will serve to contain terrorism. For the risks that this agenda entails for the stability of Middle-Eastern regimes are likely to be greater if the level of conflict remains high than if the conflict is resolved or seems on course for resolution. This interpretation of the relationship between the ongoing absence of peace and the stability of the region’s regimes may be surprising, seeing that it contradicts the widespread view that the conflict is instrumentalized by the region’s autocratic rulers in order to avoid carrying out reforms. However, this objection ignores the ambivalent effect the conflict has on the balance of power between entrenched forces and the reform-minded.

Yes, the conflict does serve to divert the population’s dissatisfaction with their social situation towards an external enemy, thus providing conservative forces with an excuse for rejecting reforms. Moreover, it strengthens the role of the military and the acceptance of military solutions as policy op-

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50 Cf. Peter Schlotter/Norbert Ropers/Berthold Meyer, *Die neue KSZE. Zukunftsperspektiven einer regionalen Friedensstrategie* [The New CSCE. Perspectives for a Regional Peace Strategy], Opladen 1994, p. 104.

51 Cf. Jochen Hippler, *Die Quellen des Terrorismus – Ursachen, Rekrutierungsbedingungen und Wirksamkeit politischer Gewalt* [The Sources of Terrorism: Causes, Recruitment Conditions and Effectiveness of Political Violence], in: Bruno Schoch et al. (eds), *Friedensgutachten 2002* [Peace Report 2002], Münster 2002, pp. 52-60, here: p. 58.

tions and is a major reason for the high level of military expenditure in the region. As a result, already rigid structures accrue further potential for entrenchment, which is actually detrimental to the long-term stability of the regimes, since social problems are not removed but rather tend to grow, while young people's expectations are not sinking but rising. At the same time, however, the conflict – especially when the level of violence is high – limits the options available to the political actors that see reforms as important for ensuring regime survival.<sup>52</sup> That is because the longer the violence continues, the more the legitimacy of regimes that have entered into a partnership with the USA is called into question as the impression grows that the USA is not an honest broker and is unconcerned with finding a just resolution. In this climate, being linked with the American democratization offensive – as may happen to reformists – does not necessarily help one's cause, and this can explain why oppositional forces both in the region and in exile have also been hesitant to welcome the US initiative.<sup>53</sup>

### *The Democratic Paradox*

An agenda of democratization for the Middle East, one that is serious about free elections, the rule of law, participation, and plurality, cannot choose which societies to concern itself with. Representatives of civil society will not always be willing to adopt norms that conflict with their own values and traditions. Of course, this is not meant to suggest that "Islam" is incompatible with "democracy". In light of the discussion among Arab intellectuals since the late 1980s on the need for political openness and democratization, such a claim would strike an almost colonialist note. At the same time, democratic forms of government, if they are to function and take root in society, will need not only to take into account historical and cultural particularities, but also to include oppositional groups. In the Middle East, to risk more democracy is to allow Islamist parties, whose support is estimated at 15-30 per cent in most Arab countries,<sup>54</sup> a corresponding level of representation in the political system. In many ways their message resembles that of the Arab Development Reports: They take issue with poor governance and demand democratic rights and the freedom and opportunities for the participation of civil society. As the Arab Development Report 2003 observes, a number of political movements that initially served only to voice their members' grievances and seek redress were driven underground by the unavailability of legal

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52 On the balancing act that the proponents of reform have to perform, see Iris Glosemeyer/Volker Perthes, *Reformen gegen den Terror?* [Reforms Against Terrorism?], Stiftung Wissenschaft und Politik, SWP aktuell 48, Berlin, November 2003.

53 Daoud Kuttab, Reform In The Arab World Requires That True Intellectuals Speak Out, in: *Al-Hayat*, 11 April 2004, at: <http://english.daralhayat.com/opinion/04-2004/Article-20040411-da7c22e5-c0a8-01ed-004d-659d2780e3f8/story.html>.

54 Cf. Volker Perthes, *Geheime Gärten. Die neue arabische Welt* [Secret Gardens. The New Arab World], Berlin 2002, p. 116.



means for them to articulate their complaints, and only then did they resort to violence to pursue their political goals.<sup>55</sup>

The proof of the pudding is in the eating. Promises made in front of a Neo-Conservative American think-tank still need to be made to work in practice. But the US administration is not exactly known for its willingness to risk more democracy where political Islam is concerned. That was apparent in the recent discussion concerning the inclusion of *Hamas* in the administration of the Gaza Strip, which Israel, according to its prime minister's plan, is due to leave by the end of 2005. Although surveys taken in 2004 show that *Hamas* would be far from winning a majority in any election, but has merely drawn level with *Fatah*, the population was virtual unanimous in supporting its participation in elections and as an equal partner in government. This demonstration of political maturity on the part of the Palestinians did not deter the Americans from rejecting all plans of this kind. The USA can of course only allow itself this kind of interference in the domestic affairs of another polity in cases of "precarious statehood", for example, where experiments in state-building fail, or where the USA has brought about regime change by force. It can only be hoped that Middle-Eastern governments do not interpret the reforms demanded of them in such a selective way.

#### *System Transformation and Stability*

It would, however, entail a considerable risk for the region's autocratic regimes to introduce reforms that went much beyond the cosmetic. That they need to risk some reform merely to ensure their long-term survival, and that some sections of the political class are aware of this, have already been mentioned. Nevertheless, this process contains many hidden imponderables. The West would have to accept that there will be changes of policy that are not in its interest, not only regarding unhindered access to oil at moderate and stable prices, but also in other matters such as the stationing of foreign troops, the import of military technology, and the question of nuclear weapons. For the regimes in the region, however, even more could be at stake, namely their very existence. One need only consider the historical record to note that the democratization of premodern systems of government has rarely coincided with regional stability,<sup>56</sup> but has rather tended to be not only turbulent but violent. The peaceful revolutions in Central and Eastern Europe may raise hopes that it can be otherwise. Yet it would be vain to hope for a Middle-Eastern Mikhail Gorbachev. For, as has already been noted above, the Middle East lacks a hegemonic power capable of effectively championing democratic transformation. Following their Iraqi adventure, even US Neo-Conservatives

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55 Cf. United Nations Development Programme/Arab Fund for Economic and Social Development, *The Arab Human Development Report 2003. Building a Knowledge Society*, New York 2003, pp. 220f.

56 Cf. Edward D. Mansfield/Jack Snyder, Democratization and the Danger of War, in: *International Security* 1/1995, pp. 5-38.

may have come to understand that the hegemonic role of the USA in the Middle East is not strong enough to underpin the wholesale export of democracy.

Nevertheless, the objections given here should not be seen as arguing that Helsinki is completely unsuitable as a model for the Middle East. On the contrary, the CSCE process should certainly continue to act as an inspiration for the democratization project. Yet it can only do so effectively when understood in its full complexity. A selective interpretation that ignores or suppresses its security agenda and idealizes the role and power of civil society not only represents a faulty understanding of the process, but also betrays a susceptibility to seeking a quick fix. Treated as a toolbox, from which one can select the specific means one needs, Helsinki is likely to be of little use.

## Annexes



## Forms and Forums of Co-operation in the OSCE Area

G8 (Group of Eight)

Organization for Economic Co-operation and Development (OECD)

Council of Europe (CoE)

North Atlantic Treaty Organization (NATO)

Euro-Atlantic Partnership Council (EAPC)

EAPC Observers

Partnership for Peace (PfP)

NATO-Russia Council<sup>1</sup>

NATO-Ukraine Charter/NATO-Ukraine Commission

European Union (EU)

EU Accession Negotiations

EU Candidate Countries

EU Association Agreements

Stabilization and Association Process (SAP)

Stabilization and Association Agreements (SAA)

Western European Union (WEU)

Associate Members of the WEU<sup>2</sup>

Associate Partners of the WEU

WEU Observers<sup>3</sup>

Eurocorps

Commonwealth of Independent States (CIS)

Baltic Defence Council

Barents Euro-Arctic Council

Observers to the Barents Euro-Arctic Council

Nordic Council

Council of the Baltic Sea States (CBSS)

Stability Pact for South Eastern Europe

Observers to the Stability Pact for South Eastern Europe

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1 At the NATO Summit Meeting on 28 May 2002, the signing of the "Rome Declaration" established the NATO-Russia Council, which has replaced the 1997 NATO-Russia Founding Act.

2 The WEU does not differentiate between associate and full members.

3 Observer status confers privileges restricted to information exchange and attendance at meetings in individual cases and on invitation.

Central European Free Trade Agreement/Area (CEFTA)

Central European Initiative (CEI)

Southeast European Cooperative Initiative (SECI)

South Eastern European Co-operation Process (SEECP)

SEECP Observers

Black Sea Economic Co-operation (BSEC)

North American Free Trade Area (NAFTA)

*Sources:*

OECD: [www.oecd.org](http://www.oecd.org)

Council of Europe: [www.coe.int](http://www.coe.int)

NATO: [www.nato.int](http://www.nato.int)

EU: [www.europa.eu.int](http://www.europa.eu.int)

WEU: [www.weu.int](http://www.weu.int)

Baltic Defence Council: [www.baltasam.org](http://www.baltasam.org)

Barents Euro-Arctic Council: [www.beac.st](http://www.beac.st)

Nordic Council: [www.norden.org](http://www.norden.org)

CBSS: [www.cbss.st](http://www.cbss.st)

Stability Pact for South Eastern Europe: [www.stabilitypact.org](http://www.stabilitypact.org)

CEFTA: [www.cefta.org](http://www.cefta.org)

CEI: [www.ceinet.org](http://www.ceinet.org)

SECI: [www.secinet.org](http://www.secinet.org)

BSEC: [www.bsec.gov.tr](http://www.bsec.gov.tr)

NAFTA: [www.nafta-sec-alena.org](http://www.nafta-sec-alena.org)

# The 55 OSCE Participating States – Facts and Figures<sup>1</sup>

## 1. Albania

*Date of accession:* June 1991

*Scale of distribution:* 0.19 per cent (OSCE ranking: 32)<sup>2</sup>

*Area:* 28,748 km<sup>2</sup> (OSCE ranking: 45)<sup>3</sup>

*Population:* 3,544,808 (OSCE ranking: 41)<sup>4</sup>

*GDP per capita in international dollars at PPP rates<sup>5</sup>:* 4,500 (OSCE ranking: 44)<sup>6</sup>

*GDP growth:* 7 per cent (OSCE ranking: 11)<sup>7</sup>

*Armed forces (active):* 22,000 (OSCE ranking: 32)<sup>8</sup>

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1994), SAP, Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECP, BSEC.

## 2. Andorra

*Date of accession:* April 1996

*Scale of distribution:* 0.125 per cent (43)

*Area:* 468 km<sup>2</sup> (50)

*Population:* 69,865 (51)

*GDP per capita in international dollars at PPP rates:* 19,000 (23)<sup>9</sup>

*GDP growth:* 3.8 per cent (24)<sup>10</sup>

*Armed forces (active):* none

*Memberships and forms of co-operation:* CoE (1994).

## 3. Armenia

*Date of accession:* January 1992

*Scale of distribution:* 0.11 per cent (49)

*Area:* 29,800 km<sup>2</sup> (44)

*Population:* 2,991,360 (42)

*GDP per capita in international dollars at PPP rates:* 3,900 (45)

*GDP growth:* 9.9 per cent (3)

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1 Compiled by Jochen Rasch.

2 Of 55 states.

3 Of 55 states.

4 Of 55 states.

5 The international dollar is a hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity (PPP). PPP is defined as the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as one US dollar would buy in the United States. See The World Bank, *World Development Report 2002*, Washington, D.C., 2002.

6 Of 49 states.

7 Of 52 states.

8 Of 52 states.

9 2000 (estimated).

10 2000 (estimated).

*Armed forces (active):* 44,660 (23)  
*Memberships and forms of co-operation:* CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

#### **4. Austria**

*Date of accession:* June 1973  
*Scale of distribution:* 2.3 per cent (13)  
*Area:* 83,870 km<sup>2</sup> (29)  
*Population:* 8,174,762 (24)  
*GDP per capita in international dollars at PPP rates:* 30,000 (8)  
*GDP growth:* 0.8 per cent (42)  
*Armed forces (active):* 34,600 (25)<sup>11</sup>  
*Memberships and forms of co-operation:* OECD (1961), CoE (1956), EAPC, PfP (1995), EU (1995), WEU Observer (1995), Stability Pact for South Eastern Europe, CEI (1989).

#### **5. Azerbaijan**

*Date of accession:* January 1992  
*Scale of distribution:* 0.11 per cent (49)  
*Area:* 86,600 km<sup>2</sup> (28)  
*Population:* 7,868,385 (25)  
*GDP per capita in international dollars at PPP rates:* 3,400 (46)  
*GDP growth:* 9.9 per cent (3)  
*Armed forces (active):* 66,490 (15)  
*Memberships and forms of co-operation:* CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

#### **6. Belarus**

*Date of accession:* January 1992  
*Scale of distribution:* 0.51 per cent (28)  
*Area:* 207,600 km<sup>2</sup> (19)  
*Population:* 10,310,520 (20)  
*GDP per capita in international dollars at PPP rates:* 6,000 (41)  
*GDP growth:* 6.1 per cent (14)  
*Armed forces (active):* 72,940 (14)  
*Memberships and forms of co-operation:* EAPC, PfP (1995), CIS (1991), CEI (1995).

#### **7. Belgium**

*Date of accession:* June 1973  
*Scale of distribution:* 3.55 per cent (10)  
*Area:* 30,528 km<sup>2</sup> (43)  
*Population:* 10,348,276 (19)

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<sup>11</sup> Approximately.



*GDP per capita in international dollars at PPP rates:* 29,000 (11)  
*GDP growth:* 0.8 per cent (42)  
*Armed forces (active):* 40,800 (24)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1993), Stability Pact for South Eastern Europe.

#### **8. Bosnia and Herzegovina**

*Date of accession:* April 1992  
*Scale of distribution:* 0.19 per cent (32)  
*Area:* 51,129 km<sup>2</sup> (36)  
*Population:* 4,007,608 (38)  
*GDP per capita in international dollars at PPP rates:* 6,100 (40)  
*GDP growth:* 3.8 per cent (24)  
*Armed forces (active):* 19,800 (35)<sup>12</sup>  
*Memberships and forms of co-operation:* CoE (2002), SAP, Stability Pact for South Eastern Europe, CEI (1992), SECI, SEECP.

#### **9. Bulgaria**

*Date of accession:* June 1973  
*Scale of distribution:* 0.55 per cent (26)  
*Area:* 110,910 km<sup>2</sup> (23)  
*Population:* 7,517,973 (26)  
*GDP per capita in international dollars at PPP rates:* 7,600 (36)  
*GDP growth:* 4.4 per cent (21)  
*Armed forces (active):* 51,000 (21)<sup>13</sup>  
*Memberships and forms of co-operation:* CoE (1992), NATO (2004), EAPC, PfP (1994), EU Accession Negotiations (1999), EU Association Agreement (1993), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEECP, BSEC.

#### **10. Canada**

*Date of accession:* June 1973  
*Scale of distribution:* 5.45 per cent (7)  
*Area:* 9,984,670 km<sup>2</sup> (2)  
*Population:* 32,507,874 (11)  
*GDP per capita in international dollars at PPP rates:* 29,700 (10)  
*GDP growth:* 1.6 per cent (38)  
*Armed forces (active):* 52,300 (20)  
*Memberships and forms of co-operation:* G8 (1976), OECD (1961), NATO (1949), EAPC, Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

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12 OSCE ranking based on the total sum of the armed forces (active) of the Muslim-Croat Federation (13,200) and the Republika Srpska (6,600).

13 Approximately 10,000 construction troops not included.

### **11. Croatia**

*Date of accession:* March 1992

*Scale of distribution:* 0.19 per cent (32)

*Area:* 56,542 km<sup>2</sup> (35)

*Population:* 4,496,869 (36)

*GDP per capita in international dollars at PPP rates:* 10,700 (33)

*GDP growth:* 4.5 per cent (19)

*Armed forces (active):* 20,800 (34)

*Memberships and forms of co-operation:* CoE (1996), EAPC, PfP (2000), EU Accession Negotiations (2004), SAA (2001), Stability Pact for South Eastern Europe, CEI (1992), SECI, SEECP.

### **12. Cyprus**

*Date of accession:* June 1973

*Scale of distribution:* 0.19 per cent (32)

*Area:* 9,250 km<sup>2</sup> (48)<sup>14</sup>

*Population:* 775,927 (47)<sup>15</sup>

*GDP per capita in international dollars at PPP rates:* Greek sector: 16,000<sup>16</sup>, Turkish sector: 5,600<sup>17</sup>

*GDP growth:* Greek sector: 1.6 per cent<sup>18</sup>, Turkish sector 2.6 per cent<sup>19</sup>

*Armed forces (active):* Greek sector: 10,000, Turkish sector: 5,000

*Memberships and forms of co-operation:* CoE (1961), EU (2004, Greek sector only).

### **13. Czech Republic**

*Date of accession:* January 1993

*Scale of distribution:* 0.67 per cent (24)

*Area:* 78,866 km<sup>2</sup> (30)

*Population:* 10,246,178 (21)

*GDP per capita in international dollars at PPP rates:* 15,700 (27)

*GDP growth:* 2.5 per cent (32)

*Armed forces (active):* 57,050 (17)

*Memberships and forms of co-operation:* OECD (1995), CoE (1993), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEFTA, CEI (1990/1993).

### **14. Denmark**

*Date of accession:* June 1973

*Scale of distribution:* 2.05 per cent (15)

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14 Greek sector: 5,895 km<sup>2</sup>, Turkish sector: 3,355 km<sup>2</sup>.

15 Total of Greek and Turkish sectors.

16 2003 (estimated).

17 2003 (estimated).

18 2003 (estimated).

19 2003 (estimated).

*Area:* 43,094 km<sup>2</sup> (39)  
*Population:* 5,413,392 (30)  
*GDP per capita in international dollars at PPP rates:* 31,200 (6)  
*GDP growth:* 0.3 per cent (47)  
*Armed forces (active):* 22,800 (31)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU Observer (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

### **15. Estonia**

*Date of accession:* September 1991  
*Scale of distribution:* 0.19 per cent (32)  
*Area:* 45,226 km<sup>2</sup> (38)  
*Population:* 1,341,664 (46)  
*GDP per capita in international dollars at PPP rates:* 12,300 (30)  
*GDP growth:* 4.8 per cent (18)  
*Armed forces (active):* 5,510 (44)  
*Memberships and forms of co-operation:* CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992).

### **16. Finland**

*Date of accession:* June 1973  
*Scale of distribution:* 2.05 per cent (15)  
*Area:* 337,030 km<sup>2</sup> (13)  
*Population:* 5,214,512 (31)  
*GDP per capita in international dollars at PPP rates:* 27,300 (16)  
*GDP growth:* 1.5 per cent (40)  
*Armed forces (active):* 27,000 (29)  
*Memberships and forms of co-operation:* OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

### **17. France**

*Date of accession:* June 1973  
*Scale of distribution:* 9.1 per cent (1)  
*Area:* 547,030 km<sup>2</sup> (7)  
*Population:* 60,424,213 (5)  
*GDP per capita in international dollars at PPP rates:* 27,500 (15)  
*GDP growth:* 0.1 per cent (48)  
*Armed forces (active):* 259,050 (6)<sup>20</sup>

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20 8,600 *Service de santé* not included.

*Memberships and forms of co-operation:* G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

#### **18. Georgia**

*Date of accession:* March 1992

*Scale of distribution:* 0.11 per cent (49)

*Area:* 69,700 km<sup>2</sup> (32)

*Population:* 4,693,892 (34)

*GDP per capita in international dollars at PPP rates:* 2,500 (47)

*GDP growth:* 5.5 per cent (16)

*Armed forces (active):* 17,500 (36)

*Memberships and forms of co-operation:* CoE (1999), EAPC, PfP (1994), CIS (1993), BSEC.

#### **19. Germany**

*Date of accession:* June 1973

*Scale of distribution:* 9.1 per cent (1)

*Area:* 357,021 km<sup>2</sup> (12)

*Population:* 82,424,609 (3)

*GDP per capita in international dollars at PPP rates:* 27,600 (14)

*GDP growth:* -0.1 per cent (49)

*Armed forces (active):* 284,500 (5)

*Memberships and forms of co-operation:* G8 (1975), OECD (1961), CoE (1950), NATO (1955), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer of the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe.

#### **20. Greece**

*Date of accession:* June 1973

*Scale of distribution:* 0.85 per cent (20)

*Area:* 131,940 km<sup>2</sup> (22)

*Population:* 10,647,529 (17)

*GDP per capita in international dollars at PPP rates:* 19,900 (22)

*GDP growth:* 4 per cent (22)

*Armed forces (active):* 177,600 (9)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1952), EAPC, EU (1981), WEU (1995), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

#### **21. The Holy See**

*Date of accession:* June 1973

*Scale of distribution:* 0.125 per cent (43)

*Area:* 0.44 km<sup>2</sup> (55)

*Population:* 921 (55)  
*GDP per capita in international dollars at PPP rates:* n/a  
*GDP growth:* n/a  
*Armed forces (active):* 110 (49)<sup>21</sup>  
*Memberships and forms of co-operation:* none.

## **22. Hungary**

*Date of accession:* June 1973  
*Scale of distribution:* 0.7 per cent (22)  
*Area:* 93,030 km<sup>2</sup> (26)  
*Population:* 10,032,375 (22)  
*GDP per capita in international dollars at PPP rates:* 13,900 (28)  
*GDP growth:* 2.8 per cent (29)  
*Armed forces (active):* 33,400 (26)  
*Memberships and forms of co-operation:* OECD (1996), CoE (1990), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEFTA, CEI (1989), SECI.

## **23. Iceland**

*Date of accession:* June 1973  
*Scale of distribution:* 0.19 per cent (32)  
*Area:* 103,000 km<sup>2</sup> (24)  
*Population:* 293,966 (50)  
*GDP per capita in international dollars at PPP rates:* 30,900 (7)  
*GDP growth:* 2.6 per cent (31)  
*Armed forces (active):* none  
*Memberships and forms of co-operation:* OECD (1961), CoE (1950), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1995).

## **24. Ireland**

*Date of accession:* June 1973  
*Scale of distribution:* 0.65 per cent (25)  
*Area:* 70,280 km<sup>2</sup> (31)  
*Population:* 3,969,558 (39)  
*GDP per capita in international dollars at PPP rates:* 29,800 (9)  
*GDP growth:* 2.1 per cent (35)  
*Armed forces (active):* 10,460 (40)<sup>22</sup>

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21 Authorized strength 100-110 members of the Swiss Guard, cf. at: [http://www.vatican.va/news\\_services/press/documentazione/documents/sp\\_ss\\_scv/informazione\\_generale/guardia-svizzera\\_it.html](http://www.vatican.va/news_services/press/documentazione/documents/sp_ss_scv/informazione_generale/guardia-svizzera_it.html).

22 (Estimated)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

## **25. Italy**

*Date of accession:* June 1973

*Scale of distribution:* 9.1 per cent (1)

*Area:* 301,230 km<sup>2</sup> (16)

*Population:* 58,057,477 (7)

*GDP per capita in international dollars at PPP rates:* 26,800 (18)

*GDP growth:* 0.5 per cent (45)

*Armed forces (active):* 200,000 (8)

*Memberships and forms of co-operation:* G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, CEI (1989).

## **26. Kazakhstan**

*Date of accession:* January 1992

*Scale of distribution:* 0.42 per cent (29)

*Area:* 2,717,300 km<sup>2</sup> (4)

*Population:* 15,143,704 (15)

*GDP per capita in international dollars at PPP rates:* 7,000 (37)

*GDP growth:* 9 per cent (6)

*Armed forces (active):* 65,800 (16)

*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991).

## **27. Kyrgyzstan**

*Date of accession:* January 1992

*Scale of distribution:* 0.11 per cent (49)

*Area:* 198,500 km<sup>2</sup> (20)

*Population:* 5,081,429 (32)

*GDP per capita in international dollars at PPP rates:* 1,600 (51)

*GDP growth:* 6 per cent (15)

*Armed forces (active):* 10,900 (39)

*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991).

## **28. Latvia**

*Date of accession:* September 1991

*Scale of distribution:* 0.19 per cent (32)

*Area:* 64,589 km<sup>2</sup> (34)

*Population:* 2,306,306 (43)

*GDP per capita in international dollars at PPP rates:* 10,100 (34)

*GDP growth:* 6.8 per cent (12)

*Armed forces (active):* 4,880 (45)

*Memberships and forms of co-operation:* CoE (1995), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992).

### **29. Liechtenstein**

*Date of accession:* June 1973

*Scale of distribution:* 0.125 per cent (43)

*Area:* 160 km<sup>2</sup> (52)

*Population:* 33,436 (52)

*GDP per capita in international dollars at PPP rates:* 25,000 (20)<sup>23</sup>

*GDP growth:* 11 per cent (2)<sup>24</sup>

*Armed forces (active):* none<sup>25</sup>

*Memberships and forms of co-operation:* CoE (1978), EU Association Agreement (1995), since 1923 Community of Law, Economy, and Currency with Switzerland.

### **30. Lithuania**

*Date of accession:* September 1991

*Scale of distribution:* 0.19 per cent (32)

*Area:* 65,200 km<sup>2</sup> (33)

*Population:* 3,607,899 (40)

*GDP per capita in international dollars at PPP rates:* 11,200 (31)

*GDP growth:* 7.1 per cent (10)

*Armed forces (active):* 12,700 (38)

*Memberships and forms of co-operation:* CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992).

### **31. Luxembourg**

*Date of accession:* June 1973

*Scale of distribution:* 0.55 per cent (26)

*Area:* 2,586 km<sup>2</sup> (49)

*Population:* 462,690 (48)

*GDP per capita in international dollars at PPP rates:* 55,100 (1)

*GDP growth:* 1.2 per cent (41)

*Armed forces (active):* 900 (48)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1996), Stability Pact for South Eastern Europe.

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23 1999 (estimated).

24 1999 (estimated).

25 In 1868, the armed forces were dissolved, cf. at: <http://www.liechtenstein.li/pdf-fl-multimedia-information-liechtenstein-bildschirm.pdf>.

### **32. Former Yugoslav Republic of Macedonia**

*Date of accession:* October 1995

*Scale of distribution:* 0.19 per cent (32)

*Area:* 25,333 km<sup>2</sup> (46)

*Population:* 2,071,210 (44)

*GDP per capita in international dollars at PPP rates:* 6,700 (39)<sup>26</sup>

*GDP growth:* 2.8 per cent (29)

*Armed forces (active):* 12,850 (37)

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1995), SAP, SAA (2001), Stability Pact for South Eastern Europe, CEI (1993), SECI, SEECP.

### **33. Malta**

*Date of accession:* June 1973

*Scale of distribution:* 0.125 per cent (43)

*Area:* 316 km<sup>2</sup> (51)

*Population:* 396,851 (49)

*GDP per capita in international dollars at PPP rates:* 17,700 (26)

*GDP growth:* 0.8 per cent (42)

*Armed forces (active):* 2,140 (47)

*Memberships and forms of co-operation:* CoE (1965), EU (2004).

### **34. Moldova**

*Date of accession:* January 1992

*Scale of distribution:* 0.11 per cent (49)

*Area:* 33,843 km<sup>2</sup> (42)

*Population:* 4,446,455 (37)

*GDP per capita in international dollars at PPP rates:* 1,800 (49)

*GDP growth:* 6.3 per cent (13)

*Armed forces (active):* 6,910 (41)

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1994), CIS (1991), Stability Pact for South Eastern Europe, CEI (1996), SECI, BSEC.

### **35. Monaco**

*Date of accession:* June 1973

*Scale of distribution:* 0.125 per cent (43)

*Area:* 2 km<sup>2</sup> (54)

*Population:* 32,270 (53)

*GDP per capita in international dollars at PPP rates:* 27,000 (17)<sup>27</sup>

*GDP growth:* n/a

*Armed forces (active):* none

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26 2003 (estimated).

27 1999 (estimated).



*Memberships and forms of co-operation:* Member of the European Economic and Monetary Space by special agreement with France.

### **36. Netherlands**

*Date of accession:* June 1973

*Scale of distribution:* 3.8 per cent (9)

*Area:* 41,526 km<sup>2</sup> (40)

*Population:* 16,318,199 (14)

*GDP per capita in international dollars at PPP rates:* 28,600 (12)

*GDP growth:* -0.7 per cent (51)

*Armed forces (active):* 53,130 (19)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

### **37. Norway**

*Date of accession:* June 1973

*Scale of distribution:* 2.25 per cent (14)

*Area:* 324,220 km<sup>2</sup> (14)

*Population:* 4,574,560 (35)

*GDP per capita in international dollars at PPP rates:* 37,700 (3)

*GDP growth:* 0.5 per cent (45)

*Armed forces (active):* 26,600 (30)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

### **38. Poland**

*Date of accession:* June 1973

*Scale of distribution:* 1.4 per cent (17)

*Area:* 312,685 km<sup>2</sup> (15)

*Population:* 38,626,349 (10)

*GDP per capita in international dollars at PPP rates:* 11,000 (32)

*GDP growth:* 3.6 per cent (26)

*Armed forces (active):* 163,000 (10)

*Memberships and forms of co-operation:* OECD (1996), CoE (1991), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1992), Observer of the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, CEFTA, CEI (1991).

### **39. Portugal**

*Date of accession:* June 1973

*Scale of distribution:* 0.85 per cent (20)

*Area:* 92,391 km<sup>2</sup> (27)

*Population:* 10,524,145 (18)  
*GDP per capita in international dollars at PPP rates:* 18,000 (25)  
*GDP growth:* -1 per cent (52)  
*Armed forces (active):* 44,900 (22)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1976), NATO (1949), EAPC, EU (1986), WEU (1990), Stability Pact for South Eastern Europe.

#### **40. Romania**

*Date of accession:* June 1973  
*Scale of distribution:* 0.7 per cent (22)  
*Area:* 237,500 km<sup>2</sup> (18)  
*Population:* 22,355,551 (13)  
*GDP per capita in international dollars at PPP rates:* 6,900 (38)  
*GDP growth:* 4.5 per cent (19)  
*Armed forces (active):* 97,200 (12)  
*Memberships and forms of co-operation:* CoE (1993), NATO (2004), EAPC, PfP (1994), EU Accession Negotiations (1999), EU Association Agreement (1993), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEECP, BSEC.

#### **41. Russian Federation**

*Date of accession:* June 1973  
*Scale of distribution:* 9 per cent (5)  
*Area:* 17,075,200 km<sup>2</sup> (1)  
*Population:* 143,782,338 (2)  
*GDP per capita in international dollars at PPP rates:* 8,900 (35)  
*GDP growth:* 7.3 per cent (9)  
*Armed forces (active):* 960,600 (2)  
*Memberships and forms of co-operation:* G8 (1998), CoE (1996), EAPC, PfP (1994), NATO-Russia-Council (2002), CIS (1991), Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, BSEC.

#### **42. San Marino**

*Date of accession:* June 1973  
*Scale of distribution:* 0.125 per cent (43)  
*Area:* 61 km<sup>2</sup> (53)  
*Population:* 28,503 (54)  
*GDP per capita in international dollars at PPP rates:* 34,600 (4)<sup>28</sup>  
*GDP growth:* 7.5 per cent (8)<sup>29</sup>  
*Armed forces (active):* none  
*Memberships and forms of co-operation:* CoE (1988).

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28 2001 (estimated).

29 2001 (estimated).

### **43. Serbia and Montenegro**

*Date of accession:* June 1973

*Scale of distribution:* 0.19 per cent (32)

*Area:* 102,350 km<sup>2</sup> (25)

*Population:* 10,825,900 (16)

*GDP per capita in international dollars at PPP rates:* 2,300 (48)

*GDP growth:* 2 per cent (37)

*Armed forces (active):* 74,200 (13)

*Memberships and forms of co-operation:* CoE (2003), SAP, Stability Pact for South Eastern Europe, CEI (1989/2000), SECI, SEECP.

### **44. Slovakia**

*Date of accession:* January 1993

*Scale of distribution:* 0.33 per cent (31)

*Area:* 48,845 km<sup>2</sup> (37)

*Population:* 5,423,567 (29)

*GDP per capita in international dollars at PPP rates:* 13,300 (29)

*GDP growth:* 3.9 per cent (23)

*Armed forces (active):* 22,000 (32)

*Memberships and forms of co-operation:* OECD (2000), CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1990/1993).

### **45. Slovenia**

*Date of accession:* March 1992

*Scale of distribution:* 0.19 per cent (32)

*Area:* 20,273 km<sup>2</sup> (47)

*Population:* 2,011,473 (45)

*GDP per capita in international dollars at PPP rates:* 18,300 (24)

*GDP growth:* 2.5 per cent (32)

*Armed forces (active):* 6,550 (42)

*Memberships and forms of co-operation:* CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI.

### **46. Spain**

*Date of accession:* June 1973

*Scale of distribution:* 4 per cent (8)

*Area:* 504,782 km<sup>2</sup> (8)

*Population:* 40,280,780 (9)

*GDP per capita in international dollars at PPP rates:* 22,000 (21)

*GDP growth:* 2.4 per cent (34)

*Armed forces (active):* 150,700 (11)

*Memberships and forms of co-operation:* OECD (1961), CoE (1977), NATO (1982), EAPC, EU (1986), WEU (1990), Eurocorps (1994), Stability Pact for South Eastern Europe.

#### **47. Sweden**

*Date of accession:* June 1973

*Scale of distribution:* 3.55 per cent (10)

*Area:* 449,964 km<sup>2</sup> (10)

*Population:* 8,986,400 (23)

*GDP per capita in international dollars at PPP rates:* 26,800 (18)

*GDP growth:* 1.6 per cent (38)

*Armed forces (active):* 27,600 (28)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

#### **48. Switzerland**

*Date of accession:* June 1973

*Scale of distribution:* 2.45 per cent (12)

*Area:* 41,290 km<sup>2</sup> (41)

*Population:* 7,450,867 (27)

*GDP per capita in international dollars at PPP rates:* 32,800 (5)

*GDP growth:* -0.3 per cent (50)

*Armed forces (active):* 3,300 (46)<sup>30</sup>

*Memberships and forms of co-operation:* OECD (1961), CoE (1963), EAPC, PfP (1996), EU Association Agreement (rejected by referendum), Stability Pact for South Eastern Europe.

#### **49. Tajikistan**

*Date of accession:* January 1992

*Scale of distribution:* 0.11 per cent (49)

*Area:* 143,100 km<sup>2</sup> (21)

*Population:* 7,011,556 (28)

*GDP per capita in international dollars at PPP rates:* 1,000 (52)

*GDP growth:* 9.9 per cent (3)

*Armed forces (active):* 6,000 (43)<sup>31</sup>

*Memberships and forms of co-operation:* EAPC, PfP (2002), CIS (1991).

#### **50. Turkey**

*Date of accession:* June 1973

*Scale of distribution:* 1 per cent (18)

*Area:* 780,580 km<sup>2</sup> (5)

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30 In addition, 24,000 conscripts, recruited twice a year for 15 weeks.

31 Approximately.

*Population:* 68,893,918 (4)  
*GDP per capita in international dollars at PPP rates:* 6,700 (39)  
*GDP growth:* 5 per cent (17)  
*Armed forces (active):* 514,850 (3)<sup>32</sup>  
*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1952), EAPC, EU Candidate Country (1987), EU Association Agreement (1964), Associate Member of the WEU (1992), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

#### **51. Turkmenistan**

*Date of accession:* January 1992  
*Scale of distribution:* 0.11 per cent (49)  
*Area:* 488,100 km<sup>2</sup> (9)  
*Population:* 4,863,169 (33)  
*GDP per capita in international dollars at PPP rates:* 5,700 (42)  
*GDP growth:* 20 per cent (1)  
*Armed forces (active):* 29,000 (27)  
*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991).

#### **52. Ukraine**

*Date of accession:* January 1992  
*Scale of distribution:* 0.95 per cent (19)  
*Area:* 603,700 km<sup>2</sup> (6)  
*Population:* 47,732,079 (8)  
*GDP per capita in international dollars at PPP rates:* 5,300 (43)  
*GDP growth:* 8.2 per cent (7)  
*Armed forces (active):* 295,500 (4)  
*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1994), NATO-Ukraine-Charter (1997), CIS (1991), CEI (1995), BSEC.

#### **53. United Kingdom**

*Date of accession:* June 1973  
*Scale of distribution:* 9.1 per cent (1)  
*Area:* 244,820 km<sup>2</sup> (17)  
*Population:* 60,270,708 (6)  
*GDP per capita in international dollars at PPP rates:* 27,700 (13)  
*GDP growth:* 2.1 per cent (35)  
*Armed forces (active):* 212,660 (7)  
*Memberships and forms of co-operation:* G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

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32 Estimated; being reduced.

#### **54. USA**

*Date of accession:* June 1973

*Scale of distribution:* 9 per cent (5)

*Area:* 9,631,418 km<sup>2</sup> (3)

*Population:* 293,027,571 (1)

*GDP per capita in international dollars at PPP rates:* 37,800 (2)

*GDP growth:* 3.1 per cent (28)

*Armed forces (active):* 1,427,000 (1)

*Memberships and forms of co-operation:* G8 (1975), OECD (1961), NATO (1949), EAPC, Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, SECI, NAFTA.

#### **55. Uzbekistan**

*Date of accession:* January 1992

*Scale of distribution:* 0.41 per cent (30)

*Area:* 447,400 km<sup>2</sup> (11)

*Population:* 26,410,416 (12)

*GDP per capita in international dollars at PPP rates:* 1,700 (50)

*GDP growth:* 3.4 per cent (27)

*Armed forces (active):* 55,000 (18)

*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991).

#### *Sources:*

*Date of accession:*

[http://www.osce.org/general/participating\\_states/](http://www.osce.org/general/participating_states/)

*Scale of distribution:*

<http://www.osce.org/docs/german/pc/2002/decisions/pcgd468.pdf>

*Area:*

<http://www.cia.gov/cia/publications/factbook/rankorder/2147rank.txt>

*Population (estimated as of 2004):*

<http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.txt>

*GDP per capita in international dollars at PPP rates (estimated as of 2003, unless stated to the contrary):*

<http://www.cia.gov/cia/publications/factbook/rankorder/2004rank.txt>

*GDP growth (estimated as of 2003, unless stated to the contrary):*

<http://www.cia.gov/cia/publications/factbook/rankorder/2003rank.txt>

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## OSCE Conferences, Meetings, and Events 2003/2004

2003

August	Start of the OSCE's Police Assistance Programme for Kyrgyzstan (PAP), Bishkek.
September	Start of the OSCE/FSD (Swiss Foundation for Mine Action) Mine Action Programme in Tajikistan, the first field de-mining action on Tajik territory since the end of the 1994-1997 civil war.
2-3 September	Training workshop on confidence- and security-building measures, Ashgabad.
4-5 September	OSCE Conference on Racism, Xenophobia and Discrimination, Vienna.
6 September	ODIHR round table on a "National Plan of Action against Torture", Tbilisi.
6-7 September	OSCE human rights weekend course, Tashkent.
18 September	Fifth OSCE Central Asia Media Conference "Media in Multi-Cultural and Multi-Lingual Societies", organized by the OSCE Representative on Freedom of the Media Freimut Dube and the OSCE Centre in Bishkek in cooperation with CIMERA, Bishkek.
18-19 September	First OSCE Meeting of Police Experts on preventing and combating trafficking in human beings, Vienna.
29-30 September	Second Parliamentary Seminar on Federalism of the OSCE Parliamentary Assembly, Chişinău.
1 October	The Latvian Centre for Human Rights and Ethnic Studies has been chosen by an international jury chaired by OSCE High Commissioner on National Minorities Rolf Ekéus to receive the first Van der Stoel Prize for outstanding contributions towards the improvement of the situation of national minorities in the OSCE participating States, The Hague.
2-4 October	OSCE conference on the role of parliaments in human and economic development in South-eastern Europe, Sarajevo.
6-17 October	8th OSCE/ODIHR Human Dimension Implementation Meeting, Warsaw.
9-12 October	Fall Meeting of the OSCE Parliamentary Assembly on "Religious Freedom", Rome.
20-21 October	OSCE Mediterranean seminar on the comprehensive approach to security: "The OSCE Experience and Its Relevance for the Mediterranean Region", Aqaba.

6-7 November	OSCE conference on the prevention of torture, Vienna.
17-18 November	First preparatory seminar for the 12th OSCE Economic Forum: "Supporting the Development of Small and Medium-sized Enterprises", Yerevan.
1-2 December	Eleventh Meeting of the Ministerial Council, Maastricht.

2004

1 January	Bulgaria takes over the OSCE Chairmanship from the Netherlands. Bulgarian Foreign Minister Solomon Passy becomes Chairman-in-Office.
16 January	OSCE Troika Meeting, Vienna.
23 January	The OSCE hosts an international workshop on the threat of man-portable air defence systems (MANPADs) in the hands of terrorists, Vienna.
26-27 January	The OSCE Presence in Albania and the Albanian Foreign Ministry jointly organize a regional workshop on fighting money laundering and terrorism financing, Tirana.
13 February	Annual High-Level Tripartite Meeting between the United Nations, the Council of Europe, and the OSCE, Geneva.
16-17 February	Second preparatory seminar for the 12th OSCE Economic Forum: "Stimulating Foreign and Domestic Investments", Dublin.
19-20 February	Third Winter Meeting of OSCE Parliamentary Assembly, Vienna.
19 February	The OSCE Parliamentary Assembly honours the Committee to Protect Journalists (CPJ) with its 2004 OSCE Prize for Journalism and Democracy.
1-2 March	OSCE/ICAO expert workshop on travel document security: "From Basics to Biometrics", Vienna.
8 March	OSCE/UNECE workshop on "The Economic Dimension of Security in Europe: Facing New Challenges in a Changing Europe", Geneva.
9-10 March	14th Annual Implementation Assessment Meeting (Vienna Document), Vienna.
10 March 2004	Miklos Haraszti assumes the office of the OSCE Representative on Freedom of the Media.
15-16 March	OSCE-Japan Conference on the Search for Conflict Prevention in the New Security Circumstances – European Security Mechanisms and Security in Asia, Tokyo.



15-16 March	Workshop on the Protection of Human Rights While Countering Terrorism, Copenhagen.
25-26 March	Supplementary Human Dimension Meeting on Human Rights Education and Training, Vienna.
29-30 March	Third preparatory seminar for the 12th OSCE Economic Forum: “Professional Skills Needed for Developing a Market Economy”, Bishkek.
5 April	Ministerial conference on education in Central Asia: “Education as an Investment into the Future”, Tashkent.
11 April	High-level Meeting between the OSCE and the Council of Europe, Bucharest.
26-27 April	The OSCE Centre in Almaty organizes a seminar for journalists in Kazakhstan on overcoming gender stereotypes in the media, Almaty.
28-29 April	OSCE Conference on Anti-Semitism, Berlin.
12-14 May	ODIHR Conference on democratic institutions and democratic governance, Warsaw.
24-25 May	Conference on parliamentary oversight of armed forces, police, and security forces in the OSCE area, Vienna.
31 May-4 June	Twelfth OSCE Economic Forum: “New Challenges for Building up Institutional and Human Capacity for Economic Development and Co-operation”, Prague.
16-17 June	OSCE meeting on the relationship between racist, xenophobic and anti-Semitic propaganda on the internet and hate crimes, Paris.
23-24 June	Second Annual Security Review Conference, Vienna.
30 June	The OSCE Representative on Freedom of the Media organizes a seminar on media freedom on the Internet, Vienna.
1-2 July	ODIHR round table on “Combating Extremism in Central Asia”, Almaty.
5-7 July	13th Annual Session of the OSCE Parliamentary Assembly, Edinburgh.
15-16 July	Supplementary Human Dimension Meeting on “Electoral Standards and Commitments”, Vienna.
23 July	OSCE conference on trafficking in human beings, Vienna.



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## Abbreviations

ACN	Anti-Corruption Network for Transition Economies
ADB	Asian Development Bank
ADIP	Azerbaijani Democratic Independence Party
AIAM	Annual Implementation Assessment Meeting (CSBMs)
AKSh	Armata Kombëtare Shqiptare/Albanian National Army (FYROM and elsewhere)
AMDP	Azerbaijani Independent Democratic Party
AMIP	National Independence Party of Azerbaijan
ASEAN	Association of Southeast Asian Nations
ASTRA	Anti Sex Trafficking Action (Belgrade)
ATA	Albanian Telegraph Agency
ATU	Action against Terrorism Unit (OSCE Secretariat)
AXC/AXCP	Azerbaijan Popular Front/Azerbaijan Popular Front Party
BAB	Pan-Azerbaijani Union
BSEC	Black Sea Economic Co-operation
CAGs	Citizen Advisory Groups
CAT	Conventional Arms Transfer
CATW	Coalition Against Trafficking in Women
CBSS	Council of the Baltic Sea States
CDE	Conference on Confidence- and Security-Building Measures and Disarmament in Europe (Stockholm)
CECS	Central Election Commission Secretariat (Kosovo)
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CFE	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy (EU)
CIS	Commonwealth of Independent States
CNSI	Commission Nationale de la Société de l'Informatique
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre
CPI	Corruption Perception Index (Transparency International)
CPJ	Committee to Protect Journalists
CRD/TI	Center for Regional Development/Transparency International Armenia
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since 1 January 1995: OSCE)
CSD	Center for the Study of Democracy

CSFE	Conseil supérieur des Français de l'étranger
CSPWG	Common Security Policy Working Group (Bosnia and Herzegovina/Dayton)
CTC	Counter-Terrorism Committee (UN Security Council)
DAK	World Azerbaijani Congress
DBLKPP	Drejtoria e Bashkerendimit te Luftes Kunder Pastrimit te Parave/Directorate of Co-ordinating the Fight Against Money Laundering (Albania)
DC	Democratic Centre Party (Croatia)
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DPA	Democratic Party of the Albanians (FYROM)
DSSG	Defence and Security Steering Group (Bosnia and Herzegovina/Dayton)
DUI	Democratic Union for Integration (FYROM)
EAPC	Euro-Atlantic Partnership Council
ECRI	European Commission against Racism and Intolerance (Council of Europe)
ESDP	European Security and Defence Policy
EU	European Union
EUJUST	
THEMIS	EU Rule of Law Mission to Georgia
EUMC	European Monitoring Centre on Racism and Xenophobia
EUPM	European Union Police Mission
FATF	Financial Action Task Force on Money Laundering
FIU	Financial Intelligence Unit
FOM	Representative on Freedom of the Media
FRY	Federal Republic of Yugoslavia
FSB	Federalnaya Slushba Bezopasnosti Rossiiskoi Federatsii/(Russian) Federal Security Service
FSC	Forum for Security Co-operation
FYROM	Former Yugoslav Republic of Macedonia
G7/G8	Group of Seven (Canada, France, Germany, Italy, Japan, UK, USA)/Group of Eight (G7 plus Russia)
GAATW	Global Alliance Against Trafficking in Women
GAMOH	Southern Azerbaijan National Awakening Movement
GEMI	Global Exchange of Military Information
GPML	Global Programme against Money Laundering (UNDOC)
GTZ	Gesellschaft für Technische Zusammenarbeit/German Agency for Technical Co-operation
GUUAM	
States	Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova
HCNM	High Commissioner on National Minorities
HDZ	Croatian Democratic Union
HSLs	Social Liberal Party (Croatia)



IAEA	International Atomic Energy Agency
IBA	International Bar Association
IBTF	Institution-Building Task Force (Bosnia and Herzegovina/Dayton)
ICAO	International Civil Aviation Organization
ICJ	International Court of Justice
ICT	Information and Communication Technologies
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally displaced persons
IFES	International Foundation for Electoral Systems
IFOR	Implementation Force (Bosnia and Herzegovina)
IHF	International Helsinki Federation for Human Rights
IHRLG	International Human Rights Law Group
ILO	International Labour Organisation
IMF	International Monetary Fund
IMU	Islamic Movement of Uzbekistan
INOGATE	Interstate Oil and Gas Transport to Europe
IOM	International Organization for Migration
IPTF	International Police Task Force (UN)
ISAF	International Security Assistance Force (Afghanistan)
JCC	Joint Control Commission (Georgia/South Ossetia)
JPKF	Joint Peacekeeping Forces (Georgia/South Ossetia)
KFOR	Kosovo Force
KGB	Komitet Gosudarstvennoy Bezopasnosti/Committee for State Security (Soviet Intelligence Service)
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
LDK	Democratic League of Kosovo
MANPADS	Man-portable air defence systems
MBFR	Mutual and Balanced Force Reductions
MEPI	Middle East Partnership Initiative (USA)
NACC	North Atlantic Cooperation Council
NAFTA	North American Free Trade Area
NATO	North Atlantic Treaty Organization
NDP	National Democratic Party (FYROM)
NGOs	Non-Governmental Organizations
NPT	Non Proliferation Treaty
OAS	Organization of American States
OAU	Organization of African Unity
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the (UN) High Commissioner for Human Rights

OHR	Office of the High Representative
OIC	Organization of the Islamic Conference
OMiK	OSCE Mission in Kosovo
OPCW	Organisation for the Prohibition of Chemical Weapons
OSCC	Open Skies Consultative Commission
OSCE	Organization for Security and Co-operation in Europe
PAMECA	Police Assistance Mission of the European Community to Albania
PAP	Police Assistance Programme for Kyrgyzstan
PDP	Party for Democratic Prosperity (FYROM)
PDU	Police Development Unit (OSCE Spillover Monitor Mission to Skopje)
PfP	Partnership for Peace
PIC	Peace Implementation Council
PIRT	Party of the Islamic Revival of Tajikistan
PISG	Provisional Institutions of Self-Government (Kosovo)
REACT	Rapid Expert Assistance and Co-operation Teams
RSFSR	Russian Soviet Federated Socialist Republic
RTS	Radio Televizija Srbije
SAA	Stabilization and Association Agreement (EU)
SALW	Small Arms and Light Weapons
SAP	Stabilization and Association Process (EU)
SBS	State Border Service (Bosnia and Herzegovina)
SCMM	Standing Committee on Military Matters (Bosnia and Herzegovina)
SCO	Shanghai Cooperation Organization
SDAP	Social Democratic Party of Azerbaijan
SDSM	Social Democratic Union of Macedonia
SDSS	Independent Democratic Serbian Party (Croatia)
SECI	Southeast European Cooperative Initiative
SEECF	South Eastern European Co-operation Process
SERVE	Secure Electronic Registration and Voting Experiment
SFRY	Socialist Federal Republic of Yugoslavia
SFOR	Stabilisation Force (Bosnia and Herzegovina)
SIPA	State Information and Protection Agency (Bosnia and Herzegovina)
SMEs	Small and medium-sized enterprises
SNP	Socialist People's Party (Montenegro)
SPMU	Strategic Police Matters Unit (OSCE Secretariat)

SRSG	Special Representative of the UN Secretary-General (Kosovo)
TACIS	Technical Assistance for the CIS (EU)
TI	Transparency International
TRACECA	Transport Corridor Europe-Caucasus-Asia
TVPRA	Trafficking Victims Protection Reauthorization Act
UÇK/KLA	Ushtria Çlirimtarë e Kosovës/Kosovo Liberation Army
UÇK/NLA	Ushtria Çlirimtarë Kombëtarë/National Liberation Army (Macedonia)
UN/UNO	United Nations/United Nations Organization
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNCHR	United Nations Commission on Human Rights
UNCIVPOL	United Nations Civilian Police
UNDCP	United Nations Drug Control Programme
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR/ UNOHCHR	United Nations High Commissioner for Human Rights/UN Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Interim Administration Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime (formerly UNODCCP)
UNODCCP	United Nations Office for Drug Control and Crime Prevention (since 1 October 2002: UNODC)
USAID	United States Agency for International Development
VD 90-99	Vienna Documents on Confidence- and Security-Building Measures (1990, 1992, 1994, 1999)
VMRO- DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
VTVPA	Victims of Trafficking and Violence Protection Act
WB	World Bank
WEU	Western European Union

WTO	World Trade Organization
YAP	New Azerbaijan Party
ZIF	Zentrum für internationale Friedenseinsätze/Centre for International Peace Operations (Berlin)

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