



HELSINKI +40

OSCE PA

OSCE Parliamentary Assembly Helsinki +40 Project Final Report

**HELSINKI +40:
BUILDING THE OSCE OF THE FUTURE**

July 2015

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This report provides an overview of the main topics discussed and key recommendations made during the OSCE PA Helsinki +40 seminars as understood by the OSCE PA Rapporteurs. The report takes into consideration opinions expressed in the written contributions submitted by the seminars' keynote speakers and during the exchanges of views that occurred in each of the events.

Some of the recommendations have been subject to debate and have not led to unanimity. The Rapporteurs accept responsibility for any possible omissions or inadvertent mischaracterizations of panelists' views that may have occurred during the drafting and editing process.

Background: Why is the 40th anniversary of the Helsinki Final Act important?

The significance of the Helsinki Final Act lay in its articulation of a security concept that was as innovative as it was comprehensive. In an era in which security was almost exclusively defined in relation to the external security of States, inter-state relations and military threats, the agreement bound politico-military security to two additional dimensions: the economic-environmental and the human. This was an unprecedented departure given that, amidst sustained militarized hostility between competing blocs, human rights and fundamental freedoms had not hitherto been addressed as genuine security issues.

The timeliness of the Conference on Security and Co-operation in Europe (CSCE, the forerunner to the OSCE) and this new approach were reflected in the immediate centrality of the human dimension to the Organization's workings. As Peter Schlotter, professor of political science at the University of Heidelberg, explains: "The basis of the CSCE accords was a trade-off: The Western states complied with the desire of the Soviet Union and its allies for recognition – political and under international law – of the post-war territorial status quo. In return, the West sought to bind Soviet foreign policy to norms and rules."¹ The latter was deemed achievable through mutual respect for human rights and democracy, hinting at the reinvention of the very concept of 'security' that was underway.

Another notable feature that differentiated the Helsinki Final Act from other inter-governmental instruments was the fact that it was essentially an agreement born of continued disagreement in the thematic areas concerned. Although it was implicitly acknowledged that participating States would continue to hold divergent views across all three dimensions, it was implied that all three dimensions would be thoroughly reviewed during the 1977 Belgrade Follow-Up Meeting.

This linkage – not only as a negotiating tactic, but also as an institutionalized principle of international relations – would be emulated by many governments and institutions in the years to come. The Helsinki Final Act's establishment of a comprehensive forum for both parties also helped lay the groundwork for ending the Cold War in the spirit of the Charter of Paris.

The Helsinki Final Act is a testament to what is possible when States make a concerted effort to not let differences override a parallel search for common understanding. The future of the OSCE depends on the political will, steadfast commitment to dialogue, trust and compromise and, in particular, observance of the Helsinki Decalogue of Principles by its participating States. It equally depends on the ability of the Organization itself to reform and adjust to new challenges.

¹ P. Schlotter. The OSCE's contribution to democratic peace – 30 years of the Helsinki Final Act. 2005. URL: <http://ifsh.de/file-CORE/documents/yearbook/english/05/Schlotter-en.pdf>

Introduction

The OSCE Parliamentary Assembly's Helsinki +40 Project, launched in January 2014 and culminating in the Assembly's 24th Annual Session in Helsinki in July 2015, brought together distinguished experts, diplomats, academics, students, negotiators, CSCE/OSCE veterans, and the most experienced OSCE PA parliamentarians to exchange views, share history, experience the Organization as it was at the beginning and how it has developed until today.

This Helsinki +40 Project provided a crucial opportunity to reflect on what the OSCE has accomplished as an organization and identify where reform is needed for it to stay relevant and efficient, especially in light of the crisis in and around Ukraine, which has been a litmus test of both the Organization's strengths and weaknesses.

The discussions have been candid, enlightening, and creative. The project has given visibility and credibility to the OSCE's broader Helsinki +40 Process, initiated in December 2012, and has been an exercise worthy of its contribution to the history and the future of the OSCE.

Consolidated Recommendations

The OSCE's role in reconsolidating European Security

The relevance of the OSCE is enshrined in its principles, which are not merely a set of mechanisms or tools, but serve as the foundation of Euro-Atlantic security. Unfortunately, the entire Decalogue of Principles has been broken during the Ukraine crisis. The damage that has been done may be irreparable and the OSCE, even if it does survive, will emerge in a greatly diminished form unless all participating States reconfirm the relevance of and their respect for the Helsinki Commitments and recommit to follow it not only in words but also in action.

There is no need for a new Decalogue of Principles, as no agreement of similar strength could be expected to be reached today. The political commitments made in the Helsinki Final Act remain of fundamental importance for today's security architecture. However, the wide array of existing OSCE tools might be better used to strengthen the implementation of the commitments undertaken and to ensure that they are upheld by the participating States. The Organization should also focus on further strengthening its comparative advantages and focus primarily on areas where it can add value, without duplicating the work of other organizations in the field. In this context, applying the "less is more" philosophy, which builds on the already existing *acquis* of the organization, sets new realistic objectives and considers the amount of resources available, could bring the best results.

Such tools could include, among others, the Human Dimension Moscow Mechanism, which provides the possibility for participating States to establish *ad hoc* missions of independent experts to assist in the resolution of a specific human dimension problem, the Prague – or consensus minus one – Mechanism and the Mechanism for Consultation and Co-operation as

regards unusual military activities, or the Vienna Mechanism, as well as several others, previously used. The OSCE Institutions should be less dependent on politics, not more. Strengthening OSCE Institutions by expanding their independence and allowing greater room for action which would not require a preliminary consensus decision of the Permanent Council can be part of the solution.

Such action could include professional mediation and multilateral verification/fact-finding activities through country visits, including within the scope of the Vienna Document.² These activities could be conducted by joint efforts of OSCE Institutions which should be granted standing invitations to enable them to hold visits without requesting separate invitations each time. The OSCE PA could be associated more closely with such activities through mandates to conduct fact finding, monitoring and mediation missions. In addition, the Conflict Prevention Centre can be further strengthened, notably in its operational and planning capacity.

The powers and role of the Chairperson-in-Office and the Secretary General should also be reviewed, to ensure their adequate political role and decision-making capacities. In addition, to counter the perception of the OSCE as a “non-career” Organization and to attract top international talent into its ranks, the term limits for professional staff need to be softened. The OSCE reliance on secondments also needs to be reduced, especially for posts in the field. This, and an end to the ongoing de facto decrease of budget resources could contribute to enhancing the Organization’s professional capacities.

Although all OSCE participating States face the same transnational threats, be it terrorism, human trafficking or cyber-crime, to mention but a few, they have not made full use of the OSCE’s potential for joint co-operation and effective response to these threats and societal deficiencies. Yet, the complexity of transnational challenges demonstrates that OSCE participating States can benefit from closer co-operation rather than from drifting further apart.

The other main problem witnessed almost everywhere is a lack of good governance capacity at all levels to address a multitude of perceived threats. Through better adjusting its tools to address such problems, the OSCE can enhance its significance and relevance.

Consequences for the OSCE of the crisis in and around Ukraine

Although the Organization has been facing serious difficulties and challenges to its purpose and political relevance over the last 20 years, the current crisis in and around Ukraine has brought the OSCE to the fore as the sole international organization accepted by all parties to the conflict that aims to find a political solution to the crisis. The OSCE is more necessary than ever, seminar participants agreed, and it has demonstrated, during this crisis, that over the years it has developed a wide array of instruments to address crisis situations, although

² The Vienna Document contains the OSCE’s primary military confidence- and security-building measures.

the use of these instruments is significantly weakened by the consensus requirement in the Permanent Council.

Thus, while temporarily increasing the visibility of the OSCE, the crisis has also highlighted its weaknesses, such as insufficiency of effective tools, restricted mandates, lengthy decision-making procedures and limited resources. The existing OSCE conflict prevention mechanisms failed to prevent and counter the crisis from the outset.

The OSCE needs immediate reaction mechanisms, which could enable the OSCE Secretary General or the Chairperson-in-Office, in consultation with each other, to immediately deploy an observer or fact-finding mission on the territory of the state that alleges it has been victim of aggression, several seminar participants suggested. In such situations, if additional decisions are necessary, the Permanent Council should be able to act on the basis of a modified consensus rule that would prevent either of the parties to the dispute from blocking a decision.

At the current stage of the crisis, the inefficiency of the Permanent Council meetings, during which Ambassadors appear to be talking past each other rather than seriously working towards finding a joint solution, has been apparent. To ensure that the OSCE acts as a platform for political dialogue that makes a difference worthy of the name, the participants in the dialogue need to be on a political level, based in capitals, as envisioned in the Charter of Paris when the OSCE was institutionalized.

The first and foremost task for the OSCE is to work towards a political settlement of the Ukraine crisis based on respect for the sovereignty and territorial integrity of the country, as enshrined in the Helsinki Decalogue of Principles. Without this, mutual trust in the OSCE area cannot be restored. It is in the interest of all OSCE participating States to prevent the emergence of another protracted conflict in the area. Everything should also be done to ensure that Ukraine does not become a “new Berlin Wall” separating Russia and the West.

In addition, the OSCE needs to intensify its efforts in arms control, disarmament and confidence-building, including at regional levels. Previously agreed arms control mechanisms currently suspended or jeopardized should be revived and strengthened. Fuller use of the existing tools and mechanisms of arms control, disarmament and CSBMs, could be done, for example, by agreeing upon an additional code, or codes, of conduct for the participating States in the most problematic areas, and on gradual modernization of the existing one to ensure the mechanisms are adapted to new security challenges. There is an urgent need to find ways out of the crisis of conventional arms control mechanisms. The possibility of establishing peace-keeping operations, possibly as a joint effort with the UN, EU, CSTO and NATO could also be explored.

Ways to increase women’s role in conflict mediation and early warning needs to be further considered. A gender-sensitive approach could be adopted when conflict prevention and

resolution strategies are developed, including within the OSCE Code of Conduct on Politico-Military Aspects of Security.

Need for structural reform of the OSCE and modernization of its mechanisms

Although the crisis within the OSCE is first and foremost political, and can only be fully countered through a political pledge by its participating States to respect and fully implement commitments undertaken, there is also a dire need for structural reform of the OSCE, which would focus on modernization of structures and improvement of procedures of the Organization.

Most diplomatic missions to the OSCE as well as Foreign Ministries consider the consensus rule indispensable, as it gives a sense of power and ownership of the Organization to each of its participating States, notwithstanding their size and political weight. In the current political environment, marked by a very low level of political trust within the OSCE, decisions leading towards gradual modification of the consensus rule may not be realistic except for a possibility of minor adjustments related to personnel and administration as called for by the OSCE PA.

A major step forward would be for the OSCE governmental side to examine the decision making practices, such as qualified majority and consensus minus one, as already applied in the OSCE PA, and consensus minus two (excluding the parties to a dispute), as foreseen by the OSCE Court of Conciliation and Arbitration. In addition, a differentiated set of majority requirements could be applied to managerial decisions, which could require consensus-minus-one or two or by adopting what the OSCE PA has termed “virtual consensus” requiring a consensus of 90 per cent of both membership and financial contributions.

The lack of transparency and accountability of the Organization continues to be a matter of concern and criticism. The OSCE PA has repeatedly recommended that closed-door Permanent Council meetings be open to the public and the press.

In the human dimension, the OSCE has developed a strong internationally recognized presence in a number key areas, related to promoting compliance with human rights commitments. These include the activities carried out by the OSCE Representative on Freedom of the Media, the OSCE High Commissioner on National Minorities, Office for Democratic Institutions and Human Rights, activities of the OSCE field presences in the human dimension, work of the OSCE PA Chair of the Committee on Democracy, Human Rights and Humanitarian Questions and election observation. These institutions do not, however, guarantee that alleged violations of human rights will be properly addressed by the Organization. The Moscow Mechanism (also known as the Human Dimension Mechanism), regularly applied in the 1990s, has become a dormant procedure over the past decade, notably after failing to work appropriately with regard to Turkmenistan in 2002 and Belarus in 2011.

The current practice of relegating the overview of implementation of human dimension commitments to lengthy, poorly attended Human Dimension Implementation Meetings (HDIMs) in Warsaw needs to be changed, while regular open review sessions in Vienna should be introduced. The OSCE could equally admit the possibility to deal with individual human rights-related complaints, notably from individuals from OSCE participating States that are not members of the European Court of Human Rights (ECtHR).³ The strengthening of OSCE activities in the field of security and the economy should not be at the expense of the human dimension or to the detriment of key OSCE values in the human dimension.

All suggested reforms should be gender-sensitive and ensure that the gender component is integrated into the OSCE's processes.

Towards a stronger OSCE field presence

As a regional arrangement under Chapter VIII of the UN Charter, the OSCE today has greater operational capabilities than it had in the 1990s, with one of its key strengths being field work experience and presence in conflict zones of the OSCE area. The crisis in and around Ukraine has underlined that the Organization's long-term presence on the ground is one of its key strengths. Such presence not only enables the OSCE to monitor the developments, providing unbiased information and acting as an impartial observer, but also assist participating States in preventing conflicts, managing crisis situations and post-conflict reconciliation, as well as support implementation of the commitments undertaken.

The recently established Special Monitoring Mission to Ukraine has played a useful role in bringing transparency to events in that country, despite working within a relatively limited mandate. However, the mandate prepared by the Permanent Council for the Observer Mission at the Russian Checkpoints Gukovo and Donetsk severely limited its ability to actually report cross-border events, which rendered this mission ineffective. The consensus rule again in this case limited the Organization's ability to act effectively.

The comparative advantage of the OSCE – its field presences – is being increasingly undermined due to, on one hand, lack of adequate, timely funding and multi-year budgets and mandates, and on the other hand over-reliance on seconded personnel and extra-budgetary contributions. Bias and suspicion towards the work carried out by the missions results in their frequent downgrading and/or closure, such as in the cases of Azerbaijan, Belarus and Kazakhstan.

There is a need for more, not fewer, field presences, which should have at least two-year budgets and even longer planning cycles. The activities of the missions should also be critically evaluated to ensure their direct, efficient and result-oriented engagement with the authorities, citizens and other organizations in the host country. The missions should focus

³ A. Zagorski. Comparing human rights instruments of the OSCE, United Nations and Council of Europe. OSCE Focus Conference Proceedings. 2013

their activities on areas where their engagement is both needed most and appreciated by the country where it is located.

The trend of field mission closure and mandate restriction needs to be urgently curbed. A new type of thematic and region-wide mission with specific Helsinki commitment-related mandates should be considered.

The level of competence, length of assignment and level of remuneration of the seconded staff of missions should be similar to those of diplomats sent on bilateral assignments.

Lack of International Legal Personality of the OSCE

Although considered by some participating States as essential for the OSCE's flexibility, the OSCE's lack of legal personality has at times resulted in serious challenges for the OSCE on an operational level. This includes uncertainties as to the status of the OSCE field presences in the host countries, difficulty entering into agreements on co-operation with other international organizations as well as uncertainty as to the liability of the OSCE and its officials vis-à-vis third parties, to mention but a few.

This was demonstrated in Ukraine, where the OSCE's rapid reaction capacities were significantly impacted at the outset by the lack of a formal legal status in the host State, which called into question security and immunity recognition of the mission members, hindered their freedom of movement and access to military sites as well as the delivery and use of necessary technology, including the unmanned aerial vehicles (UAVs).

The OSCE PA has from the outset been an active advocate of strengthening the legal framework of the OSCE, giving the OSCE legal personality as well as privileges and immunities in line with those of other international organizations. The OSCE PA has been regularly raised the topic, urging the adoption of the 2007 draft Convention on the International Legal Personality, Legal Capacity, and Privileges and Immunities of the OSCE, while at the same time underlining that the document should ensure that the PA's role, status and involvement in the OSCE's work as one of the OSCE Institutions is codified correctly and does not impede a future strengthening of its role.

An agreement in principle on the desirability of drafting the Charter could be an important decision within the framework of the Helsinki +40 Process.

The Parliamentary Assembly as the democratic dimension of the OSCE

The OSCE Parliamentary Assembly occupies a unique position within the OSCE, as it provides a vital link between the governmental side of the Organization and the people in the OSCE area. Founded under the 1990 Charter of Paris, the Parliamentary Assembly already existed when the Conference on Security and Co-operation in Europe was transformed into an Organization at the Budapest Summit in December 1994. The OSCE PA is thus the oldest established OSCE Institution which still exists in its original form.

The OSCE PA's key strengths consist in an effective decision-making process (simple majority, qualified majority and consensus minus one), transparency (openness of OSCE PA proceedings to the public and the media, their online streaming), accountability (yearly independent budget auditing) and gender balance promotion (tasking each participating State

to ensure that both genders are represented on each national Delegation to the PA).⁴ In the current political environment, the role of parliamentarians and of the OSCE parliamentary structure provides an important platform for vibrant inter-parliamentary dialogue, creates a platform for direct inter-personal contacts among parliamentarians and candid discussion of critical OSCE issues.

In order to counter the democratic deficit within the OSCE and strengthen the legitimacy of the Organization's work creating a direct link with the citizens it serves, the parliamentary dimension of the OSCE should be better integrated in the work of the Organization. This could include the election by the OSCE PA of the OSCE Secretary General, approval of appointments of Heads of Institutions, vesting the PA with decisions on admission of new participating States as well as granting it oversight over and approval of the Organization's budget.

Beginning with the election observation mission to the Russian Federation in 1993, the OSCE Parliamentary Assembly has established its leadership in OSCE election observation. In 1997, the Danish Chairmanship negotiated the improved co-operation of OSCE election observation efforts between the OSCE PA and the OSCE/ODIHR, reaching an agreement through which a parliamentarian provides political leadership and is put in charge of delivering the statement and the ODIHR conducts long-term observation and plays an important role supporting OSCE PA election observation missions.

It is also in the best overall interests of the Organization that the OSCE PA and the OSCE/ODIHR work co-operatively during election observation missions as one "OSCE election observation mission" using one OSCE logo, under the political leadership of the Special Co-ordinator, as intended by the 1997 Co-operation Agreement endorsed by the 2006 Brussels Ministerial Council Decision on Strengthening the Effectiveness of the OSCE.

Towards closer co-operation with the Partners

Even if further geographical enlargement of the OSCE does not seem necessary now, more dialogue and real involvement of the partners for co-operation, including in the daily work of the OSCE, is needed. The region south of the Mediterranean Sea should be under particular focus, with stronger OSCE engagement on the issues of migration and human trafficking. The possibility of including additional partner countries can also be considered.

The Organization should also consider ways to spread the "spirit of Helsinki" through sharing its heritage, lessons learned and legacy with countries and regions, notably East Asia.

⁴ For additional details please refer to the OSCE PA Rules of Procedure. URL: <https://www.oscepa.org/publications/rules-of-procedure/1832-rules-of-procedure-english/file>

Project Overview⁵

In December 2012, the OSCE Ministerial Council adopted a decision in Dublin initiating the Helsinki +40 Process as an effort to provide political impetus to “strengthening our co-operation in the OSCE on the way towards 2015, a year that marks four decades since the signing of the Helsinki Final Act.” The following year, the Ministerial Council encouraged the forthcoming OSCE Chairmanships to seek further contributions to the process by the OSCE executive structures and the OSCE Parliamentary Assembly.

Considering its unique position within the Organization as the link between the governmental side of the OSCE and the people of the OSCE area, the PA recognized its responsibility to foster public debate and build support for the Helsinki +40 Process. The Istanbul Declaration, adopted at the Assembly’s 22nd Annual Session in 2013, underlined the need to inform the public about the process, to increase both interest and transparency.

In the autumn of 2013, Secretary General Spencer Oliver proposed to President Ranko Krivokapic (MP, Montenegro) that the PA launch a project leading up to the 40th anniversary of the Helsinki Final Act in 2015. The project would include leaders of the OSCE Parliamentary Assembly, prominent think tanks with expertise in the OSCE, diplomats – including former diplomats who had participated in the Helsinki process from the beginning – and representatives of civil society interested in the CSCE/OSCE. President Krivokapic appointed former PA President Joao Soares of Portugal as Chair of the Project along with Ilkka Kanerva of Finland and Francois-Xavier de Donnea of Belgium as Co-Chairs. Members of the OSCE PA Transparency and Accountability Committee were also invited to participate in the project. The Project was to be co-ordinated by Secretary General Oliver, supported by Programme Officer Maria Chepurina.

The PA International Secretariat subsequently engaged the Russian International Affairs Council in Moscow, the German Marshall Fund in Washington, D.C., the Swedish Institute of International Affairs in Stockholm, the Danish Institute for International Studies in Copenhagen and the Belgrade Fund for Political Excellence in Belgrade, as well as the Finnish Institute of International Affairs in Helsinki.

Through the engagement of distinguished experts, politicians and diplomats who have been involved in CSCE/OSCE activities, the project has initiated discussions on the OSCE’s Helsinki +40 Process, providing important food-for-thought materials and recommendations for the OSCE participating States and the Organization as a whole. The seminars featured focused discussions held under the Chatham House Rule.⁶

⁵ Full seminar programmes with a list of keynote speakers are attached as an Annex to this Report.

⁶ Under the Chatham House Rule, anyone who comes to the meeting is free to use information from the discussion, but is not allowed to reveal who made the comment. It is designed to increase openness of discussion.

Overview of seminar sequence

The Russian International Affairs Council (RIAC) hosted the first leg of the project in Moscow on 25-26 September 2014, under the theme “Helsinki +40 Process: Prospects for Strengthening the OSCE”.

The German Marshall Fund of the United States (GMF) hosted the second seminar in Washington on 18-19 November 2014. The seminar was held under the theme “Helsinki +40: Implications for the Transatlantic Relationship”.

Hosted by the Swedish Institute of International Affairs (UI), the third seminar was held in Stockholm on 11 March 2015 under the theme “The OSCE’s role in (re)consolidating European security.”

The Danish Institute for International Studies (DIIS) hosted the fourth leg of the project in Copenhagen on 27 April 2015 with a discussion on “The OSCE’s Lack of Legal Status – Challenges in Crisis Situations”.

The Belgrade Fund for Political Excellence (BFPE) hosted the fifth seminar on 27-28 May 2015 in the Serbian capital under the theme “Reaffirming the Strengths, Envisioning the Prospects.”

The discussion of the outcomes of the Helsinki +40 Project takes place on 5 July, in co-operation with the Finnish Institute of International Affairs (FIIA). The project’s Final Report is being presented during the OSCE PA’s 24th Annual Session in Helsinki on 6 July, which will also feature the consideration of a resolution sponsored by Project Chair Joao Soares, “Helsinki +40: Building the OSCE of the Future.”