



HELSINKI +40

OSCE PA

OSCE Parliamentary Assembly Helsinki +40 Project Working Papers

Compilation of experts' contributions and documents

July 2015

Helsinki +40: Building the OSCE of the Future

CONTENTS

Annex I – Seminar Programmes, Food-for-Thought Papers, Reports and Policy Briefs	1
Seminar #1 – Moscow, 25-26 September 2014	2
Moscow Programme	3
“Strengthening the OSCE,” by Andrei Zagorski	6
Seminar #2 – Washington, 18-19 November 2014	21
Washington Programme	22
“The Helsinki Final Act: From Dissidents to Election Observation,” by Klas Bergman	25
“The Helsinki Final Act: Is There Life After 40?,” by Javier Ruperez	29
“The Lasting Impact of the Helsinki Process,” by Martin Sletzinger	34
Seminar #3 – Stockholm, 11 March 2015	38
Stockholm Programme	39
“The OSCE’s role in (re)consolidating European security: Strengthening unity of purpose and effectiveness,” by Anna Di Domenico	41
Seminar #4 – Copenhagen, 27 April 2015	51
Copenhagen Programme	52
“The OSCE’s Lack of an Agreed Legal Status – Challenges in Crisis Situations,” by OSCE Secretariat Legal Services	54
Seminar #5 – Belgrade, 27-28 May 2015	64
Belgrade Programme	65
“Civil Society Contribution to Reform of the OSCE: Case Study Serbia,” by Mina Lazarević and Marko Savković	69
Annex II – Selected Speeches	78
Remarks by PA President Ilkka Kanerva, Moscow, 25 September 2014	79
Remarks by RIAC President Igor Ivanov, Moscow, 25 September 2014	82
Remarks by PA Secretary General Spencer Oliver, Stockholm, 11 March 2015	84
Remarks by First Deputy Speaker Tobias Billstrom, Stockholm, 11 March 2015	87
Remarks by Head of Legal Services Lisa Tabassi, Copenhagen 27 April 2015	89
Remarks by Head of PA Serbian Delegation Dijana Vukomanovic, Belgrade, 27 May 2015	96
Remarks by Chair of the OSCE PA’s Helsinki +40 Project Joao Soares, Belgrade, 27 May 2015	100

Helsinki +40: Building the OSCE of the Future

ANNEX I

**SEMINAR PROGRAMMES, FOOD-FOR-THOUGHT PAPERS,
REPORTS AND POLICY BRIEFS**

Helsinki +40 Process: Prospects for Strengthening the OSCE

**SEMINAR #1 - MOSCOW
25-26 SEPTEMBER 2014**

HELSINKI +40 PROCESS: PROSPECTS FOR STRENGTHENING THE OSCE

PROGRAM

25
SEPTEMBER

Venue:

Lotte Hotel, Novinsky bulvar, 8 bld. 2

9:30–10:00

Registration and welcome coffee

10:00–10:15

Opening remarks

Igor IVANOV,
President, Russian International Affairs Council

Joao SOARES,
*Chairman of the Ad Hoc Committee on Transparency and Reform of the OSCE,
Chairman of the Helsinki +40 Project, OSCE Parliamentary Assembly*

10:15–11:45

Plenary Session

Speakers:

Alexey MESHKOV,
Deputy Minister of Foreign Affairs, Russian Federation (TBC)

Ilkka KANERVA,
President, OSCE Parliamentary Assembly

Alexey PUSHKOV,
Chairman of International Affairs Committee of the State Duma, Russian Federation

Vladimir DZHABAROV,
*First Vice-Chairman of the Committee for Foreign Affairs of the Council
of the Federation of the Russian Federation, Head of the Council of the Federation
Mission to OSCE Parliamentary Assembly (TBC)*

Spencer OLIVER,
Secretary General, OSCE Parliamentary Assembly

Chairmen:

Igor IVANOV,
President, Russian International Affairs Council

Joao SOARES,
*Chairman of the Ad Hoc Committee on Transparency and Reform of the OSCE,
Chairman of the Helsinki +40 Project, OSCE Parliamentary Assembly*

11:45–12:00

Coffee break

12:00–13:45

Session 1. Discussion. Helsinki+40: The OSCE's role and place in the European security system

Speaker:

Andrey ZAGORSKY,
Head of Department, IMEMO RAS, professor, MGIMO University

Topics for discussion:

- The crisis management potential of the OSCE. What mechanisms should be used – and in what conditions should they be used – to successfully prevent/resolve crises and conflicts?
- Lessons from the Ukrainian crisis for the OSCE
- What measures should be taken to strengthen the OSCE?
 - The military and political dimension
 - The economic dimension
 - The human dimension

Chairmen:

Mikhail MARGELOV,
Chairman of the Foreign Affairs Committee of the Council of the Federation, Russian Federation

Javier RUPEREZ,
Ambassador Extraordinary and Plenipotentiary, President, the OSCE Parliamentary Assembly (1996-1998)

13:45–14:45

Lunch/buffet

14:45–16:15

Session 2. Discussion. Helsinki+40: Perspectives for dialogue in the OSCE space

Speaker:

Javier RUPEREZ,
Ambassador Extraordinary and Plenipotentiary, President, the OSCE Parliamentary Assembly (1996-1998)

Topics for discussion:

- The compatibility of economic integration processes in the OSCE space
- The OSCE as a platform for dialogue and the search for ways to form a common humanitarian space
- The role of the parliamentary institutions of member states in strengthening the OSCE and increasing its effectiveness

Chairmen:

Andrey ZAGORSKY,
Head of Department, IMEMO RAS, professor, MGIMO University

Spencer OLIVER,
Secretary General, OSCE Parliamentary Assembly

16:15–16:45

Conclusion

Igor IVANOV,
President, Russian International Affairs Council

Ilkka KANERVA,
President, OSCE Parliamentary Assembly

16:45–17:45

Meeting the press

18:00–19:30

Dinner



Venue:

Moscow State Institute of International Relations (University)
of the Russian Ministry of Foreign Affairs, Prospekt Vernadskogo,
76, room 423

10:00-11:30

**Members of the OSCE Parliamentary Assembly
delegation meet students from the Moscow State
Institute of International Relations (University)
of the Russian Ministry of Foreign Affairs.
Presentations and QA session**

Speakers:

Joao SOARES,

*Chairman of the Ad Hoc Committee on Transparency and Reform of the OSCE,
Chairman of the Helsinki +40 Project, OSCE Parliamentary Assembly*

Spencer OLIVER,

Secretary General, OSCE Parliamentary Assembly

Javier RUPEREZ,

*Ambassador Extraordinary and Plenipotentiary, President, the OSCE Parliamentary
Assembly (1996-1998)*

Göran LENNMARKER,

*SIPRI Chairman Emeritus of the Governing Board, Member of the SIPRI Helsinki +40
Advisory Board*

Questions and answers:

Chairman:

Ivan TIMOFEEV,

Program Director, Russian International Affairs Council



RIAC
Russian International Affairs Council

OSCE PA
PARLIAMENTARY ASSEMBLY

INTERNATIONAL SEMINAR

« **HELSINKI +40
PROCESS: PROSPECTS
FOR STRENGTHENING
THE OSCE** »

REPORT

STRENGTHENING THE OSCE

BUILDING A COMMON SPACE FOR ECONOMIC AND HUMANITARIAN COOPERATION, AN INDIVISIBLE SECURITY COMMUNITY FROM THE ATLANTIC TO THE PACIFIC

16' 2014

STRENGTHENING THE OSCE¹

Building a Common Space for Economic and Humanitarian Cooperation, an Indivisible Security Community from the Atlantic to the Pacific

Andrei Zagorski, Russian International Affairs Council

Executive Summary

Dramatic developments in Ukraine have once again demonstrated the relevance of the OSCE's cooperative crisis management abilities. Strengthening and reforming the OSCE is once again on the European agenda. The 40th anniversary of the Helsinki Final Act offers an occasion for a frank discussion of ways to enhance the effectiveness of the Organization. A series of discussions organized by RIAC in 2014 resulted in the following recommendations.

The first and foremost task is the political settlement of the Ukraine crisis based on respect for the sovereignty and territorial integrity of the country. In the short term, joint promotion of the Minsk process could be the major joint project for Russia and the West within the framework of the OSCE.

A high-level OSCE meeting is needed in order to draw lessons from the Ukraine crisis, agree upon necessary corrections to the European security architecture and outline a blueprint for strengthening the OSCE.

The participating States should both reconfirm the relevance and equal significance of the OSCE principles and their commitment to the goal of developing a security community, as agreed by the heads of state or government at the 2010 Astana Summit.

The main emphasis should be placed on discussing additional measures to give effect to the OSCE principles. For example, agreeing upon a code or codes of conduct in the most problematic areas.

¹ Version shortened by the Author. For the full text visit:
<http://russiancouncil.ru/common/upload/Report16en-OSCE.pdf>

Drafting and adopting the OSCE Charter or Constituent document should ratify, in a legally binding form, the current *modus operandi* of the Organization.

The long-pending Convention on the legal personality of the OSCE should be adopted. Proposals to substantially strengthen the human and financial resources available to the OSCE Conflict Prevention Centre need to be thoroughly considered.

It would be useful to launch, within the framework of the OSCE Forum for Security Cooperation (FSC), technical consultations of military experts in order to explore key parameters for an eventual new Conventional Arms Control (CAC) arrangement.

While further discussing the modernization of the Vienna Document on Confidence-and Security-Building Measures (CSBMs) it would be advisable to focus, in the short term, on measures to improve the effectiveness of verification activities. It would also be useful to review, within the FSC framework, the implementation of CSBMs in crisis situations.

The OSCE participating States should jointly address contemporary transnational threats. In doing so, they should consider joint action, including project activities outside the OSCE area.

In collaboration with the UN Economic Commission for Europe, the OSCE could become a forum for dialogue on a number of issues related to the convergence of integration processes in wider Europe.

The OSCE should develop a cooperative result oriented mechanism to address relevant problems in the human dimension without duplicating existing multilateral mechanisms for the protection of human rights and fundamental freedoms.

The OSCE Parliamentary Assembly (PA) plays an important role in promoting the values and achieving the objectives of the OSCE in all dimensions of its activities. There is an obvious need to improve the interaction between the PA and other OSCE institutions.

Introduction

In the context of the crisis in Ukraine, the OSCE was the only multilateral platform where cooperative crisis management measures were adopted in an inclusive manner. It was quick to deploy a Special Monitoring Mission (SMM) to Ukraine. The Trilateral Contact Group acts as the primary mechanism for political dialogue between the parties involved. It is with the OSCE that there is hope for ensuring the proper monitoring and verification of compliance with the agreements so far in place. The OSCE Parliamentary Assembly is the sole inter-parliamentary platform where a dialogue is taking place with the participation of all parties concerned.

The crisis is far from reaching a settlement, just as it is premature for the OSCE to rest on its laurels. The implementation of the Minsk agreements is lagging behind the consolidation of a quasi-State in South-Eastern Ukraine. The risk of the emergence of a new protracted conflict in Europe is high. Such a development is not in the interest of any of the OSCE participating States. The participating States should demonstrate the political will and empower the OSCE to take operative measures in order to consolidate the Minsk Process. They should provide comprehensive support for OSCE initiatives aimed at resolving the crisis. In the short term, cooperative crisis management in Ukraine could become the major joint political endeavor by the participating States and substantially contribute to the restoration of mutual trust between Russia and the West.

Today, the OSCE is facing a serious challenge. The results that the OSCE participating States take with them to the anniversary of the Helsinki Final Act will, in large part, depend on how they meet this challenge. With this, the issue of a comprehensive reform and strengthening of the OSCE is back on the agenda. Granted, the OSCE participating States pursue different visions of what steps are needed to strengthen the OSCE. This lack of cohesion has prevented the Organization over the past ten years from arriving at a consensus on the issue.

The upcoming anniversary provides an opportunity for an honest review of the current state of affairs in Europe and within the OSCE, as well as the examination of measures necessary to improve the cohesion of the participating States.

1. The Past

The Helsinki Final Act was the culmination of détente in Europe. Its principles have withstood the test of time. The ongoing discussion of compliance, non-compliance or improper compliance with these principles stands as the best proof of their relevance in today's Europe. The Helsinki Process has lived through both good times and bad. Yet, the Conference and the Organization for Security and Cooperation in Europe have been associated with the prospects for maintaining political dialogue and gradually overcoming old and new dividing lines.

The OSCE was not the sole or central European security organization during or after the Cold War. But it was an important part of the broader East—West framework. Not least for this reason, the Organization has been a hostage to the relations among participating States. Rising tensions have led to stagnation and failures. During such periods, the question of whether or not the participants needed the OSCE was asked more than once. On every occasion, the answer was affirmative. The reason is that whenever the states exhibited the will to jointly tackle the problems facing them, they rediscovered the OSCE and used it in the search for common responses to the challenges of the time.

The 1990s marked a special period in OSCE history. During this time the formation of pan-European institutions, including those designed for crisis management, was closely associated with the prospects for establishing an inclusive European security order. Since 1990, the number of the OSCE participating States has grown from 34 to 57 states.

The **principle of consensus** guaranteed the ownership of OSCE decisions by all participants. At the same time, this principle makes it more difficult to arrive at decisions as states are either not ready to compromise or they abuse the consensus rule.

The main breakthroughs in the CSCE/OSCE occurred, when the participating States were ready to look for a comprehensive compromise, acknowledging their often asymmetric interests. In the most successful periods of its work, the overall balance within the OSCE was ensured by parallel progress in addressing security and human dimension issues.

2. The Present

Europe has changed dramatically in the years since the signing of the Helsinki Final Act. Many of the practical issues that shaped the agenda of the Helsinki Process at its beginning have been resolved. Cooperation and convergence between OSCE participating States has progressed in spite of failures and setbacks.

The threat of a large-scale armed conflict in Europe is gone, but the potential for regional and local conflicts remains. OSCE participating States still disagree on many issues, but those disagreements are no longer antagonistic.

Although all the OSCE participating States face new transnational threats, they do not make full use of the OSCE's potential to provide cooperation and an effective response. Today, nearly all the OSCE participating States are market economies, although their economic structures and regulatory practices differ from one another. The level of their interdependence has increased markedly.

At the same time, recent years have seen deepening divergences in the participating States' approaches to a wide range of issues, including their views on the Organization's future. Institutional fragmentation between different parts of the OSCE region – the Euro-Atlantic and Eurasian communities – is growing. The split and mutual distrust is now deeper than it has been at any time in the past 25 years. The culture of searching for a consensus and compromise solutions has taken a back seat. Unilateral policies prevail over the efforts to achieve concerted action. The zero-sum game logic increases mutual mistrust.

In spite of the declared adherence to the principle of indivisible cooperative security, the levels of security in different parts of the OSCE area remain different. The conventional arms control regimes, which in past decades ensured unprecedented reductions in armed forces, have declined.

Substantial differences persist in the implementation of OSCE commitments by individual states.

The OSCE has contributed to positive changes that have taken place in Europe since the end of the Cold War. However, in the past decade, its activities have become the subject of intense debates. Diametrically opposed proposals have been put forward about what steps should be taken to reform the Organization in order for it to adapt to the ongoing changes and challenges.

Doubts have been expressed over the ability of the OSCE to cope with the unifying mission of building a “Europe whole and free”. The deepening of old dividing lines and the appearance of new ones give cause for concern in the region. The OSCE is criticized for applying double standards, and for geographical and thematic imbalances in its activities. Some believe that the Western states have “captured” the Organization and use it exclusively in their own interests. Others criticize the OSCE for addressing peripheral topics and lacking a clear focus in its activities. This is not surprising considering how difficult it is to achieve the consensus of all participating States. Experts and politicians acknowledge a lack of political will to use the Organization’s toolbox for addressing the pressing security problems on the continent. All this, rather than enhancing the role of the OSCE, tends to marginalize it.

In 2005, a Panel of Eminent Persons presented recommendations on strengthening the effectiveness of the OSCE. Many of its recommendations have been put into practice. Nevertheless, controversies over the OSCE and methods reform continue.

The OSCE today, being a regional arrangement under Chapter VIII of the UN Charter, has much stronger operational capabilities than it had in the 1990s. Its activities are based on a broad mandate and a comprehensive approach to cooperative security. A major advantage of the OSCE is its inclusive membership and years of experience working in the field in troubled regions. Along with an extensive normative acquis, the OSCE has a wide range of tools to assist the participating States in the process

of the implementation of their commitments and obligations, to prevent conflicts and manage crises.

However, **there is much less demand today for OSCE capabilities and competences than there was in the 1990s**. The use of the OSCE toolbox is hampered not only by the difficulty in reaching a consensus, but also by the fact that other European security organizations have developed similar competences in such areas as crisis management, international police activities or strengthening the rule of law. This development increasingly challenges the OSCE's competitive advantage in the contemporary European security architecture.

3. The Future

OSCE activities in conflict resolution and post-conflict rehabilitation concentrated in South-Eastern Europe (SEE) and peaked in the 1990s. As the situation has stabilized, the OSCE operations have downsized. The total budget of the Organization's missions and presences in SEE has dropped by more than half since the early 2000s. The number of international staff deployed by the OSCE in the region is steadily declining, falling by more than two times from nearly 900 in 2003 to 400 in 2013. Meanwhile, the European Union has considerably expanded its activities in the region over the same period.

At the same time, the reduction of the OSCE's work in SEE is not compensated by expanded activities in other regions. Although operations in Central Asia or, more recently, in Ukraine have increased, they are the subject of heated debates. Not counting the SMM, the number of OSCE international personnel deployed in the former Soviet Union countries has dropped by roughly a third over the past ten years.

The deployment of the SMM in 2014 has helped focus attention on the complex developments in Eastern Europe and alter the overall picture of the geographical distribution of the OSCE's activities. However, this does not necessarily mean a break from the trend that has been developing over the past 20 years. At this stage, the question remains as to whether the response to the acute crisis in Ukraine reflects a long-term

tendency in the OSCE's activities, or whether the expansion of its operations is a temporary phenomenon.

The continued reduction of operations in the foreseeable future might reduce the Organization to the work of the Vienna based Permanent Council, the Secretariat and OSCE executive structures. The result would be a waning of interest in the OSCE among most of its participant States.

While preserving the status quo of the past ten years will further marginalize the organization, the need to stand together against new transnational threats generated in other regions, and the persisting danger of local conflict, will require greater cohesion among the participating States and resolute measures to strengthen the OSCE.

The Ukraine crisis has highlighted the importance of **timely and prompt collective reaction to conflict and political crises**. The deployment of the SMM has not faced any serious problems in terms of funding or staffing. It could have been deployed more quickly should the Permanent Council have arrived at consensus earlier.

Over the past decade, the OSCE has been considering **shifting the geographical focus of its operations**, including project activities “out of the area” in a number of partner countries. Specifically, the eventual contribution of the OSCE to the stabilization of Afghanistan, especially in light of the ISAF withdrawal, and to assist the transformation in the Southern Mediterranean, was subject of consideration. However, there is no consensus on it yet.

In view of the cross-border, indeed global nature of contemporary transnational threats, it makes sense to revisit this issue of possible OSCE “out of the area” engagement, considering the need not only to harmonize individual responses to the new threats, but also to develop joint measures to counter them, including OSCE project activities outside the OSCE region.

Further marginalization of the OSCE does not appear to be in the interest of the Russian Federation. The OSCE (with the exception of the Council of Europe, whose competencies are far narrower) remains the single multilateral European institution of which Russia is a full member. The efforts of the last two decades aimed at developing strategic partnerships between Russia and the European Union and NATO, in order to supplement (or replace) Russia's participation in the OSCE have thus far not yielded substantial results.

An increase in the capability of the OSCE to promptly react to a crisis by expanding the independence of relevant institutions would enhance its competitiveness within the European security architecture – particularly in the event of a dispute in the post-Soviet space involving Russia and the West. However, a consensus on this issue now appears impossible due to the sensitivity of amending the consensus rule.

4. Helsinki + 40

Decisions the participating States will take as they approach the anniversary of the Helsinki Final Act may either enhance the role of the OSCE or hasten its marginalization. The range of possible decisions in the commemorative year is fairly wide and may include the following steps:

1. Political Settlement of the Ukraine Crisis

The first and most important step towards restoring mutual trust must be a political settlement of the Ukraine crisis based on respect for the sovereignty and territorial integrity of the country. This requires the full support and implementation of the Minsk Process. The common goal of all OSCE participating States shall be to prevent the emergence of another protracted conflict in Europe. Full support and joint promotion of the Minsk Process could, in the short term, become a major joint project for Russia and the West within the framework of the OSCE.

2. High-Level Meeting

It would be advisable at some stage to hold an OSCE high-level or a summit meeting. Its outcome will certainly depend on the course of the resolution of the Ukraine crisis. But it is important, in order to draw lessons from the crisis to agree on appropriate adjustments to the contemporary European security architecture and to map out the main areas and measures for strengthening the OSCE.

3. OSCE Principles and Commitments. The Security Community

Against the background of the 2014 Ukraine crisis, it is crucial that OSCE participating States reconfirm the relevance and equal significance of the fundamental principles of the Helsinki Final Act. Of no lesser importance is their renewed commitment to the development of a security community as anticipated in the Astana Commemorative Declaration of 2010.

4. Measures to Give Effect to the OSCE Principles

Simply declaring one's renewed commitment to the general principles, commitments and objectives of the OSCE is not enough. The main emphasis of the OSCE's work should be on discussing measures to more effectively put the OSCE principles into practice.

In particular, this could mean agreeing upon a code or codes of conduct in the areas that are seen as most problematic.

5. OSCE Charter (Constituent Document)

Drafting the OSCE Constituent Document would mark an important step towards transforming the Organization into a fully-fledged regional organization. The Constituent Document should ratify, in a legally binding form, the *modus operandi* of the OSCE as has been established by relevant decisions up to date. If not the actual adoption of the document, an agreement in principle on the desirability of drafting it could be an important decision within the framework of the Helsinki +40 process.

During the work on the Document, it would make sense to review the powers of the OSCE Chairperson and Secretary General.

6. Legal Personality

In parallel with an agreement on the Constituent document, the OSCE should adopt the long-pending Convention on the International Legal Personality, Legal Capacity, and Privileges and Immunities of the OSCE. The decision on drafting the Convention was adopted in 1993. The text of the Convention was finalized in 2007, but its adoption was delayed by the controversy over the rationale of drafting an OSCE Charter.

7. Crisis Management

Taking the OSCE's experience in resolving the 2014 Ukraine crisis into account, proposals concerning the need to improve the human and financial resources available to the OSCE Conflict Prevention Centre, to expand its role regarding the monitoring of the current situation and submitting conflict resolution proposals need to be thoroughly considered.

It would be worth considering the feasibility of dispatching, under modern conditions, OSCE peacekeeping or peacebuilding missions under the provisions of the 1992 Helsinki Document, or dispatching such missions under its mandate.

8. Conventional Arms Control

The Forum for Security Cooperation (FSC) and particularly the Security Dialogue conducted within its framework plays a key role in the discussion of military-political issues of European security. In the absence of substantive consultations on conventional arms control (CAC) it would be useful to launch within the FSC technical consultations of military experts to form a “security matrix” determining the inter-relationship and degree of influence of various types of weapons in combat missions.

9. Confidence and Security-Building Measures (CSBMs)

While a substantial modernization of the Vienna Document depends, in many ways, on an eventual CAC agreement, in the short term, discussions can concentrate on the effectiveness of verification activities. For example, on increasing the number of inspections and assessment groups, as well as the duration of verification missions. It would also be useful to conduct a systematic review of the effectiveness of the existing CSBMs particularly in crisis situations.

10. Transnational Threats

The OSCE can and must contribute to a coordinated response to contemporary transnational threats, particularly terrorism, illegal drugs and human trafficking, or threats generated in cyber space. It should contribute to harmonizing the responses to those threats. In this context, participating States should engage in consultations and coordination of positions on issues going beyond the geographical OSCE area. Such consultations could lead to decisions on joint action to counteract transnational threats, including joint project activities outside the OSCE area.

11. Convergence of Integration Processes

The OSCE contributes to the greater compatibility of economic integration processes in the region, leading towards the creation of a common free trade area and establishing a common economic space from the Atlantic to the Pacific. With this aim in mind, the OSCE, in collaboration with the UN Economic Commission for Europe, could become a forum for a broad dialogue on the relevant issues.

12. Reforming the Human Dimension

The human dimension has been and will remain an inalienable part of the Helsinki process and a key element of the OSCE identity and mandate. The OSCE shall transcend highly politicized rhetoric by developing a result oriented cooperative mechanism without duplicating existing multilateral mechanisms for the protection of human rights and fundamental freedoms. The creation of such a mechanism would help optimize the review of the implementation of human dimension commitments.

13. Parliamentary Dimension

The OSCE PA plays an important role in promoting the OSCE's core values and achieving its fundamental objectives in the three main dimensions of the Organization's activities. It is of great importance that discussions pertaining to the OSCE reform, are included within the Helsinki +40 Process. At the same time, the mechanisms of interaction between the PA and the relevant institutions of the OSCE need to be substantially improved.

Helsinki +40: Implications for the Transatlantic Relationship

**SEMINAR #2 - WASHINGTON
18-19 NOVEMBER 2014**

INTERNATIONAL SEMINAR

Helsinki +40: Implications for the Transatlantic Relationship

Tuesday, November 18, 2014

08:30 – 09:00 Registration and welcome coffee

Location:

The German Marshall Fund
1744 R Street NW
Washington, DC 20009

09:00 – 09:15 **OPENING REMARKS**

Karen Donfried
President, German Marshall Fund

Ilkka Kanerva
President, OSCE Parliamentary Assembly (Finland)

09:15 – 10:45 **SESSION I – HOW TO AVOID THE FINAL ACT OF THE HELSINKI FINAL ACT**

Alcee Hastings (D-FL)
United States Representative (United States)

Joao Soares
Chairman of the Ad Hoc Committee on Transparency and Reform of the OSCE, OSCE PA; Chairman of the Helsinki +40 Project, OSCE PA (Portugal)

Andrei Zagorski
Expert of the Russian International Affairs Council; Head of Department IMEMO RAS, professor, MGIMO University

Javier Ruperez
Ambassador Extraordinary and Plenipotentiary

Chair:

Spencer Oliver
Secretary General, OSCE Parliamentary Assembly

10:45 – 11:00 Coffee break

11:00 – 12:30 **SESSION II – DO WE NEED A “NEW” HELSINKI PROCESS?**

Martin Sletzinger

Former Director of East European Studies and Senior Scholar, The Wilson Center

Klas Bergman

Independent Writer and Editor

Ivan Vejvoda

Senior Vice President for Programs, German Marshall Fund

Chair:

Kyle Scott

Senior Resident Fellow, German Marshall Fund

12:30 – 13:15 Lunch

13:15 – 14:00 Transfers to Capitol Hill

14:00 – 15:15 **SESSION III – THE ROLE OF THE PARLIAMENTS AND U.S. CONGRESS MOVING FORWARD**

Location:

485 Russell Senate Office Building

Ben Cardin (D-MD)

United States Senator; Chairman, U.S. Helsinki Commission
(United States)

Chris Smith (R-NJ)

United States Representative; Co-Chairman, U.S. Helsinki Commission
(United States)

Chair:

Ilkka Kanerva

President, OSCE Parliamentary Assembly (Finland)

15:15 – 15:30 **CONCLUSION**

Ivan Vejvoda

Senior Vice President for Programs, German Marshall Fund

Spencer Oliver

Secretary General, OSCE Parliamentary Assembly

Wednesday, November 19, 2014

10:00 – 11:30 **STUDENT FORUM**

Location:

Georgetown University

Edward B. Bunn S.J. Intercultural Center

Executive Conference Room, 7th Floor

37th St NW, Washington, DC 20007

Ilkka Kanerva

President, OSCE Parliamentary Assembly (Finland)

Joao Soares

Chairman of the Ad Hoc Committee on Transparency and Reform of the OSCE, OSCE PA; Chairman of the Helsinki +40 Project, OSCE PA (Portugal)

Moderator:

Ivan Vejvoda

Senior Vice President for Programs, German Marshall Fund

Summary: The Helsinki Final Act, signed in August 1975, changed Cold War Europe. Its so-called third basket on human rights and freedoms proved important to dissidents in Eastern Europe and in the Soviet Union. Human rights activists set up Helsinki monitor groups to follow the progress of the Soviets and the regimes in East Europe in implementing the human rights stipulations in the Final Act. After the fall of the Iron Curtain, mechanisms set up by the Act, specifically the Conference on Security and Cooperation in Europe, took on a new role and became the international standard for elections monitoring.

The Helsinki Final Act: From Dissidents to Election Observation

by *Klas Bergman*

Only a couple months after the signing of the Helsinki Final Act on August 1, 1975 by 35 nations — the United States and Canada plus all the countries in Europe except Albania — I arrived in Belgrade, the capital of former Yugoslavia, as the new East European correspondent for the Swedish daily *Dagens Nyheter*.

In those days, the countries in that part of Europe were all part of the Soviet Empire, with the exception of Marshal Josip Broz Tito's Yugoslavia, which had managed to carve out its independence and its own brand of self-management Socialism, or Communism, and become a leading member of the worldwide Non-Aligned Movement. The other countries in Eastern Europe — Poland, East Germany or the German Democratic Republic (GDR), Czechoslovakia, Hungary, Romania, and Bulgaria — were all firmly under the control of Moscow. Their Communism mirrored the Soviet brand and opposition to that brand was dealt with just as harshly in Warsaw, Prague, or Bucharest as in Moscow.

The Helsinki Final Act changed all that, not immediately, and not even always particularly fast, but with time. Its so-called third basket on human rights and freedoms proved important to dissidents in Eastern Europe and

in the Soviet Union. Human rights activists set up Helsinki monitor groups to follow the progress of the Soviets and the regimes in Eastern Europe in implementing the human rights stipulations in the Final Act. The groups' reports on human rights violations in these countries, in spite of the Helsinki Act, drew widespread international attention.

Post-Helsinki, the dissident movement in Eastern Europe got its start in Poland in the summer of 1976, after workers' protests were brutally crushed. The Workers' Defense Committee (KOR) was formed with people such as Jacek Kuron, Jan Jozep Lipski, and Adam Michnik, men who became legendary opposition leaders, whose efforts paved the way for the birth of Solidarity at the shipyards in Gdansk in 1980.

KOR also became the forerunner to Charter 77 in Czechoslovakia, a new group whose 257 signatories published its manifesto in January 1977 criticizing the Czechoslovak government for failing to implement the human rights provisions it had, itself, signed in the Helsinki Final Act.

As in Poland, dissidents in Czechoslovakia were arrested and imprisoned after show trials. But the protests spread, even to Nicolae Ceausescu's

Policy Brief

Romania, where eight dissidents, led by the writer Paul Goma, signed an appeal to all the 35 countries that were to participate in the Belgrade Follow-up Conference later the same year, saying that the government should adhere to Romanian laws and the country's constitution. Goma was arrested and served a brief prison term. Eventually, he and many of the several hundred signatories of the appeal were forced into exile.

These were difficult years for the opposition in Communist Eastern Europe. In Prague in the spring of 1977, the atmosphere was one of deep pessimism. "Spring is now over and it will never again return. When winter comes, we will know everything," prominent writer Ludvik Vaculik once wrote after the "Prague Spring" of 1968 was crushed by Soviet tanks and one of the most repressive regimes in Eastern Europe was installed. When I met Vaculik in Prague in the spring of 1977, winter seemed, in fact, to have arrived and he was full of hopelessness. But, he also talked about the upcoming Belgrade Conference with some optimism.

The First Follow-up Meeting, or Review Conference, was held in Belgrade between October 1977 and March 1978. The participating states failed to reach consensus on a number of proposals. In the disappointingly short and bland final document, all that was said was that the exchange of views, in itself, had been a "valuable contribution towards the achievement of the aims set by the CSCE," and that the states "reaffirmed the resolve of their Governments, to implement fully, unilaterally, bilaterally and multilaterally, all the provisions of the Final Act."

The Belgrade Conference was clearly not a break-through in East-West relations, and the rhetoric of the Cold War continued to dominate the proceedings. In the middle of the conference, a court in Prague sentenced four leading dissidents, among them Vaclav Havel, to prison terms of various length. The verdicts led to Western criticism of both Czechoslovakia and the Soviet Union. At times, the conference seemed close to breaking up as the Soviets expressed serious frustration with the U.S. emphasis on human rights through the U.S. chief delegate, former U.S. Supreme Court Associate Justice Arthur Goldberg.

Goldberg countered that the Soviets and their allies refused to discuss human rights, but the fact that they were forced to listen to U.S. and Western concerns was positive. Still, real detente and real change were far away. The only thing

The Soviets and their allies refused to discuss human rights, but the fact that they were forced to listen to U.S. and Western concerns was positive.

the Belgrade Conference could agree on was a new follow-up meeting, which took place first in Madrid and then in Vienna, during the 1980s.

It took another 12 years of continued Communist rule and political repression, including martial law in Poland, before fundamental change came. A gigantic wave of democracy swept over Eastern Europe and eventually even reached the Soviet Union, causing its collapse.

In the historic year of 1989-90, the Berlin Wall came crashing down. Czechoslovakia's battle-tested dissidents, led by Vaclav Havel, suddenly found themselves heading a movement that took over the leadership of a nation; the old Communist leadership of Gustav Husak, which had been so feared, vanished from the scene.

All the countries in Eastern Europe were touched, and it all happened peacefully, almost elegantly, except for in Romania. That repressive system had been particularly harsh, coupled with a constant economic crisis, even outright poverty. Its overthrow turned violent; Ceausescu and his wife were executed by a firing squad after being caught trying to flee the country.

Democratic reforms did not reach Yugoslavia. Instead, it was thrown into a tragic civil war that tore the country apart. New, independent nations were formed in the Balkans, each struggling with their own transition to democracy.

I witnessed much of this democratic revolution as the East European correspondent for the *Christian Science Monitor*. From the fall of 1989 to the summer of 1990, I hurried from country to country, trying to keep up with events not seen since World War II among citizens who had lived without the democratic freedoms that the Helsinki Final Act had established for all the 35 signatories.

Policy Brief

It was a momentous time, a period unprecedented in its magnitude in Europe's post-war history. If one looked back to 1975, one could see the connection between these profound changes and the Helsinki Final Act. And if one looked forward, the democratic revolution in Eastern Europe led to profound changes for the Conference on Security and Cooperation in Europe (CSCE) in 1990.

Up until that time, the CSCE had mainly functioned as a series of meetings and conferences that built on and extended the participating states' commitments, while periodically reviewing their implementation. The Belgrade Follow-up Meeting introduced a review process to track violators of the Helsinki Final Act and hold them accountable. This enabled dissidents to act and speak more openly than would otherwise have been possible.

But the follow-up meetings in Madrid in 1980-83, and Vienna in 1986-89 were not able to profoundly change the East-West balance, or hasten end of the Cold War. It was the Paris Summit in November 1990, after Communism had collapsed in Eastern Europe, that created a completely new momentum to set the CSCE on a fundamentally new course.

In the "Charter of Paris for a New Europe," the CSCE was called upon to play a part in managing the historic changes taking place in Europe and responding to the new challenges. It stated positively and idealistically that "we undertake to build, consolidate, and strengthen democracy as the only system of government of our nations. In this endeavor, we will abide by the following: human rights and fundamental freedoms are the birthright of all human beings, are inalienable, and are guaranteed by law."

It continued: "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."

New, permanent institutions were created with new operational capability, among these the creation of a CSCE Parliamentary Assembly based in Copenhagen. In 1994, CSCE became the OSCE, the Organization for Security and Cooperation in Europe, headquartered in Vienna. As the former Soviet Republics became independent nations, the 35 participating states grew to 57.

The end of the Cold War facilitated an international consensus about the importance of genuine elections and international involvement to help bring about such elections. In the 1990 Copenhagen Document, each participating state committed itself to invite foreign observers to monitor its elections in the "spirit of reciprocity and goodwill". In a sense, the invitation of foreign observers is a political commitment of each OSCE participating state.

Starting in 1993, the Parliamentary Assembly was given responsibility for election observation, as was the Office for Democratic Institutions and Human Rights (ODIHR). A cooperation agreement from 1997 outlines both organizations' tasks. The OSCE PA leads the OSCE short-term observers, while ODIHR provides long-term observers. The head of the Parliamentary Assembly's delegation delivers the preliminary joint post-election statement, usually on the day after the election.

The OSCE has now conducted several hundred election observation missions, as elections have played a major role in the democratic transitions of the past two decades. Although the cooperation between the OSCE PA and ODIHR has often been fraught with tension, the OSCE has become the premier election observation institution in the world, with globally recognized election standards.

How elections are conducted has become increasingly important for governments to achieve international legitimacy. Observers can enhance the credibility of an election and positively enhance the legitimacy of a government, and a critical report can have negative effects.

Kofi Annan, the former secretary general of the United Nations, said at a meeting about election observation in 2005: "The presence of international election observers, fielded always at the invitation of sovereign states, can make a big difference in ensuring that elections genuinely

Observers can enhance the credibility of an election and positively enhance the legitimacy of a government, and a critical report can have negative effects.

Policy Brief

move the democratic process forward. Their mere presence can dissuade misconduct, ensure transparency, and inspire confidence in the process.”

As press spokesman for the OSCE Parliamentary Assembly during many of these election observation missions — including to Russia, Kazakhstan, Georgia, Armenia, Serbia, Montenegro, Ukraine, and Belarus — I have become convinced of the importance of these missions for the host countries. The presence of OSCE observers was an important part of many of the elections in transition democracies. Local functionaries were for the most part accommodating, and we were given access to local election headquarters and polling stations and were allowed to observe the voting as well as the vote count. Our presence was also important for the voters, who mostly reacted positively to us and valued the interest we showed in their elections.

I believe it is important to be there, to be present, and to engage. In 2007, ODIHR decided not to conduct an observation mission of the Russian parliamentary elections because of problems of obtaining Russian visas for their observers. The task was left to the OSCE PA and to the Parliamentary Assembly of the Council of Europe (PACE). They criticized the election, stating that Russia had “failed to meet many OSCE and PACE commitments and standards for democratic elections.”

Does such a statement make a difference? It is hard to draw any definite conclusions, but I would like to think it does. No country likes to be criticized, and many countries involved in a democratic transition are often particularly sensitive to what the international community thinks about them and their elections. It is important that the international pressure extended by the election observers continues to be applied on these countries. In the end, the reward for these countries comes when the OSCE concludes that observation of their elections is no longer necessary because the democratic transition is complete. That is a clear measure of success.

I would like to think that the OSCE election observation missions have played an important role in this process. These missions should continue. I can think of no more important task for the OSCE as it goes forward.

The views expressed in GMF publications and commentary are the views of the author alone.

About the Author

Klas Bergman is a Swedish-American journalist, blogger, and author. He has reported from many parts of the world, Europe, the Middle East, Central America, and the United States, primarily for the Swedish daily *Dagens Nyheter* and the *Christian Science Monitor*. His most recent book, *Land of Dreams: A Reporter's Journey from Sweden to America*, was published in English in 2013.

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Summary: Recent events in Ukraine point to the continued applicability of the Helsinki Final Act, even nearly 40 years after it was signed by leaders from the United States, Western Europe, and the then Soviet Union. Respect for both national sovereignty and international human rights are as important now as they were in 1975. If properly followed by each of the present 57 OSCE member states, the document could very well be the path to another 40 years of improved security and cooperation in freedom and justice for all the citizens of Europe, the United States, and Canada.

The Helsinki Final Act: Is There Life After 40?

by *Javier Rupérez*

There was no Peace Treaty to certify the end to World War II in Europe and to make official the territorial changes it had prompted on the continent. Hasty military arrangements taken by the victorious powers against the defeated soon became the only element of reference. Hardly had the war finished when the coalition of the winning broke up in two hostile and irreconcilable camps: on one side, the United States and its European democratic allies; on the other, the Soviet Union and its reluctant partners on the western edge of its already expanded borders. Germany was to remain divided along the same ideological and territorial lines (and Berlin its symbol). Despair replaced post-war elation among the Europeans when Stalin did not seem to rule out a push further west, both in territorial and political terms, while the Americans soon indicated their desire to “bring the boys back home” and hunger was everywhere to the west of the Rhine River. As early as March 5, 1946, in Westminster College, at Fulton, Missouri, Winston Churchill, who was no longer the British prime minister, had addressed the situation in dramatic tones: “From Stettin in the Baltic to Trieste in the Adriatic, an ‘Iron Curtain’ has descended across the continent. Behind that line lie all the capitals of the ancient states of

Central and Eastern Europe. Warsaw, Berlin, Prague, Vienna, Budapest, Belgrade, Bucharest, and Sofia; all these famous cities and the populations around them lie in what I must call the Soviet sphere, and all are subject, in one form or another, not only to Soviet influence but to a very high and in some cases increasing measure of control from Moscow.”

The United States early on understood the plight of the Western European nations. The launch of the Marshall Plan in 1947 contributed decisively to the reconstruction of the impoverished European economies, including that of the Federal Republic of Germany. In 1949, the founding of NATO reassured the Western European democracies of Washington’s commitment to the European defense. In 1956, the Treaty of Rome gave birth to the European Community, made possible by the post-war reconciliation of Germany and France. Reinforced cooperation among European democracies and the powerful links they developed across the Atlantic with the United States and Canada gave a new sense of confidence to the Western nations. The continent was divided along ideological lines and the dangers of confrontation had not disappeared, but the Western European capitals could now confront

Policy Brief

the challenge from strength: they were no longer lame or isolated. The 1955 creation of the Warsaw Pact, a Soviet outfit more attuned to keep Moscow's doubtful allies in line than to offer a real counterweight to NATO, did nothing but transmit the Soviets' uneasiness: things had reached a stalemate, the Cold War.

While in the 1950s the Soviet Union was not shy about boasting of the "inevitable" triumph of Marxism Leninism over the West's "decadent" capitalism, the 1960s showed a mellowing of its belligerent rhetoric. New realities on the ground forced a change of tactics, if not strategy. Western Europe, together with the United States and Canada, were still there and the times dictated accommodation more than confrontation. "Détente" was Moscow's catchword of the moment, while the search for a revised "European Security Architecture" became the mantra obsessively guiding the Soviet diplomacy. It was not difficult to find out why: further territorial gains were no longer feasible, political gains by the communist parties in Western Europe have been thwarted by the electorate, and what remained was to try to solidify the real state acquisitions. The revolutionary USSR became the strongest conservative spokesman for the post-war European "status quo." And what it needed was the formal recognition by the international community of the legality of the new European borders, with a special emphasis on the division of Germany. The Soviet approach to European security, which was obediently followed by Moscow's satellites, soon evolved into a formal call for a regional conference dedicated to the matter. It responded to the traditional socialist preference for facade over substance.

The Western response was cautious and muted. Neither the Europeans nor the Americans had any plan to reshape the post-World War II map, but they did not see any need to give to it any further legitimacy. The two Germanys were there to stay, they thought, and their only serious concern in the central European lands was how to insure freedom of access to West Berlin. Besides, the Soviets were never to be taken at face value and the Westerners' needs for peace and security were duly guaranteed by the presence in the continent of U.S. troops and weapons, including a significant nuclear arsenal. Prosperity became widespread in what had been the lands laid barren by the war, and the economic cooperation among European democracies as designed by the nascent integrated institutions in Brussels showed success. What was the point in discussing "peace" Soviet style at a pompous and empty conference?

However, the Soviet initiative became a significant part of the East-West diplomacy during the second half of the 1960s. Moscow's insistence on the conference convinced the West that something of significance might be obtained in return, and they concentrated their attention on the respect for human rights and related issues, a field where the socialist camp was seriously deficient. Moreover, countries not included in any of the opposing "blocs," in a variety of hues that went from the pro-Western "neutrals" to the socialist leaning "non-aligned," had showed an early interest in the idea. They thought they had much to gain and nothing to lose from a relaxation of tensions between the two super powers and their followers. Paramount among them was Finland, who had almost miraculously managed to resist the Soviet aggression during the war and was subsequently forced to navigate between the demands of a powerful and not-always friendly neighbor — with which it shared a 2,000-kilometer long border — and the national wish to live independently according to the rules of Western democracy. That balancing act was derisively branded as "Finlandization" in some quarters; in truth it showed the Finnish people's determination to stick to their values while dealing with the surrounding reality. Finland was the indispensable go-between to facilitate the convening of the conference, and along the way invested huge amounts of human and material resources to make it happen. On November 22, 1972, at the University Center of Dipoli on the outskirts of Helsinki, 33 European countries, the United States, and Canada gathered for the officially named "Helsinki Consultations on the question of a Conference and Security and Cooperation in Europe."

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Policy Brief

The Dipoli “Blue Book” containing the “Final Recommendations” for the organization and content of what would become the CSCE, set the tone for the negotiation to follow. Moscow had expected and wished a short event, ideally to last no more than a month, ending with some fanfare, by Christmas 1972. It lasted till June 1973. The agenda of the negotiations covered three well-detailed chapters — “baskets” in CSCE parlance — which included the “questions related to the security in Europe,” “economy, science, technology, and the environment,” and the “humanitarian and other fields.” The conference was to organize its travails in three stages — ministerial, committees and an eventual summit — of which only the dates for the first two were known: July and September 1973. Heads of state and government of the participating states gathered in Helsinki to give their approval to the Helsinki Final Act on the first days of August 1975. This was a timetable designed to obtain a substantive result, in broad lines much more consistent with the West’s than with the Socialists’ aspirations. In fact, the closing document could be construed as recognizing the post-war territorial realities in Europe, and it was presented by the Soviets and those in the West criticizing the real or supposed weakness of the Western governments in their dealings with Moscow as a victory. But the language of the agreement was carefully crafted and added nothing to the situation that had not been previously accepted by the international community and dictated by international law.

What was new, and rarely if ever achieved in bilateral and multilateral relations of the sort encompassed by the CSCE, was the language and directions dedicated in the first and third “baskets” to human rights as a fundamental part of overall peace and security. The USSR got its borders right, but accepting discussion of the obligations derived from the dignity of the human person, it set into motion a political and ideological movement that eventually would be a significant factor in its demise. There were not many who, defying conventional wisdom, pointed to the basic Soviet mistakes in the negotiations, but they were right. They well understood the shortcomings of the Soviet perception of reality, where the preeminence of “magical thinking” — where words define reality — over bread and butter issues affecting millions of oppressed and underfed citizens blinded the Soviet leadership. Moscow did soon understand the dimension of its mistakes and tried to correct it by playing defense vigorously. The CSCE Belgrade meeting (1977-78), the first to be held after the

Helsinki Summit, showed a distrustful and negative USSR, unwilling to accept any progress on what had already been approved. It was already too late. The Helsinki Final Act was marching on.

To properly understand the CSCE’s significance, then and now, one has to underline the method followed to reach written results. Each negotiation piece was to be started by a thorough “review” of the participants’ behavior in that particular field. That “sine qua non” requirement on the part of the Westerners, as a matter of principle hotly disputed by the Easterners, developed into a healthy and frank discussion on each other’s merits on the road to European and international security. While diplomatic civility was never abandoned, the sometimes acrimonious recrimination allowed participants to clearly show what each of them considered to be the state of the play and the necessary measures to improve it. For good reason, those heated exchanges were not opened to the media, which occasionally got juicy snippets of what was going on behind closed doors, but the exercise was invaluable. It was and must remain a good example of what regional arrangements should do to remain relevant to the rights and interests of the members. Nothing is to be gained by ignoring problems or by refusing to name names. The Helsinki process deserves a first in this regard: diplomacy is not about empty words but about harsh realities. The Final Act could not have been negotiated otherwise.

Is it still a valid text, approved almost 40 years ago under premises and circumstances vastly different from today’s? The response should be an unqualified yes. Gone are the Cold War, the “détente,” and the “different social, economic and political systems,” all of which framed the negotiation and the resulting agreement. Not completely gone, though, are the tensions stemming from the past and the subsequent need to reshape the old and new demands for stability, justice, and peace on the Old Continent. Recent events in the Ukraine, just to mention one case, show the

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Policy Brief

act's continuous pertinence. Its inspiration is to be found in the Charter of the United Nations and related documents, in particular the UN 1970 "Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States." From that viewpoint, the Helsinki Final Act does not create or revise the basic tenets applied to the conduct of international relations. In particular, the ten "Principles Guiding the Relations Among Participating States" — for short the "Helsinki Decalogue" — which appear at the beginning of the document and are its backbone, are a reformulation of well-trodden legal mandates presented and drafted in accordance with the prevailing needs and objectives of the negotiators. It is worth recalling the points where the political needs of the place and times were reflected.

The USSR understood the principle on the "Inviolability of Borders." For Moscow, that was the keystone to the whole exercise. There was nothing new about it: the use of force to change the frontiers of a state had been long understood a major violation of international law, but the Soviets did not dither. It was going to be a "clean," separated principle dedicated to the matter or nothing. They did all they could to present the principle, according to the rules of "magical thinking," as a triumph of their wishes: Germany would remain divided forever at the lines drawn immediately after the war.

The "Inviolability of Borders" became for a long while the stumbling block at the Geneva negotiations, only solved by an ingenious drafting twist: the logical consequence to the inviolability, i.e. that "borders could be changed by peaceful means and by agreement," was to be placed within the principle on "Sovereign equality, respect for the rights inherent in sovereignty." Little did the Soviets know nor the Westerners expect that German reunification was around the corner. Nobody could claim a violation of the precepts of the Helsinki Final Act when that took place. As no one could deny the foresight of the document when it recog-

Little did the Soviets know nor the Westerners expect that German reunification was around the corner.

nized "the right [of the Participating States] to belong or not to belong to international organizations, to be or not to be a party to bilateral or multilateral treaties including the right to be or not to be a party to treaties of alliance; they also have the right to neutrality." The breaking up of the USSR and of Yugoslavia has brought the number of members of the now OSCE from the 35 signatories in 1975 to 57 at present. Both NATO and the EU have also experienced a significant increase in their membership. It is worth remembering that the Helsinki's Decalogue first principle, the one about "sovereign equality," wisely showed the way to the still unknown future when it stated: "The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular the right of every state to juridical equality, to territorial integrity, and to freedom and political independence. They will also respect each other's right to freely choose and develop its political, social, economic, and cultural systems as well as its right to determine its laws and regulations. Within the framework of international law, all the participating states have equal rights and duties. They will respect each other's right to define and conduct as it wishes its relations with other states in accordance with international law and in the spirit of the present declaration."

The third fundamental element on which the Helsinki Final Act was built is the seventh principle, whose title contains already a full program: "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief." In the delicate balancing game of the whole negotiation, this part of the text embodied the basic demands of the Western democracies. With the enthusiastic support of the Holy See, who audaciously put forward and finally obtained the various references to religious freedom, the CSCE endorsed a forward-looking statement where the respect for fundamental rights is not only preached but also placed in the context of their bilateral and multilateral relations. The document reads: "They will constantly respect these rights and freedoms in their mutual relations and will endeavor jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them."

In some respects that was a breakthrough: human rights were no longer a matter for purely domestic policies to decide but something upon which everyone was invited to opine and eventually demand. The rest, together with the

Policy Brief

detailed third basket on “cooperation in the humanitarian field” is history. And good history. The last four decades of the European nations cannot be written without a reference to the positive impact the Helsinki Final Act had on them.

The Helsinki Final Act does not enjoy now the limelight of the public interest it attracted in the 1970s and 1980s. Some circles even think the usefulness of the document and its offspring has come to an end. A perfunctory look at the realities of 21st century Europe, as we could grasp them from daily events and news, should suffice to maintain the opposite view. After all, the Helsinki Final Act from its very beginning states the common objective of “promoting better relations among themselves, [the participating states], and ensuring conditions in which their people can live in true and lasting peace, free from any threat to or attempt against their security.” There does not seem to be any dissenting view to that. If properly followed by each of the present 57 OSCE member states, the document could very well be the path to another 40 years of improved security and cooperation in freedom and justice for all the citizens of Europe, the United States, and Canada. Not a small achievement.

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About the Author

Ambassador Javier Ruperez was a member of the Spanish Delegation in all the phases of the initial CSCE (1972-75) and participated actively in the negotiation and drafting of the Helsinki Decalogue. He was the Spanish ambassador to the Madrid Session of the CSCE (1980-82) and President of the OSCE Parliamentary Assembly (1996-98). He was also Spanish ambassador to NATO (1982-83) and to the United States (2000-04). Between 2004 and 2007, he was assistant secretary general and executive director for counterterrorism at the UN Security Council. He was the chairman of the Foreign Affairs Committee in the Spanish House of Deputies between 1996 and 2000.

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Summary: Only with the adoption of the Helsinki Final Act, in Helsinki, Finland in August 1975, did it eventually become standard international practice, not just in Europe but around the world, to hold governments accountable for the manner in which they treated their populations. On issues covered by the Helsinki Final Act, and not just human rights and humanitarian concerns, traditional diplomacy has now given way to a more public diplomacy that includes both diplomats and public leaders.

The Lasting Impact of the Helsinki Process

by *Martin Sletzinger*

Introduction

In the 21st century, human rights and the whole process of the promotion of human dignity in all of its forms is taken for granted. It may come as a surprise to some that the practice of calling into question respect for human rights and freedoms in other states — publicly and in international fora — was virtually unknown until 1975.

Only with the adoption of the Helsinki Final Act, in Helsinki, Finland in August 1975, did it eventually become standard international practice, not just in Europe but around the world, to hold governments accountable for the manner in which they treated their populations. This took time and many difficult negotiations, both East-West and within the Western alliance. Acceptance of raising human rights issues, whether bilaterally, publicly, and internationally, in the CSCE, the OSCE, and the United Nations, gradually became standard diplomatic practice.

Human Rights as a Legitimate Focus of International Attention

How did this happen? As Ambassador Javier Ruperez so clearly and expertly detailed in his paper, the origins of the CSCE arose from a

long-held Soviet post-World War II ambition for a pan-European security conference that would formally ratify the post-war borders and security realities in Europe, combined with a NATO-led desire to exploit this Soviet imperative by seeking the inclusion of Western visions of respect for human rights and the human dimension. The Soviets hoped such a new world order would eventually undermine the NATO alliance in favor of a toothless pan-European security order.

Soviet desire for a treaty-like document ratifying post-war borders was understandable. Their borders had undergone whole-sale and serious changes, all of them, it goes without saying, favorable to the Soviet Union. Germany was divided into two states, Finland deprived of its historic province of Karelia, and Romania stripped of its province of Moldavia, just to name a few. However, the most dramatic change, one with huge ramifications to this day, was the movement of the entire country of Poland hundreds of miles to the west so that post-war Poland lost its eastern provinces, now informally known as western Ukraine centered on the ancient multi-ethnic city of Lvov. This is the very region that has supplied Ukraine with its post- Viktor Yanukovich leaders and supporters whose

Policy Brief

traditions and dialects differ so markedly from those of more Russian-oriented provinces in eastern Ukraine. When Russian President Vladimir Putin maintained in September 2014 that eastern Ukraine used to belong to the Russian Empire, he neglected to also observe that western Ukraine used to belong to Poland, and before that to the Hapsburg Empire, just to mention another failed and unlamented relic of the past.

All these border changes notwithstanding, this tension between security concerns and human rights was reflected in the nearly three years it took to negotiate the Helsinki Final Act first in Geneva, Switzerland, and finally in Helsinki in the summer of 1975. The Helsinki Final Act was not a treaty or a statement of international law, but rather a political, public document signed by the heads of state of the 35 participating states (since enlarged to 57 as of 2014). Nor was the original intent of the signatories for there to be a formal institutionalization of the process. Rather the CSCE/OSCE was intended to unfold in a “review process” held by the 35 states periodically beginning in Belgrade, Yugoslavia in June 1977. Envisaged as lasting for a few months, the meeting did not end until February 1978 with very little agreed upon except to meet again in Madrid in 1980. That protracted meeting lasted until 1983 and led to a series of specialized meetings and one more review conference held in Vienna starting in 1986.

The protracted nature of these follow-up review conferences reflected the great difficulty in advancing the Helsinki process but also the tension within the Western, NATO-led group of nations, which tried to reconcile considerable differences within its ranks on the intensity and specificity of its critique of the Warsaw Pact. Such differences still exist to this day and can be seen for instance in the differing approaches to the Russian takeover of Crimea and pressure on Ukraine in general. A key factor in the success of the process in those early stages was the mediating influence of the informal group of Neutral and Non-Aligned countries, consisting of traditional neutral nations that at the time remained outside of the two blocs (Sweden, Finland, Switzerland, and Austria together with Yugoslavia and Cyprus).

The direct result of these early negotiations from around 1975-90 was the establishment of an unwritten but lasting principle of international discourse: the manner in which a government treats its own citizens (from Principle VII of the Final Act’s Decalogue) is of legitimate concern to the

international community and in no way could be dismissed as simply interference in internal affairs (Principle VI) as the Soviet Union and its unwilling allies originally claimed. From this significant breakthrough emerged several seminal events in Eastern Europe, which had become, despite Soviet efforts to the contrary, the focal point of the Helsinki process.

The emergence of the Solidarity movement in Poland in 1980 was the first, large-scale effort in Eastern Europe since Czechoslovakia in 1968 to defy communist leadership and break from Soviet domination. During this tense period, the avoidance of a possible large-scale Soviet invasion in 1981 was facilitated, among other important factors, by the Helsinki process, which was meeting at that time in Madrid. U.S. and NATO warnings to the Soviets were conveyed not just bilaterally but repeatedly through high-level diplomatic representations at the CSCE meeting. (It is worth noting that the build-up of Soviet forces around Poland at that time dwarfed that which is going on around eastern Ukraine today.) The founders of the Charter ‘77 movement in Czechoslovakia directly linked its growth to the Helsinki process. Significantly, the leaders of this movement later emerged as the leaders of a free nation, including Vaclav Havel as president and Jiri Dienstbier as foreign minister.

Not every new human rights-related development in the CSCE/OSCE experience proved positive and effective. As is often the case, unfortunately, the Balkan countries proved the exception to the rule on the principle of respect for ethnic, cultural, and religious rights. Notably, the top CSCE human rights cases (especially for the U.S. Helsinki Commission) that emerged in the former Yugoslavia were those of Franjo Tudjman and Dobraslav Paraga in Croatia and Vojislav Seselj, a Serb from Bosnia. While Tudjman went on to become the first President of an independent Croatia, his rule was marred by nationalist excesses (he plotted to divide Bosnia with Serbian President Slobodan Milošević) and a tendency to downplay the significance of Croatia’s World War II Nazi-aligned Ustasha movement. Paraga became the president of the Croatian Party of Rights, a successor to the war-time fascist party of the same name. Seselj became the poster boy for those who opposed Titoist anti-nationalist crackdowns, particularly in Bosnia. When released from prison, regrettably, he became the intellectual and spiritual leader of a brand of vicious Serbian nationalism that later caused havoc during the wars in Bosnia and Croatia. He founded the far-right

Policy Brief

nationalist Radical Party, the forerunner of Serbia's current leading party, the Serbian Progressive Party, which has controlled power there for the past four years and has just been given a fresh mandate in parliamentary elections. True, its leaders have now embraced the EU membership process and a negotiated settlement of Kosovo's status, but many of the rank and file of the party retain their retrograde positions. Seselj himself still sits at The Hague War Crimes Tribunal as his trial continues, seemingly without end. The lesson for OSCE: not all victims of human rights prosecutions are created equal.

The New Public Dimension of the CSCE/OSCE

The development of the Helsinki process has not simply enshrined human rights issues as a legitimate subject in international and intra-governmental discourse. It has gone one step further, first in the United States soon after in most Helsinki states, through the rise of the political and public dimension of international affairs and its intersection with the human dimension. Put simply, the Helsinki states began to realize that human rights were not simply under the rubric of diplomatic exchange. Rather, such issues were of direct concern to individuals and groups that had a vested interest in the promotion of human rights not only in their own countries but throughout Europe and the world.

What has become known as the "public dimension" of the Helsinki process consists of the creation and participation of parliamentary and non-governmental organizations (NGOs) in the process. The first manifestation of this ever-widening process was the 1976 formation within the U.S. Congress of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, just one year after the signing of the Helsinki Final Act. Inspired initially by the plight of Jews in the Soviet Union wishing to be reunited with relatives abroad, particularly in the United States and Israel, Sen. Clifford Case and Rep. Millicent Fenwick of New Jersey, together with Rep. Dante Fascell of Florida, introduced legislation leading to the foundation of a special commission consisting of members of both the Senate and the House of Representatives together with representatives of the Departments of State, Defense, and Commerce appointed by the president. The commission was charged with monitoring and encouraging all facets of the Helsinki Final Act.

Under the leadership of Rep. Fascell, the commission and its staff envisaged cooperation with the State Department in the oversight of Helsinki provisions. Not unexpectedly, at first the State Department under Henry Kissinger refused to engage in such cooperation on the old fashioned principle that foreign policy is best left to the experts, i.e. the diplomats. Involvement by parliamentarians and the public could only lead to misunderstandings and needless tensions, a view shared by most other nations at the time. Inquiries into specific violations were best made privately, behind the scenes, not in public fora.

But Rep. Fascell and his forceful and indefatigable chief of staff, R. Spencer Oliver, got their way. The Helsinki Commission held public hearings on all facets of the process and were invited (despite much kicking and screaming by the State Department) to participate in U.S. delegations to all key sessions of the CSCE/OSCE, a first in international diplomacy. The presence of Helsinki Commission members and staff in all subsequent CSCE/OSCE meetings was instrumental in securing the critical focus on human rights by official U.S. delegations. It was primarily significant pressure exerted by the Helsinki Commission that resulted in the U.S. focus on specific human rights abuses in specific countries. This practice was eventually followed by nearly all Western countries in the OSCE process.

The Helsinki Commission and its staff also ended up supplying needed expertise to U.S. delegations in the field. Diplomats move to new assignments every three or four years. The staff of the Helsinki Commission on the other hand has remained relatively stable over the years. This staff with expertise in many of the languages and cultures of the CSCE signatories has gained invaluable experience serving as election monitors and has proved extremely useful to the State Department for expert support in OSCE monitoring activities, especially in the former Yugoslavia following the wars in Croatia, Bosnia, and Kosovo.

The Commission also helped develop the public dimension with its insistence on the participation of "public members" in U.S. delegations to OSCE sessions and by the publication of periodic implementation reports, detailing the state of implementation of all facets of the Helsinki accords, including that of the United States. Several other countries have since followed suit and established various forums for public accountability for the OSCE process associated with their parliaments or in other public institu-

Policy Brief

tions. On issues covered by the Helsinki Final Act, and not just human rights and humanitarian concerns, traditional diplomacy has now given way to a more public diplomacy that includes both diplomats and public leaders.

Why the OSCE is Still Relevant Today

The accomplishments of the Helsinki process were by no means confined to the realm of respect for human rights and public diplomacy. The focus on human rights evolved, as participating states gradually implemented free movement and family-reunification procedures that facilitated one of the primary goals of the Helsinki Accords: the free flow of people, goods, and ideas across all borders. With the collapse of the Warsaw Pact and the diminution of East-West tensions in the 1990s, the attention of the Helsinki process shifted to new problems and challenges, notably the need for monitoring the many new elections being held in Eastern Europe. The OSCE remains the mainstay of this critical function.

The current crisis in Ukraine represents perhaps the greatest challenge to stability, security, and cooperation in the 25 years since the end of the Cold War. The OSCE will be an integral part of the implementation of any resolution of this crisis. It has already been called upon to provide an observer mission — now at 100-strong within Ukraine — including military as well as civilian observers throughout the country. The four-sided talks held in Geneva on April 17, 2014, called for disengagement and the disarmament of all unofficial militia groups, especially those pro-Russian groups operating in eastern Ukraine, all of this to take place under the supervision of the OSCE observer mission.

The CSCE/OSCE process was never intended to be a provider of military peacekeeping forces of the type the UN, NATO, and the EU have provided for Bosnia and Kosovo as well as certain missions outside of Europe. Despite its institutionalization with headquarters in Vienna, the 57-nation OSCE, which still operates for the most part by consensus, has not been the proper vehicle for such operations. The UN includes virtually all nations. NATO and the EU are more limited. Only the OSCE includes all the key members of Europe, which dictates that it focuses its attention on all European issues.

The OSCE, with its unique history and institutional adaptations, remains well-prepared to help meet new challenges to security and stability in Europe. Its role in helping to

secure a satisfactory settlement to the drama in Ukraine will help prove its vitality all over again. If there were no OSCE, we would have to invent one anew.

The views expressed in GMF publications and commentary are the views of the author alone.

About the Author

Martin Sletzinger is an expert on Balkan issues, specifically the history of Kosovo and Albania. He is the former director of East European studies and a senior scholar at the Wilson Center.

About GMF

The German Marshall Fund of the United States (GMF) strengthens transatlantic cooperation on regional, national, and global challenges and opportunities in the spirit of the Marshall Plan. GMF does this by supporting individuals and institutions working in the transatlantic sphere, by convening leaders and members of the policy and business communities, by contributing research and analysis on transatlantic topics, and by providing exchange opportunities to foster renewed commitment to the transatlantic relationship. In addition, GMF supports a number of initiatives to strengthen democracies. Founded in 1972 as a non-partisan, non-profit organization through a gift from Germany as a permanent memorial to Marshall Plan assistance, GMF maintains a strong presence on both sides of the Atlantic. In addition to its headquarters in Washington, DC, GMF has offices in Berlin, Paris, Brussels, Belgrade, Ankara, Bucharest, and Warsaw. GMF also has smaller representations in Bratislava, Turin, and Stockholm.

The OSCE's Role in (re)consolidating European Security

SEMINAR #3 - STOCKHOLM
11 MARCH 2015

Helsinki +40 Seminar:
The OSCE's Role in (re)consolidating European Security
(Stockholm, 11 March 2015)

PROGRAMME

Tuesday, 10 March

19:30 Dinner hosted by the Parliament of Sweden (*venue: Brasserie Makalös, Hotel Kungsträdgården, Västra Trägårdsgatan 11B*).

Wednesday, 11 March

9:30 Arrival of participants

Venue:
Sveriges Riksdag / The Swedish Parliament – Skandisalen
Mynttorget 1, 100 12 Stockholm

10:00 – 10:30 OPENING OF THE SEMINAR

Remarks by:

- **Tobias Billström**, First Deputy Speaker, Sveriges Riksdag / Swedish Parliament
- **Joao Soares**, Chairman of the OSCE PA Helsinki +40 Colloquium Project
- **Mats Karlsson**, Director, Swedish Institute of International Affairs (UI)

10:30 *Group photo and short coffee break*

10:45 – 12:15 PANEL I - THE OSCE'S ROLE IN (RE)CONSOLIDATING EUROPEAN SECURITY: STRENGTHENING UNITY OF PURPOSE AND EFFECTIVENESS

Keynote speakers and commentators:

- **Rolf Ekeus**, Ambassador, former OSCE High Commissioner on National Minorities, SIPRI Chairman Emeritus
- **Mark Rhinard**, Senior Research Fellow, Swedish Institute of International Affairs (UI); Associate Professor of International Relations at Stockholm University
- Moderator: **Spencer Oliver**, Special Co-ordinator of the Helsinki +40 Colloquium Project, Secretary General, OSCE Parliamentary Assembly

12:15 – 13:30 Lunch hosted by the Parliament of Sweden
(venue: Partimatsalen, Riksgatan 1)

13:30 – 15:00 **PANEL II - COMPREHENSIVE SECURITY: THE NEED FOR A CROSS-DIMENSIONAL PERSPECTIVE**

Keynote speakers and commentators:

- **Lars-Erik Lundin**, former EU Ambassador to the OSCE
- **Anna Wieslander**, Deputy Director, Swedish Institute of International Affairs (UI)
- Moderator: **Mats Karlsson**, Director, Swedish Institute of International Affairs (UI)

15:00-15:15 *Coffee break*

15:15 – 16:45 **PANEL III – THE OSCE PA AND THE FUTURE OF THE OSCE**

Keynote speakers and commentators:

- **Göran Lenmarker**, Expert; former President of the OSCE Parliamentary Assembly
- **Spencer Oliver**, Special Co-ordinator of the Helsinki +40 Colloquium Project, Secretary General, OSCE Parliamentary Assembly
- Moderator: **Klas Bergman**, Independent Writer and Editor; Director of Communications, OSCE Parliamentary Assembly (2007-2010)

16:45 – 17:00 **CLOSING REMARKS**

- **Kent Härstedt**, Vice-President, OSCE Parliamentary Assembly
- **Joao Soares**, Chairman of the OSCE PA Helsinki +40 Colloquium Project
- **Spencer Oliver**, Special Co-ordinator of the Helsinki +40 Colloquium Project, Secretary General, OSCE Parliamentary Assembly

Departure of participants

OSCE PA Helsinki +40 Project



**The OSCE's role in (re)consolidating
European security:
Strengthening unity of purpose
and effectiveness**

**A Food-for-Thought Paper
By OSCE PA Research Fellow
Anna Di Domenico**

OSCE PA International Secretariat
Tordenskjoldsgade 1 • 1055 Copenhagen K • Denmark
Tel: +45 33 37 80 40 • Fax: +45 33 37 80 30 • E-mail: osce@oscepa.dk

OSCE PA Helsinki +40 Project Food-for-Thought Paper

The OSCE's role in (re)consolidating European security: Strengthening unity of purpose and effectiveness

Introduction

Twenty-five years after the end of the Cold War, the need for a sincere effort to reconsolidate the European security architecture has been increasingly recognized on both sides of the Atlantic. The various organizations in that architecture were all created with differing agendas and in different contexts. Consequently, adaptation and co-operation has developed among them. Over the last two decades, however, the roles and relative importance of the security institutions in Europe have undergone significant changes. Any future evolution in the European security architecture must therefore recognize the roles of the OSCE, EU, NATO and other institutions as they have developed.

The Ukraine crisis has exposed the ineffectiveness of existing institutions and security mechanisms in Europe, proving that they have not been able to completely remove the shackles of the Cold War and adapt to new realities. The Ukrainian crisis has not only revealed a deepening East-West divide, but has also called into question the fundamental principles of the European security architecture. The rules, considered fundamental for post-World War II inter-state relations in Europe, have been violated, including the 1975 Helsinki Final Act.

Unquestionably, the OSCE has assumed a major role in the efforts to resolve the ongoing crisis, drawing upon its extensive toolbox to pursue a political solution. At the same time, the organization was unable to prevent its outbreak and the creation of new dividing lines. The future of the OSCE, however, depends on more than just the settlement of the current crisis in Ukraine. It strongly depends on the ability of the organization to address the concerns that threaten relations between its participating States. A genuine and firm political commitment from all participating States to the key goals of the organization is required.

The Helsinki +40 process is an excellent opportunity for the OSCE to reaffirm, at the highest level, the relevance of its founding principles relating to international law and the UN Charter, and to more actively encourage participating States' full and equal implementation of these principles. As a forum for parliamentarians directly elected by the people and with high democratic legitimacy and visibility, the OSCE Parliamentary Assembly has a unique responsibility to foster public debate and build support for the Helsinki +40 process. The OSCE PA's Helsinki +40 Project provides a unique opportunity to reflect on the OSCE's accomplishments and identify where reform is needed in order to stay relevant and efficient.

Part I. Problems facing the European security architecture

In recent years, changes in the political and security context in the Eurasian and Euro-Atlantic region have made the vision of a security community less plausible than it was 25 years ago, when the Charter of Paris for a New Europe was adopted. Although the threat of a large-scale armed conflict within the European Union now appears negligible, the potential for regional and local conflicts remains. Extremism, the uncertainty regarding the future of the relationship between Europe and Russia, unresolved conflicts and instability within the broader European neighborhood have an increasingly detrimental effect on the overall security in the OSCE area. Divisions and mistrust are re-emerging, while the normative consensus, based on a shared interpretation of the fundamental principles, has been challenged within the OSCE.

Divergent perceptions and actions have undermined confidence between States, which has already been shaken by earlier crises. Multilateral co-operation has become more difficult, while unilateral and bilateral approaches have received new impetus. The convergence in the perception of domestic and transnational threats, which would enable greater, deeper co-operation, interferes with divergent perceptions of military and other external threats that might halt co-operation and promote unilateralist behaviour. Therefore, it remains the task of the OSCE to provide a forum for discussion and to increase co-operation, particularly in the current difficult period.

Although all OSCE participating States face the same transnational threats (terrorism, human trafficking, cyber-crime, etc.), they have not made full use of the OSCE's potential for co-operation and effective responses. Yet, the complexity of transnational challenges indicates that OSCE participating States can benefit more from coming closer via increasing co-operation than they can from drifting further apart. It is remarkable that the trend of a strong convergence of perceptions of domestic and transnational threats concerns both countries in transition and developed countries, countries involved in conflicts or situated in zones of instability as well as countries not involved in conflict. The main problem witnessed almost everywhere is a lack of governance capacity at all levels to address a multitude of perceived threats. This confirms the enduring significance and relevance of the OSCE in the European security architecture.

As the only pan-European security organization, the OSCE has a crucial role to play in overcoming past hostilities and building authentic co-operative security. The OSCE's strength – today as in the past – is that States with differing values, cultures and historical experiences can sit together and establish, through political compromise and consensus-building, common rules for living together.

In order to become more effective in addressing transnational threats and challenges, the OSCE must continue to avoid a one-size-fits-all approach and adopt a more dynamic strategy. Furthermore, the OSCE should remain conscious that it is not the only international organization active in these fields. Other organizations, be they governmental or non-governmental, should not be considered as competitors but as partners. Indeed, successful outcomes in Bosnia and Kosovo, as well as in other Western Balkan countries, have mainly been achieved thanks to

effective and efficient co-operation with the other relevant regional and international organizations on the ground, as well as engagement with civil society and authorities. Reaching an optimal level of co-operation and division of labour will require constant attention.

The OSCE should strengthen its role as a UN regional arrangement under Chapter VIII of the United Nations Charter by implementing UN conventions, aiming at more joint UN/OSCE initiatives, and taking over tasks of a genuinely regional nature. The partnership between the OSCE and the UN could prove critical for addressing security challenges and the humanitarian situation in Ukraine. The UN has pledged its support for the OSCE's efforts in the country and for strengthening the UN-OSCE partnership. Co-ordination and co-operation between the OSCE and the relevant UN agencies on the ground has produced successful outcomes, but more efforts are needed. Both OSCE and UN field operations are precious assets, and their potential for co-operation, not solely in Ukraine, should be utilized to the maximum.

A more focused co-operation with OSCE Mediterranean and Asian partners is necessary to fulfill the particular demands of participating States bordering crisis regions outside the OSCE area. To satisfy the needs of smaller participating States, the OSCE can provide, through OSCE field operations and other instruments, capacity-building and training, lessons learned and best practices. It can also serve as a platform for sub-regional dialogue and policy co-ordination.

Part II. OSCE mechanisms – in need of modernization?

The dramatic developments in Ukraine during 2014 and 2015 have once again demonstrated the relevance of the co-operative crisis-management tools and mechanisms of the OSCE, and put issues of strengthening and reforming the organization on the European agenda.

The OSCE's functions and operations have stood the test of time for nearly 40 years. Although the Organization and its activities have changed significantly, the OSCE's comprehensive approach to security and co-operation in Europe continues to shape its decision-making processes and the operation of the field missions. The Helsinki principles also remain relevant. Their relevance in today's Europe is particularly underlined by the seriousness of the ongoing discussion on compliance, non-compliance or limited compliance with these principles and other OSCE commitments.

There is broad recognition that the OSCE's politico-military dimension remains one of the organization's major strengths. Despite lacking its own military forces, the OSCE has contributed to Europe's military security through the negotiation of ground-breaking agreements on arms control. The Treaty on Conventional Forces in Europe (CFE) was negotiated, and is implemented, in an OSCE context. CFE and other OSCE arms agreements, including the CSBM regime, have significantly reduced the amount of conventional arms deployed in Europe. Through an extensive regime of confidence-building, transparency, verification measures, and early warning intervention mechanisms, most of Europe has achieved a far greater degree of security with greatly reduced levels of arms and tensions. It has primarily been the OSCE's comprehensive approach to security, encompassing politico-military, economic and

environmental, as well as human aspects, that has allowed the organization to provide a successful platform for dialogue and to play a unique role within the European security architecture. Moreover, as the sole areal security organization counting the United States, Europe, Russia and Central Asia among its members, the OSCE is uniquely positioned to encourage dialogue on today's challenges.

The crisis in Ukraine has underlined that a key strength of the OSCE is also the long-term presence of its representatives on the ground. This enables the Organization to monitor developments and put objective facts on the table. Indeed, the OSCE's field operations remain some of the most significant instruments of multilateral diplomacy in the areas of conflict prevention and crisis management. However, the imbalance between the constantly decreasing field presences and the ever-expanding headquarters in Vienna is undermining the Organization's competitive advantages in the contemporary European security architecture. Therefore, it is imperative to end the trend of budget reductions for field operations and the closure or downgrading of OSCE presences in areas where work and monitoring are still required.

When reflecting on what the OSCE has accomplished over the last 40 years, there is no doubt that the Organization, by developing a unique combination of human rights, democracy, and solid security standards and agreements, has played a major role in promoting stability and security in Europe. Nevertheless, the OSCE should consider broad-scale reforms in order to remain relevant and effective. Recent years have witnessed deepening differences in participating States' approaches to a wide range of issues, including their views on the necessary steps to reform the organization and adapt it to ongoing changes unfolding in Europe and the wider world. This lack of cohesion has prevented the Organization over recent years from arriving at a consensus on the necessary directions and measures to reform itself. The culture of searching for consensus and compromise solutions has been nearly abandoned, while a number of countries and groups of OSCE States increasingly rely on unilateral action. Despite nominal adherence to the principle of indivisible co-operative security, the levels of security remain variable throughout the OSCE area. Conventional arms control regimes have gone into decline. Differences in the interpretation and implementation of OSCE commitments by individual States persist.

The need to constantly review and modernize the OSCE action plan as new threats emerge has been broadly recognized. An essential first step to revitalize the work of the OSCE is a clear and firm recommitment to the Helsinki principles. A more extensive review of the implementation of those principles is also required. If participating States are to be held accountable to their commitments. The prevailing consensus-based decision-making of the OSCE's intergovernmental bodies, which remains relevant and applicable to core documents and principles, has proven to be a serious obstacle to effective and immediate action in times of crisis, making reaching agreements extremely difficult. Therefore, more consideration should be given to incorporating more transparent decision-making processes. Improving the functioning, effectiveness and work of field missions, and establishing new flexible institutional structures

which rely less on the rigid consensus principle within the OSCE, may also prove useful and improve the Organisation's ability to adequately and swiftly respond to new crises.

Part III. The reform proposals of the OSCE PA

The OSCE Parliamentary Assembly has had a profound role in facilitating inter-parliamentary dialogue on security issues and enabling open discussions on the problems the Organization faces today and possible ways to enhance its effectiveness. The OSCE Parliamentary Assembly remains a critical player because it is, in essence, more independent than any other OSCE body and can take political initiative. However, the PA should be more closely engaged in the OSCE decision-making processes, much as the Parliamentary Assembly of the Council of Europe's relations with its parent body.

In recent years, it has often been reiterated that although structural reforms are certainly required, the essential problem lies elsewhere, and that the OSCE's ability to reform will ultimately depend on the degree to which participating States are committed to unlocking the Organization's potential.

Election observation has been recognized as the most politically relevant and visible activity of the OSCE, and the involvement of the Parliamentary Assembly is critical to maintaining its visibility and comparative advantage in this field. It has been recommended, however, that ODIHR and the OSCE PA increase their co-operation and ensure full adherence to the 1997 Co-operation Agreement in order to maintain the independence of OSCE election observation activities.

The Resolution on Helsinki +40 adopted at the OSCE PA's 2012 Annual Session in Monaco calls on OSCE participating States to tackle further important reforms, such as the question of a constituent document for the OSCE and the redefinition of the role of the presidency and the Secretary General of the OSCE. The Parliamentary Assembly has repeatedly recognized that the consensus rule should be modified, that decision-making processes should become more transparent, and that debates should not only be limited to issues where a consensus exists but should extend to contentious matters where it is lacking. It has also been reiterated that if a participating State wishes to block or delay consensus, it should do so openly and defend its position publicly.

Agreement on multi-year programmes and budget cycles by OSCE participating States is considered crucial. A closer relationship between the PA and the OSCE decision-making processes is pivotal. Furthermore, in the field of conflict prevention and crisis management, it has been recommended that the OSCE PA be given more political initiative, such as the ability to organize "fact finding missions" and facilitate OSCE-led negotiations.

For the OSCE to regain political credibility and act as an effective crisis management and conflict prevention and resolution body, other concrete measures have been recommended, including the establishment of a Best Practices Unit to provide the OSCE with a permanent

lessons learned capability and the development of a Civilian Rapid Reaction Capability to be deployed in times of crisis to supplement the work of field missions.

The 2013 Istanbul Declaration underlines the Assembly's support for the OSCE Ministerial Council's decision in Dublin to launch a set of objectives aimed at strengthening the OSCE approaching the 40th anniversary of the Helsinki Final Act. Participating States were urged to make use of the Helsinki +40 process to rebuild mutual trust, to combine informal diplomatic dialogue with political engagement and to take advantage of the process at the political level to reach concrete decisions on an action plan to achieve an indivisible Euro-Atlantic and Eurasian security community. The Declaration calls on the acting OSCE Chairmanship, in conjunction with the Troika, to clarify the goals and purpose of the Helsinki +40 process. It also underlines the need to inform the public about the process, so as to increase both interest and transparency. It stresses that more OSCE PA oversight is needed to counter the current democratic deficit within the OSCE Institutions. It encourages the OSCE PA to discover new ways to support OSCE field missions. The need to proceed with ongoing discussions and negotiations in order to update and modernize the 1999 Vienna Document is also underlined.

Conclusion

August 1, 2015 will mark the 40th anniversary of the Helsinki Final Act. Since the signing of this agreement, the relevance of the OSCE in the European security architecture has only increased. Notwithstanding the OSCE's evident strengths which include, among others, a wide geographical scope, long-term presence in the field and inclusive decision-making process, the rapidly evolving geopolitical landscape has proven that the OSCE's existing capacities may not be sufficient to cope with the new challenges. Therefore, reform is urgently needed.

In a time of acute crisis, in order to rebuild trust and strengthen the OSCE, Europe must revive the spirit of Helsinki and Paris – especially given that other areas worldwide are currently looking to the OSCE as a model for new regional security arrangements. Future security challenges must be approached from a firm foundation.

Helsinki +40 Project - Recommendations from the GMF and RIAC Seminars

<p>OSCE Principles and Commitments</p>	<ul style="list-style-type: none"> • Reconfirming, by the OSCE participating States, the relevance of and their commitment to adhere to the fundamental principles of the 1975 Helsinki Final Act. • Enhancing the assessment of the implementation of the Helsinki Principles and commitments by national and multinational efforts, including at Ministerial Council meetings, in the Permanent Council and at OSCE PA gatherings. • Developing concrete mechanisms for enacting the commitments undertaken, possibly through a code of conduct for OSCE participating States in the most problematic areas. • Convening an OSCE-wide high-level meeting or summit to consider lessons learned from the Ukraine crisis and to readjust the OSCE and European security architecture generally.
<p>Institutions and structures</p>	<ul style="list-style-type: none"> • Increasing the OSCE's capabilities to swiftly react to an unfolding crisis by expanding the independence of the relevant structures and institutions. • Strengthening the role of the OSCE Parliamentary Assembly within the overall OSCE structure in order to improve the functioning of the Organization itself. • Further strengthening the internal institutions created by the OSCE, including through support from the OSCE PA. • Modernizing and readjusting the scope of work and resources available to the Conflict Prevention Centre, the Forum for Security Co-operation and the Transnational Threats Department.
<p>Legal Personality</p>	<ul style="list-style-type: none"> • Adoption of an OSCE Charter (constituent document) which would clarify the structure and modus operandi of the Organization. • Adoption of the Convention on the International Legal Personality of the OSCE.
<p>Decision-making and modus operandi</p>	<ul style="list-style-type: none"> • Eliminating, at least partially, the consensus decision-making rule, which can be a serious impediment to effective and immediate action in times of crisis. • Incorporating more democratic decision-making processes, such as those already in place in the OSCE Parliamentary Assembly. • Increasing transparency through live-streaming OSCE proceedings and utilizing social media. • Dialogue and confidence-building measures are necessary. More initiatives, promoting open discussions and increasing awareness about the tools at the Organization's disposal, are needed.

<p>Economic and environmental dimension</p>	<ul style="list-style-type: none"> • Establishing a common Euro-Atlantic free-movement and free-trade area in collaboration with the UN Economic Commission for Europe. • The OSCE Parliamentary Assembly can do more to actively engage with participating States to stem corruption and its spread.
<p>Field operations</p>	<ul style="list-style-type: none"> • Ending the trend of decreasing budgets for field operations and the closing or downgrading of the OSCE presences in areas where robust work and monitoring are still needed.

Questions for debate

- Where does the OSCE fit in the European security architecture?
- What are the strengths of the OSCE in countering current challenges? What distinguishes it from other international organizations? Should these strong points be enforced and developed further? If so, how? Will it be possible to ensure adequate resources to allow the organization to meet new tasks?
- How can we avoid duplication of specific security functions and efforts among the OSCE, NATO, the EU and the UN?
- How can the OSCE reconcile NATO's enlargement and Russia's security concerns creating a viable common European security area?
- How can the European Security Architecture become resilient and resistant to internal crisis? Can focusing on common threats that require co-ordinated responses help re-establish a stronger sense of common purpose among participating States? What are the truly pan-European challenges facing the OSCE area today?
- How can we encourage more active engagement between the PA and other OSCE institutions?
- How can OSCE capacities within the four phases of the conflict cycle (early warning, conflict prevention, crisis management, post-conflict rehabilitation) be further strengthened?
- Some argue that the OSCE profile will be strengthened if the organization focuses on a more limited range of priorities/issues. Which ones should be selected?

The OSCE's Lack of Legal Status – Challenges in Crisis Situations

SEMINAR #4 - COPENHAGEN
27 APRIL 2015

**Helsinki +40 Supplementary Seminar:
The OSCE's Lack of Legal Status – Challenges in Crisis Situations**
(Copenhagen, Monday, 27 April 2015)

PROGRAMME

16:00 Arrival of Helsinki +40 Seminar participants

*Venue: Danish Parliament / Folketinget
Landstingssalen, Christiansborg
1240 Copenhagen*

16:15 – 16:30 OPENING OF THE SEMINAR

Remarks by:

- **Peter Juel Jensen**, Head of the Delegation of Denmark to the OSCE Parliamentary Assembly
- **Miodrag Panceski**, Deputy Head of Mission, Permanent Mission of Serbia to the OSCE and other International Organizations in Vienna
- **Joao Soares**, Chairman of the OSCE PA Helsinki +40 Colloquium Project

**16:30 – 17:45 PANEL I – THE QUESTION OF LEGAL STATUS FOR
THE OSCE AND IMPLICATIONS FOR UKRAINE**

Keynote Speakers:

- **John Bernhard**, Special Advisor of the Chairperson-in-Office on the Legal Framework
- **Lisa Tabassi**, Head of Legal Services, OSCE Secretariat, Vienna

Chair: **Karsten Jakob Møller**, Emeritus Researcher, Danish Institute for International Studies (DIIS)

17:45 – 18:00 Break

18:00 – 19:15 **PANEL II – STRENGTHENING THE LEGAL FRAMEWORK
OF THE OSCE: WAYS FORWARD**

Keynote speakers:

- **John Bernhard**, Special Advisor of the Chairperson-in-Office on the Legal Framework
- **Comments by: Joao Soares**, Chairman of the OSCE PA Helsinki +40 Colloquium Project, and **Andreas Nothelle**, OSCE Parliamentary Assembly Special Representative in Vienna

Chair: **Spencer Oliver**, Special Co-ordinator of the Helsinki +40 Colloquium Project;
Secretary General, OSCE Parliamentary Assembly

19:15 – 20:00 Refreshments for seminar participants

20:00 Departure of participants

HELSINKI +40 PROJECT

Food-for-Thought Paper: The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

CONTENTS

1. The question of the international legal personality of the OSCE
2. Legal issues arising in respect of OSCE rapid deployment to Ukraine
3. Contribution of the OSCE Parliamentary Assembly to strengthening the legal status of the OSCE
4. Options currently under consideration in the OSCE Informal Working Group
5. Conclusion

Annex: Measures taken by national parliaments

April 2015

1. The question of the international legal personality of the OSCE

The Organization for Security and Co-operation in Europe (OSCE) emerged from the 1975 Helsinki Final Act, a political arrangement. Under the subsequent 1990 Charter of Paris for a New Europe, another politically binding document, the then-Conference on Security and Co-operation in Europe (CSCE) participating States called for the establishment of a parliamentary assembly, established the Secretariat and began establishing the other executive structures. The Foreign Ministers of the participating States recognised, however, that the competence to make rules concerning the legal status and privileges and immunities rests with the legislature of each participating State. In order to assist in harmonizing the rules to be applied, in 1993 the Ministers in Rome adopted a Decision on the provisions concerning the legal capacity of the CSCE institutions and privileges and immunities. More than 20 years later, only a small number of participating States have adopted legislation or measures implementing the 1993 Rome Council Decision.

Under the national law of the respective host countries, the OSCE Secretariat, the OSCE Parliamentary Assembly (OSCE PA) and the three Institutions (Office for Democratic Institutions and Human Rights (ODIHR), High Commissioner on National Minorities (HCNM) and Representative on Freedom of the Media (RFOM)) enjoy legal personality, legal capacity and privileges and immunities at the level customarily enjoyed by the international organisations in the United Nations system. However, of the 18 OSCE field operations, only one enjoys treatment equivalent to that of the United Nations: the OSCE Mission in Kosovo (OMIK), which is a pillar of the United Nations Mission in Kosovo (UNMIK).

To remedy the persistent question, efforts were made to negotiate a Draft Convention on the International Legal Personality, Legal Capacity, and Privileges and Immunities of the OSCE. It was agreed in 2007 at expert group level but not adopted by participating States, mainly because of the position by one group of States that a legally binding statute of the OSCE must be adopted in advance or in parallel with the adoption of the Draft Convention. The issue has remained at an impasse since then, despite the efforts of the OSCE Informal Working Group on Strengthening the Legal Framework of the OSCE (IWG), established in 2009.

Consequently, the legal framework of the OSCE is unclear with regard to its legal personality, legal capacity and a uniform system of privileges and immunities. This state of affairs has had the consequence of creating a number of serious challenges for the OSCE on an operational level. The following list summarizes some of such challenges:

- Inability to conclude headquarters' agreements with States hosting OSCE executive structures;
- Uncertainties as to the full status as treaties under international law of the memoranda of understanding concluded with the States hosting OSCE field operations;
- Difficulty entering into agreements on cooperation with other international organizations and to receive application of the standard treatment granted between international organizations;
- Uncertainty as to the liability of the OSCE and its officials vis-à-vis third parties;

The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

- Question as to the liability of personal representatives and envoys of the Chairperson-in-Office serving on special missions;
- Questions as to OSCE's capacity to request indemnification which other international organizations are routinely granted;
- Difficulty opening bank accounts in several participating States and registering vehicles in the OSCE's name;
- Difficulty authorizing the purchase of goods and services;
- Difficulty obtaining goods and services on a tax-free basis in several participating States;
- Inability of the OSCE to ensure effective insurance coverage;
- Failure to obtain accreditation for staff, both seconded and international;
- Failure or difficulties in asserting immunity in respect of lawsuits filed in national courts in relation to labour issues and commercial law issues;
- Differentiation between international and locally recruited OSCE officials, a distinction not recognised in the international civil service and causing a variety of legal consequences, including national taxation of the salaries paid by the OSCE to locally recruited staff; and
- Lack of clarity as to who is accountable and will be held liable in the event of an accident causing damage. This is an acute risk in view of the fact that the OSCE engages in high risk projects such as the destruction of ammunition, highly flammable rocket fuel, and assessment of uranium dumps.

All these difficulties unnecessarily complicate the everyday operations of the OSCE and affect the effective delivery of its mandates. Transferring funds, purchasing services, ensuring the functional independence of staff as well as their equal treatment is more problematic and costly, because the legal status of the OSCE is unclear and varies from one participating State to another and takes time to establish. Although in some cases it has been possible to find pragmatic solutions to these problems, these are only ad hoc and do not provide for a reliable legal framework necessary for the smooth functioning of the OSCE. While these problems are mainly for the OSCE, these deficits also create problems for participating States which cannot conclude agreements with the OSCE, are unclear as to the liability of the Organization, encounter difficulties ensuring the necessary allocations in their national budgets for an organization whose legal status is contested, and have difficulty granting privileges and immunities to such an organization.

2. Legal issues arising in respect of OSCE rapid deployment to Ukraine

The OSCE's ability to rapidly deploy is essential to effective conflict prevention, crisis management and post conflict rehabilitation. The ability of the OSCE to react rapidly to the situation in Ukraine in 2014 was significantly impacted by the OSCE's lack of a formal legal status in the host State Ukraine at the outset, which created the need to negotiate and agree upon the necessary status, privileges and immunities and pursue parliamentary approval to bring them into force.

The main legal issues arising due to rapid deployment and lack of agreed legal personality in Ukraine were:

- Security and protection of the mission members serving in the OSCE Special Monitoring Mission to Ukraine (SMM);
- Recognition of the immunity of the SMM Monitors outside Ukraine;
- Issues relating to locally recruited mission members (principally taxation and conscription into military service);
- Vehicles/custom clearance;
- Delivery of the mandate/ use of necessary technologies/ unarmed unmanned aerial vehicles (UAVs);
- Freedom of movement / access to military sites;
- Challenges to compliance with the established OSCE regulations and rules caused by the need for ad hoc solutions to problems;

3. Contribution of the OSCE Parliamentary Assembly to strengthening the legal status of the OSCE

From the outset, the CSCE/OSCE Parliamentary Assembly (OSCE PA) has been an active advocate of giving the OSCE legal personality as well as privileges and immunities in line with those of other international organisations. Already at its first formal session in July 1992 in Budapest, the Assembly called for giving the CSCE a legal basis. Since then, the Assembly has been regularly raising the topic, urging for greater parliamentary and ministerial action. Thus, the 1997 Warsaw Declaration called for “conferring real legal status on the OSCE” and the 1999 St. Petersburg Declaration recommended a “codification under international law of the OSCE's status as a regional organisation under Chapter VIII of the UN Charter”. Similar recommendations were included in the 2008 Astana and 2010 Oslo Declarations, with the 2011 Belgrade Declaration welcoming the decision of the Lithuanian Chairmanship to continue consultations on strengthening the legal framework of the OSCE and to discuss the possibility of preparing a constituent document. In its Resolution on Helsinki +40, the 2012 Monaco Declaration called on the participating States to tackle further important

The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

reforms such as the question of a constituent document for the OSCE. The PA has also underlined that - as a first step in the process - the draft Convention needs speedy adoption.

However supportive of the idea of an OSCE constituent document, the OSCE Parliamentary Assembly pays close attention to the substance of any proposed text, so as to ensure that the PA's role, status and involvement in the OSCE's work are properly defined in line with the Charter of Paris, other basic documents and Assembly recommendations.

4. Options currently under consideration in the OSCE Informal Working Group

The forum for the consideration of all issues relating to the strengthening of the legal framework of the OSCE is the Informal Working Group on Strengthening the Legal Framework of the OSCE (IWG). The IWG is co-ordinated and chaired by a representative appointed by the Chairperson-in-Office to foster dialogue among the participating States. Since 2012 the IWG is chaired by Ambassador John Bernhard of Denmark. The IWG holds an average of three meetings annually.

The main tasks of the IWG are to review the developments and problems related to the issue of the OSCE's legal status and to discuss possible ways to strengthen the legal framework of the OSCE to afford the Organization and its staff with a common legal status and a uniform set of privileges and immunities.

Over the past few years several options have been submitted in the IWG to strengthen the legal framework of the OSCE. At the end of 2014 it was decided that in order to render the work of the IWG more effective, it was advisable to reduce the number of options, setting aside some in order to focus on the options that seemed to offer more potential for reaching a compromise. The four options retained for further consideration by the IWG in 2015 are as follows:

- **Adoption of the 2007 Draft Convention (2007 DC)**

As already stated, a draft Convention on international legal personality, legal capacity and privileges and immunities of the OSCE was drawn up in 2007 by an informal Working Group at expert level (2007 DC). Three footnotes were inserted during the elaboration of the 2007 DC at the request of certain participating States, making the conclusion of the 2007 DC conditional on the existence of a "Charter of the OSCE". Though the 2007 DC continues to enjoy very broad support among participating States, its adoption and signature have not been possible for the past seven years.

- **Adoption of an OSCE Constituent Document (CD) and the 2007 DC**

This option consists of the (parallel or consecutive) adoption of a Constituent Document for the OSCE (CD) and the 2007 DC. In 2012, the Irish Chairmanship of the OSCE submitted a draft CD to the participating States. The submitted draft text is a short, technical text which illustrates concisely the functions and structure of the OSCE in their present form. The draft CD does not change the character of the OSCE which has evolved over the decades by consensus, or the mandate and attributions of its various bodies.

- **“Convention Plus”/Statute (incorporating elements of an OSCE constituent document into the 2007 Draft Convention text)**

This option involves the reopening of the 2007 DC with a view to including therein provisions that are of statutory/constitutional character for the OSCE, so that the new document (colloquially called “Convention Plus”) would contain provisions of a Statute for the OSCE (e.g. functions and structure of the OSCE) in addition to the provisions on privileges and immunities of the 2007 DC. The elaboration of the “Convention Plus” would also necessitate some amendments to the final provisions of the 2007 DC, including the consensus requirement for its entry into force. The working basis for this option is a draft circulated by the Swiss Chairmanship in 2014.

- **Implementation of commitments contained in the 1993 Rome Decision through signature and ratification of the 2007 Draft Convention by participating States ready to do so**

While articulating the legal status (legal capacity, privileges and immunities) of the CSCE/OSCE Institutions, the 1993 Rome Decision left it to each participating State to determine the best means for implementing the relevant commitments. This is an ongoing commitment for OSCE participating States and it could be implemented, inter alia through signature and ratification of the 2007 Draft Convention without the footnotes attached. In this option, the 2007 DC would serve as a multilateral agreement among the participating States who may wish to implement in this manner their commitments under the 1993 Rome Decision.

5. Conclusion

The risks that became so sharply apparent in the OSCE rapid deployment to Ukraine in 2014 could be substantially alleviated throughout the OSCE region if the legal status of the OSCE (its legal personality, capacity, and privileges and immunities) were recognised and confirmed through the adoption of a legally binding multilateral agreement by all 57 participating States. However, progress in reaching consensus on adopting the 2007 Draft Convention on the International Legal Personality, Legal Capacity, and Privileges and Immunities of the OSCE has remained at an impasse, despite the efforts of the OSCE Informal Working Group on Strengthening the Legal Framework of the OSCE (IWG) to reach consensus on that or one of the other options.

In most constitutional orders of the OSCE participating States, issues such as granting legal personality are within the exclusive remit of the national parliaments. The role of the Parliaments in the strengthening of the legal framework of the OSCE is crucial. The only agreed document on this issue, the 1993 Rome Council Decision, explicitly recognised:

“In most participating States the competence to make rules concerning the legal status of the OSCE institutions and privileges and immunities rests with the legislature.”

However, the number of national parliaments of OSCE participating States that have taken measures for strengthening the legal framework of the OSCE and removing uncertainties as to its legal personality capacity and privileges and immunities is very limited.

The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

A significant step taken recently in this regard is the resolution adopted by the Netherlands Senate on 24 March 2015, which called upon the Netherlands Government to take the initiative in short order to achieve recognition of the international legal personality, privileges and immunities of the OSCE and to report back to the Senate on this matter this year.

The OSCE Parliamentary Assembly and its national parliamentary delegations can clearly play a key role in raising awareness among their colleagues in national parliaments and in their respective governments on the challenges that the OSCE is facing. Those challenges arise due to the uncertainty of its legal status and the lack of corresponding privileges and immunities for its operations in general and in particular for cases of rapid deployment and/or operations in conflict and post-conflict areas. These issues require the active involvement of national parliaments as the necessary measures in most cases need legislative action.

Ultimately, the matter at issue is legal protection for human safety and security – both of the 4,000 individuals who are dedicated to delivering the OSCE's mandate as well as the one billion individuals who are hoping to be the beneficiaries of the OSCE principles and commitments: peace and security across the OSCE region – from Vancouver to Vladivostok – economic development, environmental protection, democracy and human rights. A clear legal status of the OSCE is critical for enabling the OSCE to perform effectively and efficiently the mandates assigned to it by its participating States, ensuring its crucial role in the European security architecture.

* * *

Annex - Measures taken by national parliaments¹

I

A. From information notified by the respective authorities of the OSCE participating States, the following States have passed parliamentary legislation for the implementation of the 1993 Rome Council Decision:

- **Hungary:** Act LXXXV of 1994 on extension to institutions, officers and employees of the CSCE, representatives of participating States and members of CSCE missions of the privileges, exemptions and immunities granted under the 1961 Vienna Convention on Diplomatic Relations.
- **Italy:** Law no. 301 of 30 July 1998 on the provisions concerning the legal capacity of the institutions of the OSCE and the related privileges and immunities;
- **Norway:** Royal Decree of 7 January 2000 on regulations relating to immunities, privileges, etc., for persons attached to and property and assets connected with the OSCE and for persons conducting inspections and evaluations in accordance with the Vienna Document of 1994, issued pursuant to Section 1, third paragraph of Act No. 5 of 19 June 1947 relating to Immunities and Privileges for International Organisations, as amended by the Norwegian Parliament on 3 June 1994 to include international organisations and institutions for which no agreement binding under international law has been entered into by Norway.
- **Sweden:**
 - Lag (1976:661) om immunitet och privilegier i vissa fall (Act on Privileges and Immunities in Certain Cases), 2 b §, effective 1 July 1994 (applicable to the CSCE Secretariat and ODIHR);
 - Lag (1994:716) om rättslig ställning för institutioner inom Konferensen om säkerhet och samarbete i Europa (ESK) (Act on the Legal Capacity of CSCE Institutions), effective 9 June 1994 (applicable to the CSCE Secretariat and ODIHR).
- **Switzerland**
 - Convention on Special Missions adopted by the General Assembly of the UN on 8 December 1969; ratified by Switzerland on 3 November 1977 and entered into force for Switzerland on 21 June 1985.
Even before the 1993 Rome Council Decision, it has been Switzerland's policy to grant privileges and immunities to the OSCE, its officials and representatives by applying the 1969 Convention on Special Missions by analogy.
 - Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State of 22 June 2007. Entered into force on 1 January 2008. (RS 192.12).
- **United Kingdom of Great Britain and Northern Ireland:** International Organisations Act 2005, Chapter 20, Section 4 "The Organization for Security and Co-operation in Europe"
- **United States of America:** Section 422 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236);

¹ Compiled on the basis of information provided by participating States or the Secretariat's reading of national legislation on file. Corrections, amendments or additions are welcomed.

The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

B. On the basis of the above legislative acts and/or in accordance with applicable constitutional or legislative provisions, in some participating States the executive branch has adopted measures for the implementation of the 1993 Rome Decision:

- **Denmark:** Denmark informed the OSCE that “the Danish Government is able to implement the provisions [of the Rome Council decision] by administrative measures on the basis of existing legislation” and specified that “in order to grant privileges and immunities to representatives of participating States, officials and members of missions, it is essential for the Government to receive adequate information prior to the arrival of delegations in Denmark”.
- **Germany:** Ordinance of 15 February 1996 on the Capacity and Immunities of the OSCE.
- **Switzerland:**
 - Ordinance to the Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State of 7 December 2007. Entered into force on 1 January 2008. (RS 192.121).
 - Administrative decision O.883.0-6-THM issued by the Ministry of Foreign Affairs extending application of Article 2, paragraph 1(h) of the Law on the Host State of 22 June 2007 (LEH, RS 192.12) as well as Article 23, paragraph 2(b) and Article 24, paragraph 3(b) of the Ordinance of the Host State of 7 December 2007 (OLEH, RS 192.121) and Article 2, paragraph 1(b) of the Directive of the Ministry of Foreign Affairs on the regulation of signature authority of the Host State (340-3), conferences organised in Switzerland under the aegis of the OSCE as well as specified participants shall enjoy specified privileges and immunities.
- **United States of America:** Executive Order 13029 of 3 December 1996 (Federal Register, vol. 61, No. 235 of 5 December 1996).

II

In addition to the general measures adopted in pursuance of the 1993 Rome Decision (general applicability to OSCE or OSCE executive structures without distinction), some participating States hosting OSCE executive structures or entities have adopted measure(s) on the legal status and privileges and immunities of the OSCE executive structure(s) or entities they host. These measures are either national legislative acts regulating the treatment of the OSCE or national legislative acts for the ratification of the host country agreements (MoUs) concluded between the host country concerned and the OSCE in respect of particular executive structure(s).

A. National laws

- **Austria:** Federal Law on the Legal Status of OSCE Institutions in Austria, Federal Law Gazette No. 511/1993 as amended (in 1995 and 2002); effective as of 15 May 1993. (Applicable to OSCE Secretariat, OSCE Representative for the Freedom of Media as well as to the OSCE Parliamentary Assembly Liaison Office. Other OSCE officials present in Austria are accorded the status of Experts on Mission).
- **Czech Republic:** Law 125 of 5 March 1992 (for the OSCE Secretariat and in particular its Prague Office where the archives unit of the Secretariat is located).

The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations

- **Netherlands:**
 - Parliamentary Act of 31 October 2002 containing provisions concerning the legal personality, privileges and immunities of the High Commissioner on National Minorities (HCNM) (applicable to HCNM, OSCE officials and OSCE experts).

B. National laws ratifying host country agreements or memoranda of understanding (MoUs)

- **Azerbaijan:** MoU of 24 September 2014 relating to the OSCE Project Co-ordinator in Baku, ratified on 20 November 2014.
- **Denmark:** Agreement between the Government of Denmark and the Parliamentary Assembly of the CSCE relating to the Headquarters in Copenhagen of the Secretariat of the Parliamentary Assembly of the CSCE, signed on 15 January 1993 and entered into force on the same date.
- **Kyrgyzstan:** MoU of 3 December 1998 relating to the OSCE Centre in Bishkek, ratified on 22 September 1999 by the Law of the Kyrgyz Republic “On ratification of Memorandum of Understanding between the Kyrgyz Republic and Organization for Security and Co-operation in Europe on establishment of the OSCE Centre in Bishkek” [with reservation “excluding point b) paragraph three of article 8 of Memorandum”.]
- **Switzerland:** Agreement between the Swiss Federal Council and States Parties to the Convention on Conciliation and Arbitration within the OSCE of 17 November 1997 establishing the legal status in Switzerland of the Court of Conciliation and Arbitration within the OSCE, entered into force on 17 November 1997.
- **Ukraine**
 - MoU of 13 July 1999; ratified on 10 February 2000 by the Law of Ukraine “On ratification of the Memorandum of Understanding between the Government of Ukraine and Organization for Security and Co-operation in Europe (OSCE) on establishment of a new form of cooperation”;
 - MoU of 14 April 2014; ratified on 29 May 2014 by the Law of Ukraine “On ratification of Memorandum of Understanding between the Government of Ukraine and Organization for Security and Co-operation in Europe (OSCE) on the deployment of an OSCE special monitoring mission”.

III

Non-legislative resolutions by national Parliaments

- **The Netherlands:** First Chamber of the States-General (Dutch Senate), Resolution of 24 March 2015, calling upon the Government to pursue an initiative for the recognition of the international legal personality, privileges and immunities of the OSCE and support the exploration of a new treaty version of the objectives, tasks and structure of the OSCE.

Reaffirming the Strengths, Envisioning the Prospects

SEMINAR #5 - BELGRADE

27-28 MAY 2015

HELSINKI + 40 FINAL SEMINAR

Reaffirming the Strengths, Envisioning the Prospects

(Belgrade, Republic of Serbia, 27-28 May 2015)

AGENDA

(as of 25 May 2015)

WEDNESDAY, 27 MAY 2015

10:00 – 10:30

OPENING REMARKS

Dr. Dijana Vukomanović, Head of the Delegation of Serbia to the OSCE PA

Ilkka Kanerva, President of the OSCE PA

Sonja Licht, President, Belgrade Fund for Political Excellence

Joao Soares, Chairman of the Helsinki +40 Project

10:30 – 12:30

SESSION 1: WHAT KIND OF FUTURE FOR OSCE FIELD PRESENCES?

H.E. Peter Burkhard, Ambassador, OSCE Mission to Serbia

Jan Plešinger, Head of the Prague Office of the OSCE Secretariat

Bojan Elek, Researcher, Belgrade Center for Security Policy

Chairperson: **Spencer Oliver**, Secretary General of the OSCE PA

13:30 – 15:00

SESSION 2: OSCE CHAIRMANSHIP – BEST PRACTICES

H.E. Dejan Šahović, Ambassador, Serbian OSCE Chairmanship

Presentation of the BFPE food-for-thought paper: "Civil Society Contribution to Reform of the OSCE: Case Study Serbia" (**Mina Lazarević** and **Marko Savković**, Belgrade Fund for Political Excellence)

Chairperson: **Ilkka Kanerva**, President of the OSCE PA

15:30 – 17:00

SESSION 3: THE OSCE HUMAN DIMENSION: TOWARDS NEW OBJECTIVES

Gordana Čomić, Deputy Speaker, National Assembly of the Republic of Serbia, Rapporteur of the Third Committee in the OSCE PA

Milan Antonijević, Director, Lawyers' Committee for Human Rights YUCOM

Svetlana Đurđević-Lukić, President, Public Policy Research Centre

Chairperson: **Meho Omerović**, Member of the Delegation of Serbia to the OSCE PA; Chairperson of the Committee on Human and Minority Rights and Gender Equality, National Assembly of the Republic of Serbia

17:00 – 17:30

CONCLUSIONS

Dr. Dijana Vukomanović, Head of the Delegation of Serbia to the OSCE PA

Spencer Oliver, Secretary General of the OSCE PA

Sonja Licht, President, Belgrade Fund for Political Excellence

THURSDAY, 28 MAY 2015

10:00 – 12:00

SESSION ON THE OUTCOMES OF THE HELSINKI +40 PROJECT
(Discussion of the outcomes of the five Helsinki +40 seminars / Consideration of the draft Final Report, to be presented in Helsinki on 6 July 2015)

Comments:

Joao Soares, Chairman of the Helsinki +40 Project

Spencer Oliver, Secretary General of the OSCE PA

Amb. Andreas Nothelle, OSCE PA Special Representative in Vienna

Andrei Zagorski, Member of the Russian International Affairs Council;
Head of Department IMEMO RAS, professor, MGIMO University

Moderator: **Ilkka Kanerva**, President of the OSCE PA

12:00 – 12:20

MEET THE PRESS

Representatives of the OSCE PA (**Joao Soares, Ilkka Kanerva**)

Dr. Dijana Vukomanović, Head of the Delegation of Serbia to the OSCE
PA

Gordana Čomić, Deputy Speaker, National Assembly of the Republic of
Serbia, Rapporteur of the Third Committee in the OSCE PA

Moderator: **Spencer Oliver**, Secretary General of the OSCE PA

14:00 – 16:00

DEBATE AT BELGRADE UNIVERSITY

**“The future of the OSCE: lessons learned from the OSCE’s engagement
in Ukraine”**

14:00 – 14:20

Introductory remarks:

Prof. dr. Ilija Vujačić, Dean, Faculty of Political Science

Dr. Dijana Vukomanović, Head of the Delegation of Serbia to the OSCE
PA

Andrei Zagorski, Member of the Russian International Affairs Council;
Head of Department IMEMO RAS, professor, MGIMO University

Milena Stošić, Special Representative of the CiO for Youth and Security

14:20 – 16:00

Debate

Judges and commenters:

Joao Soares, Chairman of the Helsinki +40 Project

Spencer Oliver, Secretary General of the OSCE PA

Michael Uyehara, Deputy Head of OSCE Mission in Serbia

Coordinator: **Prof. Vesna Knežević-Predić**



Civil Society Contribution to Reform of the OSCE: Case Study Serbia

Mina Lazarević and Marko Savković, Belgrade Fund for Political Excellence

Prepared for OSCE PA Seminar “Reaffirming the strengths, envisioning the prospects”

Food-for-thought paper

May 2015

Civil Society Contribution to Reform of the OSCE: Case Study Serbia¹

Mina Lazarevic and Marko Savkovic²

"Rebuilding Trust and Confidence in Order to Create a Positive Agenda for the Future"

The motto of Serbia's OSCE Chairmanship

The OSCE's relevance will be put to the test in this "year of milestones", with 40 years since the signing of the Helsinki Final Act, and the Republic of Serbia – a "security recipient" not so long ago – holding the OSCE Chairmanship for the first time. In addressing these, as well as many other challenges the Organization will be counting on the help of a complex and fragmented, yet influential and impartial ally – civil society. Our goal in this paper is therefore twofold: first, to shed light on the wider context, where several pan-European initiatives are already assisting the OSCE's work on issues of critical importance; and second, to provide a case study of Serbia's Chairmanship in Office (CiO), which, following Switzerland's example, aims to engage civil society (CS) far and wide.

I. THE GENERAL CONTEXT: CIVIL SOCIETY AS A PARTNER IN ADDRESSING THE THREATS TO EUROPE'S SECURITY

Expectations from all actors in this process (or processes, to be more precise) are high. For instance, one of the last PA seminars held in Stockholm addressed.

"The need for the Organization to rededicate itself to work on the ground [...] development of a specific mediation mandate for the PA; the need for greater civil society involvement [...] and the promotion of active self-evaluation by participating States; as well as the need to boost co-operation with other international organizations."³

The language and idioms used sound strangely familiar. All of the aforementioned principles – mediation; active self-evaluation; co-operation with a range of actors – are in line with and come straight from the NGO vocabulary. Given the OSCE's cross-dimensional approach to security, with its multi-sectoral, holistic approach CS seems an ideal partner.

The Swiss CiO has led the way. Together with the Serbian Chairmanship, it decided to present a "self-evaluation" with respect to how it implements policies in response to human dimension commitments. On several occasions the Swiss Foreign Minister reiterated that the

¹ This "food for thought" paper has been written with the support of the OSCE Parliamentary Assembly (PA) and the Balkan Trust for Democracy, a project of the German Marshall Fund. Opinions expressed in it belong solely to the authors and cannot be attributed to either of the organizations, or the Belgrade Fund for Political Excellence.

² In preparing the paper, the authors were greatly assisted by Bogdan Urosevic, intern at the Belgrade Fund for Political Excellence, to whom they express their gratitude. Authors may be contacted at: mlazarevic@bfpe.org; msavkovic@bfpe.org

³ OSCE, 12 March 2015, "Wide-ranging ideas for OSCE reform, PA contributions discussed at Helsinki +40 Stockholm seminar", <http://www.osce.org/pa/144726> (accessed 1 May 2015)

Chairmanship's priority is to strengthen the voice of civil society in the work of the OSCE first and foremost because "a broad and inclusive dialogue with civil society" should be in the interest of states.⁴

As the following table, drawn from the report prepared by the OSCE Special Monitoring Mission (SMM) to Ukraine shows⁵ civil society has high expectations of its own:

<i>CS expectations from the international community:</i>
<ol style="list-style-type: none">1. Support to conflict resolution2. Support to reform processes through capacity-building3. Bringing best practices from other countries4. Applying pressure on parties to the conflict and state actors

The problem at hand is best addressed through coalitions, or rather by means of across-the-board initiatives.

CIVIL SOCIETY CONTRIBUTION TO THE HELSINKI+40 PROCESS

The single most important framework that the Organization has at its disposal for including CS is the parallel civil society conference, which was launched at the OSCE Summit in Astana (Kazakhstan) in 2010. Its latest meeting was held in Basel last December, and culminated in the adoption of recommendations to the OSCE Ministerial Council (Basel, 4-5 December 2015).⁶ This ambitious undertaking primarily contains CS analyses and recommendations on "alarming human dimension issues across the OSCE region"; but, as well, in light of OSCE Chairmanship(s), on human dimension issues in Switzerland (p. 63-70) and Serbia (p. 71-78), concluding with a brief on "enhancing CS input in OSCE activities".⁷ The document also includes a list of "human dimension priorities": (a) *thematic* (e.g., putting newly adopted OSCE guidelines to work; upgrading existing ones; or addressing new problems, such as the protection of privacy and personal data), (b) *institutional* (e.g. mentioned self-evaluation, strengthening the role of the Human Dimension Committee, as well as the OSCE special offices); and (c) *regional* (with a special focus on the Western Balkans, Ukraine and Azerbaijan). Speaking of Ukraine, the document also reflected on "lessons learned" from the crisis, namely: highlighting the need to reform OSCE mechanisms for reacting to security crises; discussing

⁴ Stephanie Liechtenstein, 3 December 2014, "Live Blog: Your Voice is Heard, OSCE Chairperson-in-Office Addresses Civil Society Gathering on eve of the OSCE Ministerial Council meeting in Basel",

<http://www.shrblog.org/blog/LIVE BLOG Your voice is heard OSCE Chairperson in Office addresses civil society gathering on eve of the OSCE Ministerial Council meeting in Basel.html?id=498> (accessed 1 May 2015)

⁵ OSCE Thematic Report, "Civil Society and the Crisis in Ukraine", <http://www.osce.org/ukraine-smm/141046> (accessed 2 May 2015): p. 4

⁶ Civic Solidarity, "Civil society recommendations to the participants of the OSCE Ministerial Council meeting in Basel", 4-5 December 2014, http://www.fer.org.rs/uploads/sr/dokumenti/publikacije/civic-solidarity/civil_society_recommendations_to_the_mcm_in_basel_december_2014_final.pdf (Accessed 1 May 2015)

⁷ Ibid

relations between states and ethnic minorities in other countries; addressing the manipulation of media freedom; and including the theme of dealing with the past in future curricula.

Borrowing EU terminology, this framework and its outcome effectively present a (low-cost alternative to) "progress reports" on the state of democracy and a "shadow report" for any future CiO to consider. As such, incoming chairs should encourage it.

It is no surprise that in Serbia – a country whose democracy is consolidating and which is seeking EU membership – there are a number of organizations capable of contributing to all three of the OSCE's dimensions. Let's take into consideration the priorities of the Swiss and Serbian CiO Joint Work Plan⁸. First, Serbia's CS is well poised to help in the continued undertaking of the "analysis of current and future challenges" (p. 2 of the Joint Work Plan). Second, it has already taken part in the development of an Action Plan for Youth and Security, with a Declaration on Youth adopted at the Ministerial Council.⁹ Third, there is at least one dedicated anti-trafficking organization with a respectable track record which may assist the OSCE's efforts; and fourth, having in mind the relative success of Serbia's NAP (National Action Plan) for implementation of UNSC Resolution 1325 ("Women, Peace and Security"), an upgrade of the OSCE's Action Plan in the field seems probable.

Within the political-military dimension, contribution with regard to "security sector governance/democratic control of the armed forces"; strengthening of the OSCE Code of Conduct; and "combating transnational threats" should be expected.¹⁰

II. CASE STUDY: CIVIL SOCIETY'S CONTRIBUTION TO SERBIA'S CHAIRMANSHIP

HIGH SIGNIFICANCE AND HIGH EXPECTATIONS OF SERBIA'S CHAIRMANSHIP

As already mentioned, this is the first time that Serbia holds the Chairmanship-in-Office (CiO) of the group of 57 participating States. The Joint Chairmanship with Switzerland (2014-2015) was introduced as a new OSCE model with the aim to ensure better co-ordination of longer term planning. In January 2015, Serbia took over the Chairmanship, marking a new phase in its foreign policy.

None of the former Yugoslav countries have ever been appointed to the CiO thus far, which places an additional burden on the Serbian Chairmanship. Serbia being a country that hosts an OSCE field mission, its Government will have to distinguish itself as an active and credible promoter of human rights, democracy and peace processes. There is a hidden benefit, however. In the words of Foreign Minister Dacic, "the Chairmanship of a country from the

⁸ Ministarstvo spoljnih poslova Republike Srbije, 27. jun 2013, Zajednički plan rada Švajcarske i Srbije za predsedavanje OEBS", http://www.mfa.gov.rs/sr/images/dipllist/Zajednicki-plan-rada-za-predsedavanje-OEBS_1.pdf (accessed 3 May 2015)

⁹ Switzerland set up a "Model OSCE" with 57 young women and men from the OSCE participating States. The Model OSCE negotiated a "Youth Action Plan" for the OSCE in three simulated rounds of negotiations. The Youth Action Plan was presented to the Ministerial Council in Basel.

¹⁰ Swiss OSCE Chairmanship 2014, "The Swiss Chairmanship's commitment to implementing its priorities", https://www.eda.admin.ch/dam/eda/en/documents/recent/20141215-osze-vorsitz-umsetzung-prioritaeten_EN.pdf (accessed 2 May 2015)

Western Balkans would bring added value to the work of the OSCE, particularly in terms of translating the lessons learned from (Serbia's) experiences and the OSCE's role in supporting a wide range of reforms in Serbia".¹¹ This is why the Ministry of Foreign Affairs (MFA) has chosen the motto "rebuilding trust and confidence in the OSCE region", referring to both its turbulent past and new role-taking as both the OSCE Chair and an EU candidate country.

Great expectations have thus been set for Serbia's CiO. The OSCE Chairperson-in-Office Ivica Dacic will be tested as a crisis manager and mediator, together with the Troika.

FEATURE 1: OPPORTUNITY PRESENTED BY THE JOINT WORK PLAN

The two-year work plan¹² of Switzerland and Serbia that was developed and presented in 2013 had to be significantly revised with the outbreak of war in Ukraine. At the reception marking the start of Serbian OSCE Chairmanship, the Serbian Foreign Affairs Minister Ivica Dacic stated: "We understand that Ukraine will remain the dominant topic for the OSCE in 2015, so the main priority of our Chairmanship in that context will be to stimulate a comprehensive peace process"¹³. Serbia has also committed to focus on regional co-operation and the Western Balkans during its OSCE Chairmanship.¹⁴

The joint work plan was divided into the three dimensions in which the OSCE is active: the politico-military, the economic and environmental, and the human dimension¹⁵, while the following three areas were identified as key for a cross-dimensional approach:

- Integration of civil society through improved co-operation with CSOs and think-tanks in each dimension;
- Integration of youth through the nomination of Youth Ambassadors; and
- Integration of the gender perspective through gender mainstreaming (and in particular UN SCR 1325).

FEATURE 2: CONTINUING THE PRACTICE OF SELF-EVALUATION

The OSCE has set a number of commitments in the human dimension, many of which have not been fully implemented. Ensuring that the country chairing the OSCE respects the fundamental values of the Helsinki Final Act – and leads by example – has been recognized as key to improving the Organization's credibility.¹⁶ To improve the implementation of

¹¹ OSCE, "Address by H.E. Ivica Dacic Chairperson-in-Office of the OSCE at the Special Meeting of the OSCE Permanent Council Vienna", January 2015,

<http://www.osce-vienna.mfa.gov.rs/odrzavanje/uploads/134801.pdf> (accessed 1 May 2015)

¹² Ministarstvo spoljnih poslova Republike Srbije, Ibid

¹³ Tanjug, "OSCE Chairmanship to Focus on Balkans and Ukraine", 18 December 2014

http://www.b92.net/eng/news/politics.php?yyyy=2014&mm=12&dd=18&nav_id=92615 (accessed 2 May 2015)

¹⁴ Ministarstvo spoljnih poslova Republike Srbije, Ibid

¹⁵ Tanjug, Ibid

¹⁶ Swiss OSCE Chairmanship 2014, "Self-Evaluation OSCE Chairmanship, Commentary by the Federal Authorities," Bern, November 2014, https://www.eda.admin.ch/content/dam/eda/en/documents/recent/Self-Evaluation-OSCE-Chairmanship-November-2014-final_EN.pdf (accessed 3 May 2015)

commitments, and follow-ups on recommendations issued by the OSCE, both Switzerland and Serbia have accepted to voluntarily carry out a “self-assessment” of their performance as CiOs.

The self-assessment process in Serbia will unfold in three phases:

- In the first phase, the Commissioner for the Protection of Equality, together with the Institute of Social Sciences, will draft a report focusing on four topics: gender equality, the status of the Roma community, freedom of elections, and freedom of peaceful assembly.
- The second phase consists of the writing of a complementary “shadow report” by the Serbian CSO co-ordination group on the OSCE. The CSO co-ordination group will write about three additional topics which were perceived as high priority: media freedoms, protection of human rights, and minorities.
- Finally, in the third phase, Serbian authorities will comment on both reports.

The main lesson learned from the Swiss CiO was that this new practice provided an excellent opportunity to engage in an open and inclusive dialogue with civil society within the country. The second benefit was that it also contributed to strengthening Switzerland's regular, systematic engagement with OSCE institutions.¹⁷ Switzerland also provided several recommendations to its successor Serbia on how to engage civil society in the process in an effective and timely manner. It outlined the importance of timely involvement of all stakeholders (from the planning phase), topic selection (which should remain sufficiently broad), monitoring fatigue (which can be avoided by using existing knowledge), and deepening of understanding and familiarity of stakeholders with the OSCE.

Serbia may take advantage of the self-evaluation process as a valuable tool for increasing accountability and credibility. In addition, its current – and somewhat ambiguous – position towards CS might be improved through joint work with state institutions. We specifically emphasize the importance of engagement of the MFA with civil society, since foreign policy has so far been one of the least transparent policy areas, with no mechanisms currently in place for the inclusion of CSOs.

FEATURE 3: ESTABLISHMENT OF THE SERBIAN CSO COORDINATION GROUP

In general, the involvement of civil society in policy making in Serbia is slow-paced and to a large extent *ad hoc*, reactive and untimely.¹⁸ However, in some areas, such as European integration or human rights protection, the participation of CSOs is more extensive. From the beginning of EU accession negotiations, several informal CSOs coalitions were set up in order to discuss chapters or programming of the IPA (Instrument for Pre-Accession Assistance) funds

¹⁷ Ibid.

¹⁸ Amanda Orza, “Civil Society and Government: Participatory Policy Formulation in Serbia,” European Policy Centre, 2014, https://dgap.org/sites/default/files/article_downloads/policy_brief_epc_serbia_-_civil_society_and_government.pdf (accessed 3 May 2015)

(e.g., the National Convention, Sectorial Civil Society Organizations mechanism, PreEUgovor).¹⁹

When it comes to the OSCE, CSOs and the state were primarily familiar with field missions and ODIHR's activities. Thus, when analyzing the Serbian Chairmanship, CSO reports for the most part focus exclusively on the human dimension. This can be explained by the above-mentioned exclusion of civil society from decision- and policy-making in the field of foreign affairs.

It comes as no surprise then that in June 2014 an informal CSO coalition was established under the name 'CSO coordination group for monitoring the OSCE Chairmanship'. Its members are: the Helsinki Committee for Human Rights in Serbia, YUCOM – Lawyer's Committee on Human Rights, the Public Policy Research Centre, the Forum for Ethnic Relations and the Humanitarian Law Center. This informal coalition aims to critically observe the Serbian Chairmanship from a CS perspective, and has identified the following topics as most relevant²⁰:

- (Instances of) discrimination, especially against Roma and minority communities and other vulnerable groups (women, LGBT, persons with mental disabilities, the elderly, children, etc.) with no appropriate follow-up by authorities;
- The prosecution of war crimes and the rights of victims of war crimes (including the right to reparations);
- Attacks on human rights defenders that are rarely condemned by government officials;
- The discrepancies between minority policy and practice;
- Media freedoms and freedoms of expression including soft-censorship and self-censorship;
- Attacks against LGBT activists, impunity and the inefficiency of the judiciary in cases of violence;
- Inhuman treatment in penitentiaries.

FEATURE 4: CS CONTRIBUTIONS THUS FAR (MAY 2015)

Serbian NGOs have been contributing to the Chairmanship through increased participation at OSCE conferences, and in workshops on the human dimension. The coalition attended the OSCE Parallel Civil Society Conference in Basel, organized in December 2014 by the Civic

¹⁹ Bojan Elek, Ljiljana Ubovic, Tomasz Zornaczuk, Civil Society Networks in the EU Integration of Serbia, The Polish Institute of International Affairs policy paper, no. 8, April 2015, http://www.pism.pl/files/?id_plik=19609 (accessed 3 May 2015)

²⁰ Civic Solidarity, "Civil society recommendations to the participants of the OSCE Ministerial Council meeting in Basel", 4-5 December 2014, http://www.fer.org.rs/uploads/sr/dokumenti/publikacije/civic-solidarity/civil_society_recommendations_to_the_mcm_in_basel_december_2014_final.pdf (Accessed 1 May 2015)

Solidarity platform, where it provided input. The above-mentioned five organizations will organize the next Parallel Civil Society Conference at the end of 2015.²¹

In Serbia, the coalition has so far been very active in establishing partnerships. A dialogue with the working group of the Ministry of Foreign Affairs during the OSCE Chairmanship has been established. Even though CSOs have been invited to participate in several meetings and study visits to Vienna, the number of meetings needs to be increased in the next period. So far, there is no calendar of activities or exact date for submission of the first report. Yet, an even wider coalition has been envisaged. With the submission of the first report, a dialogue will be initiated at the regional level. Civil society organizations from the Western Balkans will also have the opportunity to provide their input, in particular in the field of reconciliation processes and the rights of victims of war crimes.

The informal coalition has also stated that it will be using reports from independent institutions – the Ombudsperson and the Commissioner for the Protection of Equality – to draw on emerging trends.

FEATURE 5: OSCE YOUTH AMBASSADORS CONTINUE THEIR WORK

While the Swiss had set up the Youth Ambassadors, Serbian CiO appointed two Special Representatives (SRs) on Youth and Security, who were then invited to address the Permanent Council. SRs have been so far engaged in various events intended to raise the awareness on the importance of youth participation. In Serbia, the National Youth Council (KOMS) had successfully implemented the project “2015 OSCE Chairmanship of Serbia and the Role of Youth. A study visit to Vienna was organized for a group of young people; 15 workshops across Serbia were conducted on the role of the OSCE and CiO; recommendations on youth security were collected; and an ‘OSCE Youth toolkit’ was created for further independent use by youth workers, CSOs and youth offices. Finally, a Network of Youth Ambassadors was created, who will participate in the human dimension side event dedicated to the youth.

CONCLUSION

The Serbian OSCE Chairmanship needs to be understood as a valuable tool for advancing human rights in Serbia itself. The human rights issues, which concern CS mentioned in this paper, require considerable attention from the country holding the CiO. However, while its predecessor Switzerland engaged CS from the beginning, Serbia was slow to do so, despite the valuable efforts of a Serbian co-ordination group. Therefore, two concerns remain. First, whether CSOs will be incorporated in the policy and decision-making processes in a systematic way after the end of Serbia’s OSCE Chairmanship; and second, how the post-process will work,

²¹ Public Policy Research Center, “Report from the press conference: Human Rights OSCE Priority”, 16 April 2015, http://www.publicpolicy.rs/arhiva/1030/disturbing-trends-in-respecting-human-rights?lang=en#.VU_wlBYgdKM (accessed 2 May 2015)

bearing Swiss NGO feedback on the Self-evaluation report of the Swiss OSCE Chairmanship²² in mind.

RECOMMENDATIONS

1. One lesson drawn from Swiss Minister Burkhalter's approach is that representatives of CS should be able to take part (as panelists wherever possible), in all of the Organization's functions and events; and that wherever the CiO travels, he or she should meet CS representatives as well.
2. There is no coherent system of civil society inclusion in policy making. CSO contributions and governmental feedback are *ad hoc* and unpredictable. Great variation exists between policy areas (human rights vs. foreign affairs, for instance). In this regard, we recommend to state administration:
 - o To adopt all the necessary regulations governing inclusion of civil society in decision and policy making;
 - o To make feedback in written form to CSO contributions and comments mandatory, in particular in the field of foreign affairs, security and defense, regional reconciliation and dealing with past policies;
 - o To train civil servants on participatory practices of involving CSOs, in particular those working in foreign affairs, security and defense, regional reconciliation and dealing with the past policies;
3. Monitoring activities are time-consuming and capacity demanding. This is why we recommend to CSOs:
 - o To request the exact timeline of the CiO's activities in order to plan on time;
 - o To advocate for follow-up activities on recommendations from the self-evaluation process.

²² Swiss NGO Working group OSCE, "NGO Feedback on the Switzerland 2014 Self-evaluation OSCE Chairmanship", 22 June 2014, <http://www.publicpolicy.rs/documents/a4a52031cooccoeao12cc633950624e82a75dof6.pdf> (accessed 1 May 2015)

Helsinki +40: Building the OSCE of the Future

ANNEX II

SELECTED SPEECHES



“Helsinki +40 Process: Prospects for Strengthening the OSCE”

Russian International Affairs Council, Moscow

25 September 2014

ILKKA KANERVA, OSCE Parliamentary Assembly President

Ladies and gentlemen,

Friends and colleagues,

Distinguished guests,

We meet today in a period of profound crisis and uncertainty in the OSCE region. The conflict in and around Ukraine has undermined the assumption that peace and stability in the area from Vancouver to Vladivostok are irrevocable. The heightened tensions and bellicose rhetoric between participating States are reminiscent of the past decades, and most discouragingly, there appears to be limited appetite for compromise.

In this context, and before talking about current challenges and opportunities, I would like to briefly reflect on the circumstances surrounding the birth of the OSCE.

Although the threat of imminent conflict had diminished when the “Helsinki Consultations on the Question of a Conference on Security and Cooperation in Europe” began in 1972, East-West diplomacy had at that point failed to produce a comprehensive breakthrough or paradigm shift. Despite the policy of *détente*, the atmosphere continued to be marred by mutual suspicion, distrust and entrenchment. And yet – perhaps even to the surprise of its participants – the consultations ultimately yielded the Helsinki Final Act, signed on 1 August 1975 in Helsinki.

In addition to articulating ten basic principles guiding relations between the signatories, the document’s innovation lay in its comprehensive definition of security which, in addition to the political and military aspects, also included the economic, environmental, and human dimensions of security. Whatever misgivings may have accompanied attendees to those initial consultations,

by 1975 the 35 signatory States of the Helsinki Final Act had managed to agree upon the foundation for a common security region spanning from Vancouver to Vladivostok.

The Helsinki Final Act is therefore more than just the OSCE's founding document; It is a document witnessing common understanding with an accompanying list of commitments. In addition, in situations when States have differences, it is a code of conduct to be followed with the aim of making a concerted effort to solve differences through dialogue and negotiation. Furthermore, the Final Act was designed to be a preventive mechanism as well as a promoter of confidence-building between States. While the current challenges faced by participating States may not wholly resemble those of decades past, co-operation and dialogue remain as essential as ever in overcoming them.

In an environment of deteriorating trust, we meet today to discuss proposals for strengthening the OSCE. Bearing in mind this overarching theme, I would like to make some remarks on the OSCE PA's efforts in general and on Ukraine in particular.

The OSCE PA Special Representatives and Working Groups aim at enhancing dialogue, fostering contacts and promoting confidence-building measures based on their specific mandates and areas of competence. In fact, the OSCE election observation missions are an example of a highly visible form of co-operation between the States concerned and the OSCE. In connection with election observation, I would like to emphasize the importance of strong participation of Russian Duma members in the upcoming PA observation mission to the Ukrainian parliamentary elections in late October.

Being in Moscow, and this event being hosted by the Russian International Affairs Council, I would like to acknowledge the contribution made by the Russian Federation towards efforts in making the OSCE more relevant. One recent example is an initiative to form an OSCE Parliamentary Assembly Interparliamentary Liaison group on Ukraine, first proposed by Chairperson Naryshkin and endorsed by the PA in its 2014 Baku Declaration. The *raison d'être* for the group is to bring together parliamentarians from the Russian Duma and the Ukrainian Rada – as well as from a number of other OSCE participating States – to promote meaningful dialogue in order to reduce tensions and to de-escalate the conflict. This initiative was well received and I have taken subsequent action to make it operational; The group will hold its first meeting in Geneva next week in connection with the PA Autumn Meeting in Geneva.

Continuing with the liaison group – and in the framework of Helsinki +40 – I have had consultations with the leadership of both the Russian and Ukrainian parliaments, as well as with the representatives of other participating States taking part in the liaison group. In addition, I had the opportunity to discuss all relevant OSCE issues, including Helsinki +40 and the OSCE's engagement with Ukraine, with Foreign Minister Lavrov and other senior officials the last time I visited Moscow in early September. I am of the view that although the parliamentary and governmental tracks on Helsinki +40 and connected issues are separate, they are parallel

processes and one should strive to exchange information between the two in order to achieve the best possible result.

Looking at the current situation and turning back to the PA and its unique role in representing people from the participating States in the OSCE area, it is clear that shortcomings in accountability can lead to serious consequences. As frequent contact and dialogue between parliamentarians is essential to build upon and propagate the Helsinki ideals, the PA and its delegations form a vital component of the OSCE mechanism in general and the Helsinki +40 process in particular. Our Annual Sessions have frequently served as a platform for articulating concrete proposals to strengthen the organization. This year in Baku, a resolution titled “the OSCE at 40 years – a region of trust and mutually beneficial coexistence” again outlined a series of priorities for reform. This seminar – and subsequent events in Washington, D.C, Stockholm and Helsinki – will provide a platform to voice additional, concrete inputs. This series of seminars also highlights the fact that the PA is keen to involve think tanks and civil society in general in its deliberations.

Dear colleagues,

Let me be clear: The rapidly evolving geopolitical landscape presents new challenges which the OSCE’s existing capacities may be inadequate to cope with. The institutional reform and Helsinki +40, and the crisis in and around Ukraine, form the two main components of my intervention. These are profoundly interlinked. I believe that in order to move from abstract ideas into concrete proposals on these issues, one should conduct a lessons-learned exercise on the OSCE’s response to the crisis in Ukraine. The PA could contribute significantly to such an endeavor. Make no mistake though, the whole OSCE family should continue applying the full toolkit at our disposal in search for negotiated, diplomatic solutions, complemented with practical measures to de-escalate and stabilize the situation in and around Ukraine.

Now, I would like to say a few words about our two keynote speakers. Mr. Zagorsky argues, rightly so, that recent developments in Ukraine dramatically illustrate the relevance of the OSCE as a key forum for multilateral co-operation in crisis management. His paper provides several recommendations for how the organization might consider updating its toolbox in order to better respond to the present global landscape. Mr. Ruperez, on the other hand, focuses on the history of the OSCE’s development. In re-examining the individual elements of the Helsinki Final Act, he argues that the organization’s future continues to be dependent on achieving full implementation of the principles agreed upon nearly 40 years ago.

In conclusion, I would like to wish all of us a productive and fruitful discussion today. Your recommendations and proposals will be compiled into a report to be presented at the OSCE Parliamentary Assembly’s 2015 Annual Session in Helsinki and delivered to the governmental side of the organization.

Thank you.



Igor Ivanov, RIAC President, RAS Corresponding Member
Seminar: “Helsinki +40 Process: Prospects for Strengthening the OSCE”
Russian International Affairs Council (RIAC), Moscow
September 25, 2014

In 2014, upon an initiative of the OSCE Parliamentary Assembly, the Russian International Affairs Council (RIAC) embarked upon a large-scale project in collaboration with the German Marshall Fund of the United States (GMF), the Stockholm International Peace Research Institute (SIPRI) and the Finnish Institute of International Affairs (FIIA). Our small international consortium has set itself the very ambitious goal of drawing preliminary conclusions on the OSCE’s 40 years of activities and offering recommendations for improving the effectiveness of the Organization in the near future.

The project was initially intended to be presented at the 40-year anniversary of the signing of the Helsinki Final Act. But the dramatic developments in Ukraine have put the future of the Organization for Security and Co-operation in Europe (OSCE) as we know it into question.

The Ukrainian crisis has exposed the ineffectiveness of existing institutions and security mechanisms in Europe. This is true of the NATO–Russia Council, the European Union institutions and the Council of Europe. Unfortunately, it is also true of the UN Security Council, which has been unable to play a decisive role in the settlement of the Ukrainian crisis. This “institutional paralysis” is not something that has appeared out of nowhere – for all intents and purposes, the European security institutions have been unable to remove the shackles of the Cold War and adapt to new realities. This is why their confusion in the face of the Ukrainian crisis should hardly come as a surprise.

Against this background, the Organization for Security and Co-operation in Europe does not look so bad. The OSCE has, of course, come under heavy criticism during the crisis for its inactivity, the extremely modest goals it has set and its supposed political bias. Nevertheless, the OSCE is the only multilateral European platform where agreements regarding concerted action aimed at resolving the crisis have been worked out, although not without difficulty. It is the OSCE that is responsible for making sure the sides in the conflict comply with the ceasefire agreed in September 2014.

Of course, the OSCE is not a panacea for everything that is wrong on the European continent. We should not just give up on the other mechanisms of European security. We must not forget that the OSCE was, and continues to be, the most representative – and, therefore, the most legitimate – security organization in Europe. The OSCE is responsible for more than just the Helsinki Accords of 1975, whose anniversary we will be celebrating next year. There is also the 1990 Charter of Paris for a New Europe, the 1999 Charter for European Security and the 2010 Astana Declaration. The OSCE has a proven track record of preventing, monitoring and de-escalating conflict situations.



**OSCE PA Helsinki +40 Project:
“The OSCE’s role in (re)consolidating European security”
Panel III. The OSCE PA and the future of the OSCE**

**OSCE PA Secretary General Spencer Oliver
Stockholm, Sweden
11 March 2015**

Dear esteemed participants,
Dear colleagues,

My involvement with the Conference on Security and Co-operation in Europe, or CSCE, which became today’s OSCE, began in 1972. That was three years before the signing of the Helsinki Final Act, the document containing the shared principles and vision of comprehensive security that the OSCE stands for. What that means is that I’ve been there to see it all -- from the months of tooth-and-nail diplomacy that went into agreeing the Final Act to the highs, lows, and changes that the OSCE has experienced over the years.

There have obviously been many anniversaries in that span, but I can say in complete earnest that this, the upcoming 40th anniversary of the Final Act, is one of the most critical junctures in OSCE history. “Helsinki + 40” sounds catchy, and 40 is a nice, round number, but this is no time for resting comfortably on our laurels. In short, our Organization faces a crisis moment, for the 40th anniversary has come at a time when world events and violations of the Helsinki Final Act do not merely present a challenge to us, but threaten to destroy our Organization, making this anniversary a “final act” of the Helsinki Final Act.

What can the OSCE do to remedy this situation? What lessons must we learn from what has happened about our own organization? And how can the OSCE Parliamentary Assembly contribute both to OSCE reform efforts and to ensuring that the Organizations stays relevant and viable in today’s world?

To fix the OSCE, we need to acknowledge the fundamental problem: What good are commitments – commitments made at the highest political level, in writing – if one, those

comments are flagrantly broken and two, if the OSCE eschews its duty to hold its own members accountable?

One of the great strengths of the OSCE Parliamentary Assembly, of course, is that we can be more outspoken than the governmental side of the organization. One of our core functions is also to provide parliamentary oversight and serve as a consistent source of new ideas and suggestions for needed reform -- as any parliament does in any democratic country. As such, we are primed to lead the Helsinki + 40 reform process and try to determine what adjustments the OSCE must now make.

Let's start with *accountability*. I fondly remember the first follow-up meeting in Belgrade in 1977, two years following the signing of the Helsinki Final Act. The back-room diplomatic battles that preceded and marked the meeting are now the stuff of OSCE and Cold War history, but what we got in the end was a thorough review of whether and how participating States were adhering to pledged commitments. The meeting also set a precedent for naming names and countries. As one of the experts, Javier Ruperez, stated during the previous seminar, "Nothing is to be gained by ignoring problems or refusing to name names... Diplomacy is not about empty words, but about harsh realities. The Final Act could not have been negotiated otherwise."

But today, the review process has deteriorated into closed-doors Permanent Council meetings at OSCE headquarters in Vienna. Instead, let's open up the review process to the court of public opinion and have a weekly, open-press review of implementation.

On that note, discussion of implementing human rights commitments should not be relegated to lengthy, poorly attended HDIMs in Warsaw. Today, the only open forum where implementation of all OSCE commitments is discussed is at the OSCE PA's sessions, which attracts significant media and civil society attention.

The situation in Ukraine -- and within the OSCE during this crisis -- also prove that we must finally adjust the consensus-based decision-making which prevents collective action against blatant violations of OSCE commitments by one participating States. The OSCE as an organization must resolve that it will not be taken hostage by any one state to remain silent and helpless in the face of Helsinki commitments violations. In the OSCE PA's annual declarations, and through our Ad Hoc Committee on Transparency and Reform, which Joao Soares chairs, OSCE parliamentarians have long called on the governmental side to consider new rules -- perhaps consensus minus one or two, or two-thirds-majority or some procedure that prevents a single country veto by a rights transgressor. Achieving this change will no doubt be a diplomatic battle, but this current episode has demonstrated just how much we need to take it on.

Yes, consensus was eventually reached to deploy a special monitoring mission to Ukraine, but what if Russia had not held up the formation and deployment of such a mission? And then, the OSCE observer mission at the border checkpoints of Donetsk and Gukovo – with the limited mandate it has been given in terms of reports, does it actually serve its purpose?

Over the years, the OSCE has also become top-heavy and bureaucratic, with Vienna ever decreasing the budget for field operations and OSCE presences being downgraded in areas where robust work is sorely needed. This is a pattern that must be speedily reversed, as OSCE parliamentarians have repeatedly called for.

I would be remiss not to also mention one idea for reform that has long been suggested, but may be the toughest to enact – that is, agreeing a legally binding OSCE charter. Our next Helsinki +40 seminar in Copenhagen will focus on this topic.

Will our organization, even with needed reforms, be able to head off all conflicts between member states? Of course not. But will it have a better chance of doing so? I don't doubt it. And will the OSCE be truer to its ideals? Certainly.

The participating States should not miss the chance of making this decisive step in 2015, when the Organization turns 40. Only through these measures can the relevance and visibility of the OSCE be preserved.

Thank you.

PM 2015-03-04

Utkast

Welcome address by the First Deputy Speaker Tobias Billström at the Helsinki +40 seminar “The OSCE’s Role in (re)consolidating European Security”, Stockholm 11 March 2015

Dear colleagues and guests,

It’s a pleasure for me to welcome you all to the Swedish Parliament and to this seminar on European Security. I’m glad that we now are able to finalise this project that has been on our agenda for more than a year, and that this can be done in cooperation with the Swedish Institute of International Affairs. This seminar is the third leg in the line of seminars - from Moscow - to Washington - to Stockholm, preparing input to the final Colloquium in Helsinki in July.

Sweden, the Swedish parliament and Swedish parliamentarians are strongly committed to the important work of the OSCE. The Swedish Delegation to the OSCE, led by Mr. Kent Härstedt, is actively and devotedly engaged in the work of the OSCE Parliamentary Assembly – by participating and contributing to the work of the Assembly, and as active participants in election observations, most recently in Tajikistan 1 March.

Europe in 1975 – divided into east and west, characterised by a lack of confidence and a lack of dialogue. In that context the Helsinki Final Act represented an important breakthrough, the beginning of a new era, and a new and broadened approach to security issues. The inclusion of the economic-environmental and the human dimensions marked the beginning of a more comprehensive, and a more constructive way of facing the challenges. It moved focus from security as a matter of interest for military headquarters to a matter of interest for the people of Europe – and beyond.

Since then we have had the privilege to witness a transformed Europe: the breakdown of the wall between east and west, the birth of new independent states, a firm commitment to democratic values, increased trade and cultural exchanges, higher standard of living. However, unfortunately we have also witnessed civil wars, human tragedies, environmental disasters, an economic crisis, a more unstable Europe and – in the recent years – a growing threat to the democratic values and the respect for international treaties and human rights.

Europe in 2015 – is a strong actor on the international scene committed to the values of human rights and democracy, a Europe with a strong will to overcome the challenges caused by the downturn and a strong advocate for dialogue and inclusion. But, at the same time a Europe which is facing polarisation, the consequences of unsolved conflicts

and the challenge of maintaining trust between countries and people on a new political arena.

I firmly believe that trust and dialogue are keys to the future development, but trust and dialogue must be based on mutual respect.

Today you will discuss the current situation for Security in Europe and the future role of the OSCE Parliamentary Assembly. The parliamentary dimension is essential as the link to the people of Europe. I look forward to the result of your work and I hope you allow me to give you a challenge for your coming discussions: How can we broaden the engagement and ensure that the intentions and ideas from Helsinki 1975 are passed forward and transformed into the complex challenges that Europe is facing today?



Organization for Security and Co-operation in Europe

The Secretariat

OSCE Legal Services

*OSCE Parliamentary Assembly and Danish Institute for International Studies (DIIS)
Helsinki +40 Supplementary Seminar:
The OSCE's Lack of Legal Status – Challenges in Crisis Situations
Copenhagen, Danish Parliament,
27 April 2015, 16:15*

*Lisa Tabassi
Head, Legal Services, Office of the Secretary-General*

Check against delivery

The Question of Legal Status for the OSCE and Implications for Ukraine

1. Principle of independence

1.1 Legal status, privileges and immunities are granted to international organisations to ensure the independence necessary for the organisations to fulfil their mandates. Diplomatic privileges and immunities were granted to the staff of the earliest organisations in the 1800s.¹ For the first large scale international administration, the 1919 Covenant of the League of Nations provided that officials of the League and the representatives of its members would enjoy diplomatic privileges and immunities when engaged on the business of the League and the buildings would be inviolable.² Going further, the Charter of the United Nations provides that the Organization shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes and that its officials and representatives of its members shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.³ The 1946 Convention on the Privileges and Immunities of the United Nations codified the necessary privileges and immunities which have largely been followed by the Specialized Agencies of the United Nations as well as the more than 100 major international organisations in existence today. The rationale underlying the grant of privileges and immunities is to ensure that the Organisation, as an autonomous subject of international law, can carry out the mandate entrusted to it by treaty or by its organs, independent of the will of its individual Member States.

1.2 In 1949, the International Court of Justice (ICJ) concluded that *“To ensure the independence of the [international civil servant], and, consequently the independent action of the Organization itself, it is essential that in performing his duties he need not rely on any other protection than that of the Organization ... In particular, he should not have to rely on the protection of his own State. If he had to rely on that State, his independence might as well be compromised...”*⁴

¹ E.g., 1804 General Administration for Access to Navigation on the Rhine

² Article 7(4) and (5) of the 1919 Covenant of the League of Nations.

³ Article 105 of the 1945 Charter of the United Nations.

⁴ ICJ Advisory Opinion, *Reparation for Injuries Suffered in the Service of the United Nations*, 1949 ICJ Reports 174-192 at 183.

1.3 The Standards of Conduct of the International Civil Service provides that, *“If the impartiality of the international civil service is to be maintained, international civil servants must remain independent of any authority outside their organization.”*⁵

1.4 The Administrative Tribunal of the International Labour Organization (ILOAT) has declared that, *“the independence of international civil servants is an essential guarantee, not only for the civil servants themselves, but also for the proper functioning of international organizations.”*⁶

1.5 The OSCE Code of Conduct provides that *OSCE officials shall neither seek nor accept instructions regarding the performance of their duties, from any government or from any authority external to the OSCE.*⁷ OSCE Staff Regulation 2.03 stipulates that privileges and immunities shall be enjoyed by the OSCE officials. At the 1993 Rome Council session the Ministers adopted a decision recommending to participating States the appropriate treatment.⁸

2. The OSCE’s patchwork of privileges and immunities

2.1 As pointed out earlier during this evening’s Seminar, there is not yet consensus nor an instrument formally recognising the international legal personality of the OSCE or granting it the necessary privileges and immunities it and its officials need to function.

2.2 Rather, and uniquely in international practice, the legal capacity, privileges and immunities are granted to the OSCE and its officials solely through national legislation, ratified or unratified memoranda of understanding, and courtesy. That fact underscores the necessity to possess legal capacity, privileges and immunities – if they were not so needed, participating States would not take the time and make the considerable effort to grant them.

2.3 However, patchwork practice leaves gaps. Although in the 1993 Rome Council session, the Ministers adopted a decision recommending that participating States take the necessary measures at the national level to ensure that the OSCE, its officials and the representatives of participating States enjoy the legal capacity and protection they need to function efficiently and effectively across the OSCE region in a harmonised way, many have not done so.

2.4 Currently, there exist 24 separate entities in 23 different countries under a very broad variety of legal arrangements. This includes the Secretariat, the three Institutions, 18 field operations as well as the OSCE autonomous bodies: the Parliamentary Assembly and the Court of Conciliation and Arbitration.

3. The OSCE’s duty of care as an employer

3.1 The gaps in the legal framework impose upon the OSCE an additional burden to meet its obligations towards its officials. The OSCE’s duty of care as an employer has been explicitly incorporated into the Staff Regulations and Staff Rules. Staff Regulation 2.07 on Functional Protection provides as follows: *“OSCE officials shall be entitled to the protection of the OSCE in the performance of their duties within the limits specified in the Staff Rules.”*

3.2 It is thus incumbent upon the Organisation to ensure that such protection is afforded and is commensurate with the standards expected for the international civil service, in terms of health, safety and security, and a professional work environment enabling the independence and loyalty

⁵ Available at <http://icsc.un.org/resources/pdfs/general/standardsE.pdf>, paragraph 8.

⁶ ILOAT, Judgment 2232 (2003), para. 16.

⁷ Section 2 of Appendix 1 to the OSCE Staff Regulations and Staff Rules.

⁸ Decision CSCE/4-C/Dec.2, adopted in Rome, 1 December 1993.

required of the OSCE official under the OSCE Code of Conduct.

4. The obligation to waive immunity so as not to impede the course of justice

4.1 Concomitant with the grant of privileges and immunities by a State, is the obligation of the organisation to waive the immunity so as not to impede the course of justice, when such waiver can be granted without prejudice to the interests of the organisation.

4.2 That is a standard practice articulated, developed and by now codified in the 1946 Convention on the Privileges and Immunities of the United Nations:

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary General, the Security Council shall have the right to waive immunity.

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Member to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

5. OSCE and its deployment to the crisis in Ukraine

5.1 Let's turn now to Ukraine. The OSCE's efforts to bring peace to the conflict there has brought into sharp focus the operational problems which can and do arise for the OSCE due to the lack of formal clarity on its status, privileges and immunities.

5.2 Just over one year ago, to address the crisis in Ukraine, the Permanent Council adopted Decision No. 1117 of 21 March 2014, establishing a new OSCE field operation (the Special Monitoring Mission to Ukraine (SMM)). In that Decision, the Permanent Council tasked the Secretary General to deploy an advance team within 24 hours of the adoption of the Decision. He did so.

5.3 The Memorandum of Understanding (MOU) between the OSCE and the Government of Ukraine for the OSCE's already established field presence in Ukraine (the Project Co-ordinator in Ukraine) did not cover the new SMM. Consequently, it was immediately necessary to negotiate and conclude a new MOU to cover the mandate of the SMM (which is to monitor and report on the security situation in Ukraine in teams operating 24/7) and size of the SMM (an initial force of 100 civilian monitors, expandable to 500, and now 1000, beginning in February 2015, for monitoring and verification of the ceasefire and withdrawal of heavy equipment and weapons under the Minsk Agreements). Consistent with precedents, the MOU covers the status of the SMM, its employees and other persons providing services to the SMM, the legal capacity of the SMM, security arrangements and protection by the Host State, inviolability, privileges and immunities, custom clearance of equipment, visas, etc.

5.4 Negotiations between the Secretariat and Ukraine commenced even before the adoption of the Permanent Council Decision on 21 March 2014, the Memorandum of Understanding was signed on 14 April 2014 (providing for provisional application of its provisions except for privileges and immunities), was ratified by the Parliament of Ukraine on 29 May 2014; and subsequently entered into force on 13 June 2014. Start to finish the process took a total of 12 weeks from the date of deployment.

5.5 In terms of an international agreement of its nature, this is an exceptionally rapid achievement. Such host country arrangements ordinarily require extensive interagency consultations and parliamentary approval. In crisis situations negotiations of such agreements may become delayed due to other priorities of the government and the usual parliamentary processes may become disrupted or inoperative. The SMM MOU was truly an achievement and can be attributed to the co-operation and intensive efforts of the Ukrainian government and its officials.

5.6 Even so, for the first 3 weeks (from deployment on 22 March until signature on 14 April 2015), the SMM was operating with no formal legal status or capacity. And for the first 12 weeks (i.e., 22 March until entry into force of the MOU on 13 June 2014), the SMM monitors had no formal privileges or immunities covering their official activities nor the formal protection of the security guarantees by the Host State other than the courtesy extended to official visitors. It is important to note that, in the meantime, during those 12 weeks, the OSCE and the SMM were carrying out the mandated activities and were accountable and exposed to an uncertain liability for any damages caused or suffered by those monitors. During that period eight monitors were abducted and held incommunicado for a month by armed group(s).

5.7 Operating without formal legal protection exposes the OSCE and its staff/mission members to a certain degree of risk. The securing of global health and disability insurance coverage only partially mitigates that risk.

5.8 Furthermore, on the practical operational level, the Mission's effective operation was initially hampered in the first three weeks by its lack of formal legal capacity, preventing it from being entitled to open bank accounts, enter into contracts or import much-needed equipment and vehicles, especially armoured vehicles, to enable it to travel throughout Ukraine. Additionally, in the OSCE's existing patchwork system of granting privileges and immunities on a limited case-by-case basis, while the MOU ensures that the SMM monitors are now protected in Ukraine, other OSCE officials, such as the Secretary General and Secretariat staff, who regularly undertake duty travel to Ukraine, or ODIHR election monitors or other field operation members who provide support to SMM in Ukraine on an urgent basis, continue to enjoy no formal, official legal status, privileges, immunities or security guarantees in Ukraine. When present in Ukraine they essentially have the status of tourists or official visitors at the courtesy of the Host State (when formally notified in advance). Consequently, to a certain extent a legal risk continues to persist, even after a MoU is concluded and brought into force by parliamentary ratification.

5.9 To this we would add the case of the newest field operation – the Deployment of OSCE Observers to Two Russian Checkpoints on the Russian-Ukrainian Border (Observer Mission or OM). For that mission there is no MOU despite the tasking by the Permanent Council to the Secretary General “to immediately finalize with the Russian Federation the practical modalities regarding the deployment of the observers, including the capacities, privileges and immunities, security and safety of the Observer Mission and its members.”⁹ The Observer Mission functions at the invitation of the Government and on the basis of courtesy. A Cabinet decision instructs the relevant governmental agencies to assist the Observers. The Observer Mission, however, lacks legal capacity in the Russian Federation and must accommodate its operations accordingly.

6. **Accountability**

6.1 One of the elements of the duty of care is that an employer must provide adequate protection to its employees. As stated by the International Court of Justice (ICJ) in the 1949 Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations* (Reparations Case),

⁹ PC decision 1130 of 24 July 2014, operative paragraph 9.

“the Organization may find it necessary, and has in fact found it necessary, to entrust its agents with important missions to be performed in disturbed parts of the world. Many missions, from their very nature, involve the agents in unusual dangers to which ordinary persons are not exposed ... Both to ensure the efficient and independent performance of these missions and to afford effective support to its agents, the Organization must provide them with adequate protection...”

6.2 OSCE officials may be injured, detained or suffer in many ways. A lack of status, protection and security guarantees raises financial and legal risks and overall may impede and limit the OSCE’s ability to resolve crisis situations. Taking into account that in May 2014 two groups of OSCE monitors were abducted on the territory of Ukraine and were respectively detained for 31 and 26 days, the risk to the health and well-being of the OSCE staff is not a hypothetical or academic scenario. Therefore, the decision to undertake risky activities must be accompanied by the decision to establish the formal legal protections enabling such a decision to be implemented in a customarily established manner, including taking into account the duty of care, protection and security.

6.3 A clear legal status also enables a clear line of accountability and liability. When the legal status is ambiguous, it is also unclear who will be held responsible in the case of injury or damages. In the case of the OSCE, where most international staff are seconded by participating States, a triangular employment relationship exists which thus may engage the liability of the seconding State if there is a failure of protection causing injury and the OSCE’s status is unclear. Within the secondment relationship the legal situation is also not entirely clear and will vary from State to State since the employment relationship between seconding States and their secondees varies.

7. Implications for future operations, in particular peacekeeping

7.1 Aside from the immediate operational consequences that have emerged in Ukraine, there are additional aspects that may indicate implications for future OSCE field operations, in particular peacekeeping.

7.2 In midsummer 2014, it was considered that the SMM would enhance its effectiveness if it could have visibility of the area it was monitoring from the air. Offers from participating States to provide the equipment and technological capacity were received. However, legal obstacles prevented the offers from going forward as such equipment and experts of the potentially contributing States belonged to the military which could not loan them to an entity which did not enjoy international legal personality as there could be no assurances of the proper immunity at the international level. Consequently the SMM has had to obtain such services through a commercial contractor, at significant expense. We would also note here that the Minsk Agreements of September 2014 and February 2015 envisage that the OSCE will carry out effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons with the use of all necessary technical means, including satellites, unmanned unarmed aerial vehicles, radar systems and so on. It is not yet entirely clear to what extent or by what means the OSCE will be able to obtain all those technological capacities.

7.3 The Helsinki Document adopted by participating States in 1992 provides for eventual OSCE civilian and/or military peacekeeping missions. The OSCE Minsk Group (dedicated to resolving the Nagorno-Karabakh conflict) has been tasked with developing a solution involving peacekeeping. However, the OSCE experience in Ukraine has revealed that such a scenario may not yet legally be possible with the OSCE’s present legal framework.

8. Conclusion

8.1 Of course even if perfect legal arrangements were agreed and in force, it does not guarantee perfect implementation. The SMM MOU provides for freedom of movement and travel without advance notice within the whole territory of Ukraine. Nevertheless, as the SMM Daily Reports show, throughout the entire period, there are isolated incidents reported of monitors detained, access delayed, access denied, passports checked and scanned, monitors questioned and photographed, vehicles searched, mobile phones seized, warning shots fired, and documents seized. These incidents have occurred during encounters with the various parties on the ground.

8.2 The reality is that a mission of the nature of the SMM necessarily entails risks. The rapid deployment in Ukraine brought a sharp focus to the legal and operational consequences of the lack of consensus on the international legal personality and the scope of privileges and immunities to be enjoyed by the OSCE, its executive structures and entities.

8.3 The Ukraine experience, however, is not unique nor is it an anomaly. Although not as dramatic, similar consequences are experienced routinely in the daily operations of the OSCE in its other executive structures, including the Secretariat and the Institutions and the other field operations. For example:

- Inability of the OSCE to assert a status equal to other international organisations operating in the field;
- Need to negotiate the status of the OSCE on an *ad hoc* basis with each country hosting an executive structure or project;
- *Ad hoc* and incomplete legal capacity, privileges and immunities provided for in the 1993 Rome Council Decision, leaving the OSCE as the object of national legislation and the OSCE in a weak negotiating position;
- Differentiation between foreign OSCE officials and those holding the nationality of the host State -- a distinction not recognised in the international civil service – leading to various legal consequences, including denial of most privileges and immunities, national taxation of OSCE salaries paid to locally recruited mission members, conscription;
- the lack of legal capacity under national law to open bank accounts, purchase goods and services, register vehicles in its own name, pursue its legal interests, demand the standard indemnification from third parties in contractual relationships, etc.;
- the inability to conclude standard co-operation agreements with other international organisations for joint projects and to receive the application of standard treatment granted between sister organisations; and
- the lack of clarity as to who is accountable and will be held liable in the event of an accident causing damage. This is an acute issue in view of the fact that the OSCE engages in risky projects such as the destruction of ammunition, disposal of highly flammable rocket fuel, and assessment of uranium dumps.

8.4 The OSCE's 57 participating States, through consensus-based political arrangements, have created an international organisation, assigned it functions and mandates, dispatched it into conflict zones, and has seconded its citizens to staff it. While there may be a lack of clarity on the formal

legal status, privileges and immunities of the OSCE and its officials, there is full clarity on the operational activities it is expected to perform as an international entity, carrying out its activities as if it enjoyed the privileges and immunities that the treaty-based international organisations normally need and are formally granted.

8.5 The commemoration of the 40 years since the signature of the Helsinki Final Act, the founding document of the OSCE, could be well-timed for achieving progress on the issue of strengthening the legal framework of the OSCE. Politically, however, consensus may be more elusive than ever. Nevertheless, a clear legal status of the OSCE is essential for enabling the OSCE to perform effectively and efficiently the mandates assigned to it by its decision-making bodies in a legally responsible manner, ensuring the centrality of its role in the European security architecture.

8.6 The need to do so was underscored recently by the Netherlands Senate which adopted a Resolution calling upon the Government to take initiatives in the short term to have the international legal personality, privileges and immunities for the OSCE acknowledged, and to explore the basis for putting the objectives, tasks and structure of the OSCE on a treaty level.¹⁰

8.7 Marvellously, miraculously or almost magically, the OSCE has adapted to its ambiguous status over the decades. The adaptability of the OSCE has been well-proven since its inception in the Helsinki Final Act through all its transmutations up to the present. What is being discussed here is an internal argument – externally there is very little, or possibly no, perception among the public that the OSCE possesses anything less than other international organisations.

8.8 While a clear legal status would not necessarily hamper the flexibility and operational advantages of the OSCE, its lack comes clearly at a cost. In the recent meeting of the Panel of Eminent Persons, one participant likened the OSCE to the renowned magician Houdini, who was tied up in ropes and chains and thrown into a tank of water and watched in the struggle to break free and swim to the top. Others have said that the OSCE has been made to walk on water. While this may be a matter of light conversation or a question of some academic interest, let us not forget that what we are speaking of here is legal protection for human safety and security – both of the 4000 individuals who are dedicated to delivering the OSCE's mandate as well as the one billion individuals who are hoping to be the beneficiaries of the OSCE principles and commitments: peace and security across the OSCE region – from Vancouver to Vladivostok -- economic development, environmental protection, democracy and human rights.

Thank you.

¹⁰ Motion of Senator Schrijver, adopted by the First Chamber of the *Staten-Generaal* on 24 March 2015.



Opening Remarks of Ms. Dijana Vukomanovic, Head of the Serbian Delegation to the OSCE PA

**Helsinki +40 Seminar: “Reaffirming the Strengths, Envisioning the Prospects”
27 May 2015
Belgrade**

Ladies and Gentlemen,

Dear Ambassadors, dear fellow parliamentarians, representatives from the civil society organisations, think-tanks, scientific institutions, academia, students, and last but not least– media representatives,

It is a great pleasure and honour for me to welcome you to Belgrade, and the National Assembly of the Republic of Serbia! Dobro nam došli u Beograd! We are gathering here today in Belgrade, to discuss how vital, how strong and how important the OSCE, as well as the OSCE Parliamentary Assembly is in the contemporary Euro-Asian and Euro-Atlantic region, as well as within the general world arena.

We salute your active participation in the Helsinki +40 process and your innovative contributions within the process of consecutive seminars that are held so far in Moscow, Washington, Stockholm, Copenhagen, and finally today in Belgrade. Serbia is fully aware of the complexity of the situation in the contemporary Europe and world today, and this awareness is even greater with the fact that Serbia, after Switzerland, and Ukraine before, is doing its best to implement all competencies and responsibilities of its role of the OSCE`s Chairmanship-in-Office during 2015.

We, parliamentarians from the OSCE region are entering into the new partnership with civil society organizations, as well as with research and scientific institutions, thus opening the new chapter in further development and strengthening of the OSCE capacities to face the new, more complicated challenges of the 21st century in our Euro-Asian and Euro-Atlantic region.

Through the engagement of distinguished experts, politicians and diplomats who have been involved in OSCE activities, through this project of consecutive seminars, vivid discussions have been initiated on the OSCE's Helsinki Plus 40 process, providing important food-for-thought materials and recommendations for the OSCE participating States and the Organization in general. I am sure that our Organization is both stronger and wiser because of your involvement.

Thanks to your participation in this series of seminars, we have a new, I would say very challenging, provocative and innovative agenda to be discussed now and in the future ahead of us.

We are gathering here today in Belgrade to discuss what role OSCE can take on, and what role all of us can take on in the world of today, and in the world of tomorrow. That is why the title of our final seminar is:

Reaffirming the Strengths, Envisioning the Prospects
Потврђивање предности, изгледи за будућност.

After 40 years behind us, we are looking towards the future, we want to explore possible new tools and methods of preserving the peace, in order to prevent or to resolve current or potential new conflicts. All of us should practise what we have preached, and what we have written in the Helsinki Final Act. Being so close to this milestone that we will celebrate in August this year, we should express loudly these commitments again, **and again**. People from the 57 participating states are expecting us to deliver our promises that **peace has no alternative!**

In order to be an effective Organization, we must be selective – we must choose very carefully what our priorities of action are – but we should never give up on improving further the collective standards in regard to the OSCE scope of action, such as:

**Conflict prevention and resolution,
Combating terrorism,
Developing Democracy,
Economic Activities,
Human and Minority Rights ...**

Just to mention some of the most important OSCE`s action points.

I would like to remind you that the OSCE Parliamentary Assembly occupies a unique position within the Organization, as it provides a vital link between the governmental side of the OSCE and the people in the OSCE area. As a forum for parliamentarians directly elected **by** the people, we are representatives **of** the people, but we have the most noble mission of all: to act **for** the people thus ensuring their best collective interests. That is why we are entering into new partnership with **young generation**, of men and women, who will continue our work, our joint mission, and who will share further commitments that we have written in the Helsinki Final Act. That is why tomorrow we will organize students` debate at the Faculty of Political Sciences.

The road ahead of us will not be easy. In our joint efforts to promote solutions to the main problems and challenges, we parliamentarians, experts, politicians, diplomats, academicians, CSO activists, journalists, students of the OSCE region should help each other to shape public opinion and mobilize political, legislative, human, logistics, financial and budgetary resources in order to give these issues due attention in our respective countries, and in the OSCE region we all care so much about.

Dear ladies and gentlemen, I wish you fruitful, open-minded and, after all, democratic and tolerant discussions!



Joao Soares

Chair of the OSCE PA's Helsinki +40 Project

Chair of the OSCE PA's Ad Hoc Committee on Transparency and Reform of the OSCE

Helsinki +40 Seminar: "Reaffirming the Strengths, Envisioning the Prospects"

27 May 2015, Belgrade

It is great to see that we have such good gender representation in the leadership of this seminar today – thank you to Dijana Vukomanović, Head of the OSCE PA's Serbian Delegation to and Sonja Licht, President of the Belgrade Fund for Political Excellence, for your participation.

To paraphrase Winston Churchill: the OSCE is the worst international organization with the exception of all others. We are here because there is a need to renovate the OSCE, and it's worthwhile focusing on the Serbian experience in today's reflection. The OSCE should use its 40th anniversary as an opportunity to adopt pending reforms and further develop concrete lines of action for strengthening its effectiveness and efficiency. One of the goals of our Helsinki +40 Project is to evaluate lessons learned over the four decades of the OSCE's existence in order to move from abstract ideas into concrete actions on these issues.

Among these important recommendations are for the OSCE to adjust its decision-making procedure, increase its transparency and provide greater support to the vital work being done by the OSCE field operations. Equally important is codifying the Parliamentary Assembly's role, status and involvement in the OSCE's work as one of the OSCE Institutions.

With the OSCE's agenda of the past year so heavily dominated by the crisis in and around Ukraine, naturally much of our discussion in these seminars has focused on this conflict, and the OSCE's response to it. The conflict has provided a valuable teaching moment for the Organization, offering real-world context and urgency for the discussions we have held.

The broader changes in the geopolitical landscape that the crisis has created have presented new challenges to European security which the OSCE's existing capacities and structures may not be sufficient to fully address.

Being old enough to remember the negotiations leading to the Helsinki Final Act being signed in 1975, I recall the commentary in the West at the time, which was nearly unanimous in criticizing the accords as too generous to the Soviet Union.

When I think back to these arguments and mutual accusations between East and West, I am reminded of the proverb, “the more things change, the more they stay the same.” Who knew that 40 years after the signing of the Helsinki Final Act, we would still be debating its relevance, the enforceability of its provisions, and the perceptions of double standards between East and West?

While on one hand, I think it should be clearly said that the Helsinki Accords have been a great success – leading to the establishment of a direct link between military and economic-environmental and human security, the latest developments in and around Ukraine have forced us to ask ourselves, “Is this the final act for the Helsinki Final Act?” But at the same time, we also must ask: what would that mean? What would we do without the OSCE and the vital forum for dialogue that it provides?

As Chair of the Helsinki +40 Project, I have been working for the past several months to bring this discussion to capitals across the OSCE area. Being here today in Belgrade is a very symbolic and appropriate venue to continue our series of seminars with a view towards capitalizing on the past and looking towards the future.

Much like the current Ukraine crisis, the ethnic warfare that tore this region apart 20 years ago led many people to wonder whether the OSCE was equipped to handle these crises. Just like today, there were accusations of bias in the OSCE and inaction at key moments which failed to prevent the Balkans wars.

But what we have seen in the years since the end of those conflicts has been an enormous investment of resources and political capital into this region, where the OSCE has carried out some of its most important field work. This investment has paid off, with the region now living in peace and relative prosperity.

But this is not a time to just pat ourselves on the back for a job well done. Rather, we must honestly examine where we currently stand and explore possible new tools and methods of moving forward. These tools must include robust parliamentary diplomacy in general, and a strengthened the OSCE Parliamentary Assembly in particular.

As U.S. President Gerald Ford said when he signed the Helsinki Accords in 1975, “History will judge this Conference not by what we say here today, but by what we do tomorrow – not by the promises we make, but by the promises we keep.” As the OSCE enters its fifth decade, let us redouble our efforts to keep those promises made 40 years ago.