

A Role for OSCE Peacekeeping? From the 1992 Helsinki Guidelines to the Special Monitoring Mission to Ukraine

Master's Thesis

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*Larissa Daria Meier
Schaffhausen, Switzerland*

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Graders:

Dr. Wolfgang Zellner (IFSH)
Dr. Hans-Georg Ehrhart (IFSH)

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A Role for OSCE Peacekeeping? From the 1992 Helsinki Guidelines to the Special Monitoring Mission to Ukraine

1. Introduction

“Strengthening the Special Monitoring Mission to Ukraine: A Way to Peacekeeping?”
Oleksandr Tytarchuk (2015)

1.1. Problem Diagnosis and Research Questions

Aspirations for the OSCE to become a primary instrument for conflict management date back to the end of the Cold War, as CSCE participating States, for the first time, emphasized their commitment to empowering the Organization with the capacity to engage in conflict resolution.¹ Confronted with armed conflicts arising in the former Yugoslavia and the post-Soviet region, one of the main concerns of the CSCE was how to address the new risks to European security. In fact, it might be argued that it was due to these conflicts that the idea of OSCE peacekeeping was placed on the agenda.² In the 1992 Helsinki Document, *The Challenges of Change*, the CSCE participating States considered peacekeeping to be one “important operational element of the overall capability of the CSCE for [...] crisis management”³ and adopted the so-called Helsinki Guidelines, which provide the Organization with the political mandate to deploy peacekeeping operations (PKO). However, despite the enthusiastic language contained in the Helsinki Document, the adoption of OSCE guidelines on peacekeeping elicited remarkably diverse responses. While the former Dutch ambassador to the OSCE praised the section on peacekeeping “as one of the most innovative concepts” resulting from the Helsinki Summit, which “has opened the door for CSCE to enter into a totally new area of activity”, other commentators evaluated the guidelines as “wishful thinking provisions”, which would hardly result in any concrete action.⁴ Who was right? This question must have been difficult to answer two decades ago and this is still true today. On the one hand, no OSCE PKO has been mandated since the Organization adopted its norms in 1992. Thus, in line with Siekmann, it could be concluded that OSCE peacekeeping has remained a mere theoretical undertaking without any concrete results. However, such a conclusion would be premature. While the provisions on OSCE peacekeeping “have remained a dead letter up to now”⁵, the first OSCE field operations (FoPs) to prevent and manage crises were dispatched soon after the Helsinki Guidelines were adopted. While the main focus has undoubtedly been on preventive diplomacy, a closer look

1 Cf. Hill 2013, p. 1; Velitchkova 2002, p. 10.

2 Cf. Velitchkova 2002, p. 10.

3 CSCE: Helsinki Document 1992. *The Challenges of Change*, Chapter III, para. 17.

4 Scheltema 1992, p. 7; Siekmann 1992, p. 18. See also Ghebalı 2003.

5 Vetschera 2002, p. 411.

at the activities of OSCE FoPs reveals that they have carried out a range of tasks which, from a UN perspective, could easily fall under the title of peacekeeping. The Special Monitoring Mission to Ukraine (SMM) is only the most recent and most prominent example of an OSCE mission engaged in peacekeeping. Thus, Hill seems to have been right when he pointed out that OSCE instruments to address conflicts hardly result from theoretical debates, but “grow out of *ad hoc* responses to fast moving, often unexpected and cataclysmic historical events.”⁶ Facing pressure to respond adequately to concrete crises, participating States have been quite willing to establish FoPs which, due to their nature as well as their functions, can be defined as PKOs. Following this line of reasoning, it could, thus, be argued that the OSCE is already playing a role in peacekeeping, albeit without officially declaring its activities as peacekeeping. Starting from this somewhat paradoxical observation, this work aims to analyze what can be described as two lines of development of OSCE peacekeeping: the long history of conceptual debates and negotiations on peacekeeping, on the one hand, and the development of OSCE practice in the broad field of peacekeeping, on the other hand. By describing these two developments and examining if and how they are related to each other, the work analyzes whether there is a role for OSCE in peacekeeping.

Thus, the main research question guiding this working paper is as follows:

- To what extent does the OSCE play a role in the field of peacekeeping?

To analyze this question, the working paper poses the following sub-questions:

- Is there a specific type of OSCE peacekeeping? And if so, how does OSCE peacekeeping differ from that offered by other international organizations?
- What kinds of challenges do OSCE field operations face and what does this reveal about the potential and the deficits of the OSCE’s activities in the field of peacekeeping?
- What is the potential for future development of OSCE peacekeeping?

1.2. Political and Scholarly Relevance of the Topic

The lack of systematic research on the OSCE’s role in peacekeeping corroborates the scholarly relevance of this study. Apart from a few analyses of the Helsinki Guidelines and some short articles dealing with specific rounds of debates on peacekeeping, the OSCE’s role in peacekeeping has hardly been dealt with in the literature. This study aims to narrow this research gap by providing a comprehensive account of the long history of conceptual discussions on peacekeeping as well as an analysis of OSCE conflict management activities, through the lens of peacekeeping. By reprocessing the rounds of internal debates, the paper sheds light on the key topics prevailing in OSCE discussions on peacekeeping and, thereby, enhances the understanding of the attitudes of participating States towards OSCE engagement in peacekeeping. Moreover, through a short analysis of the Kosovo Verification Mission (KVM) and a more in-depth study of the SMM, the OSCE’s practice in peacekeeping,

6 Cf. Hill 2010, p.4.

as well as its capacity to field mid-scale FoPs engaged in peacekeeping, will be explored.

With respect to the political relevance, this study might be interesting to those working on conflict management in Europe. Against the background of the widely known overstretch of the UN in peacekeeping, along with the declining interest of the US in taking the lead in crisis management in Europe, regional solutions might have to be developed.⁷ This may have been of little concern as long as conflicts in Europe seemed to be on the decline. However, the Ukraine War as well as previous conflicts in the Caucasus Region demonstrate that Europe is far from being immune to armed conflict. This is of particular importance for the OSCE, whose enduring utility as the organization “best suited to bridge the East-West divide and facilitate co-operative solutions”⁸ was highlighted during the Ukraine crisis. Whereas the EU and NATO were perceived, from a Russian point of view, as parties to the conflict and, therefore, ill-suited to taking a leading role in crisis management, the OSCE, as the only organization including all countries of the Euro-Atlantic and Eurasian space, represented the only forum for discussing joint action. Thus, the Organization might, in the future, be called upon to play an ever more important role in conflict management in Europe.

1.3. Methodology and Data Collection

The central objective of this study is to collect material on the basis of which the OSCE’s role in the field of peacekeeping can be analyzed and potential options for its future development can be discussed. To achieve this goal, the study adopts a twofold approach. On the one hand, the analytical reprocessing of OSCE documents dealing with OSCE peacekeeping allows for carving out key arguments prevailing in OSCE discussions on peacekeeping and, thus, provides important material to analyze how participating States view the role OSCE can and should play in the field of peacekeeping. This is of particular importance due to the fact that an organization like the OSCE, with weak structures and resources, is very dependent on its participating States’ willingness to take political initiatives as well to provide qualified personnel and financial contributions.⁹ On the other hand, an in-depth analysis of the establishment, deployment and operation of the KVM and the SMM allows an analysis of the political capacity of the OSCE to take appropriate action when confronted with a crisis in Europe and, at the same time, it evaluates the OSCE’s operational capacity to implement decisions taken by the political bodies.

The chapter on the development of internal discussions on OSCE peacekeeping is based mainly on an extensive analysis of restricted documents that the author examined during a two-week research visit to the OSCE Archives in Prague. These documents are made available to registered researchers and can be scrutinized during their residence at the Archives. This means that researchers may take notes

7 Cf. Tull 2010; Burci 1997, p. 303.

8 Zannier 2014a, p. 7.

9 Cf. Volmer 2000, p. 47.

and extract information for their research, but are neither allowed to make copies of restricted documents nor to quote directly from restricted material. All the information retrieved must be paraphrased and summarized in the author's own words.¹⁰

The information collected on the SMM was drawn from a wide range of sources, including academic articles, reports, policy papers, video material, newspaper articles and internal documents. In addition, five interviews conducted with OSCE officials, delegations and SMM observers during a research visit to Vienna provided exclusive material for examining the mission's role in the context of OSCE peacekeeping.

1.4. Structure of the Work

Following this introductory part, the study consists of five additional chapters. In the second chapter, the analytical framework for analyzing the OSCE's role in peacekeeping is developed. By defining the term "peacekeeping" and describing the UN concepts and principles of peacekeeping, it provides the conceptual tools to analyze whether OSCE field activities can be described as peacekeeping. The third chapter briefly outlines the OSCE's political and executive bodies and describes their contributions to conflict management. Subsequently, the two lines of development of OSCE peacekeeping, which have been identified in the introductory chapter, are examined. Chapter Four analyzes the different rounds of conceptual discussions on peacekeeping and defines the main controversies dominating the debates. In Chapter Five, the focus is on OSCE activities in conflict management. By exploring two FoPs – the KVM and the SMM – which, according to experts and practitioners, can be described as PKOs – OSCE practice in peacekeeping and its capacity to field mid-scale FoPs engaged in the area of peacekeeping are examined.¹¹ Drawing on the findings from the previous chapters, the sixth chapter evaluates the extent to which the OSCE has already played a role in peacekeeping and discusses its potential for future development.

10 Cf. Prague Office of the OSCE Secretariat: Researcher-in-Residence Programme. Recommendations for quoting OSCE documents and using restricted documents as primary sources for academic research on OSCE related subjects.

11 Ghebali (2014) refers to the KVM as a PKO *de facto*; see also Bellamy/Griffin 2007. OSCE Secretary General Lamberto Zannier (2014b) called the SMM a quasi PKO; see also Neukirch 2015.

2. Peacekeeping – Towards a Conceptual Framework

“UN OBSERVER. Their beat – no man’s land. Their job – to get the facts straight. A frontier incident, an outbreak of fighting... Which nation is responsible, whose story is true? The UN must know. So its peace patrols keep vigil to prevent flare-ups, supervise truces, investigate and report. Already this vital work has helped to end bloodshed, bringing a promise of peace to millions of people.”
UN poster, Department of Public Information, (c. 1960)

2.1. Defining Peacekeeping

Although the term peacekeeping has been part of the political vocabulary at least since the concept was initially developed by the UN in the late 1940s, there is still no consensus definition of the term – peacekeeping has taken different forms in different crises.¹² However, as a starting point, an authoritative definition contained in *An Agenda for Peace* might be quoted:

“Peace-keeping is the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.”¹³

Although not particularly precise, this definition contains the most significant elements characterizing peacekeeping: It is – most importantly – a *voluntary* activity carried out by internationally recruited military and/or civilian personnel in a non-combatant role with the aim of contributing to maintaining peace in a specific crisis area.¹⁴ PKOs thus represent one important instrument international organizations may use to manage and resolve violent conflicts. At the same time, it is important to note that peacekeeping is only one “among a range of activities undertaken by the United Nations and other international actors to maintain international peace and security.”¹⁵ In his *Agenda for Peace* (1992), the former UN Secretary-General Boutros-Ghali argued that peacekeeping is one of four tools that can and should be applied to prevent and resolve conflicts. *Preventive diplomacy* aims at preventing violent conflicts from arising or, if they are already on-going, from escalating, whereas *peacemaking* usually involves diplomatic action to bring hostile parties to an agreement. *Post-conflict peacebuilding* underpins the efforts of peacemakers and peacekeepers by addressing the causes of the conflict and, thereby, laying the foundation for stable peace.¹⁶ Although conceptually and technically separate, the different instruments should be understood as complementary, mutually reinforcing components of a comprehensive peace process.¹⁷ Former UN Secretary-General U Thant pointed out

12 Cf. Törnudd 2003a, p. 1; Velitchkova 2002, p. 2.

13 UN Secretary General, *An Agenda for Peace*, 1992, § 20.

14 Cf. adapted definition from Törnudd 2003b, p. 17.

15 Cf. UN 2008, p. 17.

16 Cf. UN Secretary General, *An Agenda for Peace*, 1992, § 20 and § 55; UN 2008, p. 18.

17 Cf. Tshiband 2010, p. 2.

that the deployment of a PKO should not be mistaken for the solution to the basic problems of a conflict. While peacekeeping forces may be able to contain violence and assist in peacemaking, they cannot replace a political settlement: PKOs “can serve their purpose if they are accompanied by serious and persistent efforts to find solutions to problems which required the peacekeeping in the first place.”¹⁸ While a ceasefire reached through peacemaking normally builds the basis for the deployment of a PKO, the PKO limits violence and stabilizes the situation on the ground and, thus, creates an environment where negotiations on a peace agreement are possible while, at the same time, paving the way for post-conflict peacebuilding.¹⁹ Converging into one comprehensive approach, preventive diplomacy, peacemaking, peacekeeping and peacebuilding are intended to lay the ground for sustainable peace.

2.2. Traditional Peacekeeping

UN peacekeeping crystallized during the Cold War, “born of the United Nations’ [...] inability to enforce the peace as envisaged in its Charter and its desire to do more to affect the course of international armed conflict than simply mediating and conciliating from a distance”.²⁰ In their initial manifestation, PKOs had no commonly accepted form, but developed as an *ad hoc* response to deal with conflicts breaking out during the Cold War period. Nonetheless, the “doctrine” governing PKOs during this time changed very little and – mainly through the conceptualization efforts by UN Secretary General Dag Hammarskjöld – a set of basic principles evolved which constituted the concept of traditional peacekeeping that remains influential today.²¹

2.2.1. The Core Principles of Traditional Peacekeeping

For PKOs to be able to effectively carry out their mandates, some minimal conditions, the so-called “holy trinity” of peacekeeping – consent, impartiality and the non-use of force – have to be met. First of all, the host parties’ *consent* to the deployment of peacekeeping operations is widely recognized as an indispensable prerequisite for the PKO’s success and survival.²² Consent not only preserves the sovereignty of the host states and, thus, prevents PKOs from being seen as “invaders” interfering in the internal affairs of a state, the host state(s)’ consent to the deployment of a PKO also reduces the risk to the peacekeepers, who – bound by the principle of non-use of force – depend on the security guarantees provided by the host state.²³ And not least, consent marks the willingness of the parties to the conflict to contribute to the settlement of a dispute and, therefore, enhances the PKO’s ability

18 Cf. U Thant, quoted in Sarigiannidis 2007, p. 529.

19 Cf. Bellamy/Williams 2010, pp. 173-174.

20 Cf. Findley 1996, p.1.

21 Cf. Mackinlay 2001, pp. 55-56.

22 Cf. Rubinstein 2008, p. 25; Van der Lijn 2009, pp. 47-48.

23 Cf. Doyle/Sambanis 2007, p. 500.

to carry out its mandate with the necessary freedom of action.²⁴ The principle of consent is closely linked to the second principle of peacekeeping: *impartiality*. If a PKO is perceived as partial, the parties to the conflict are normally hesitant to give their consent or might even withdraw it altogether.²⁵ Impartiality during the Cold War period was widely understood as equivalent to neutrality.²⁶ Peacekeepers were not only expected to implement their mandate “without favour or prejudice to any party”²⁷ but to interfere as little as possible in the internal affairs of the host states. The third principle, the *non-use of force*, binds peacekeepers to the use of force only as the last resort for self-defense.²⁸ Consent and impartiality were intended to grant PKOs “a sense of security that precludes the use of force”.²⁹ Or as Sir Urquhart points out, the real strength of PKOs is not based on their capability to use force, but lies mainly in the non-use of force principle, allowing the peacekeepers to remain above the conflict and preserving their prestige as neutral observers.³⁰ Moreover, the use of force by peacekeepers could threaten the impartiality of the PKO and, thus, lead to the host state’s withdrawal of consent. Taken together, consent, impartiality and the non-use of force build a triangle of mutually constitutive and reinforcing principles.³¹

2.2.2. The Core Tasks of Traditional Peacekeeping Operations

Traditional PKOs were formed to react to a conflict environment characterized by Mary Kaldor (2007) as “Old War”: The belligerents were almost exclusively states, the armed forces were hierarchically organized and controlled by state authorities and the separation of war from peace, military from civilians, and combat zones from rear areas was still in place.³² Against this background, the oldest type of PKO – the so-called observer missions – were mostly deployed to monitor compliance by the armed forces of the two states in conflict and provide the international community with objective reporting on the security situation on the ground. Moreover, the observers were supposed to help de-escalate and contain violence through advice, aid and mediation and – in some cases – to investigate allegations of criminal activity or external interference in domestic politics. With respect to their size, observer missions used to be rather small, usually numbered in the hundreds, and were – by contrast to our common picture of traditional PKOs – exclusively composed of unarmed civilians. Observer missions are thus sometimes referred to as the civilian face of traditional peacekeeping.³³ The “core” type of traditional PKOs was formed in 1956 when the first “UN force” was deployed to the Sinai. These PKOs normally

24 Cf. UN 2008, p. 31-32.

25 Cf. Tull 2013, p. 183.

26 Cf. Doyle/Sambanis 2007, p. 500.

27 Cf. UN 2008, p. 33.

28 Cf. Rubinstein 2008, p. 29.

29 Cf. Tshiband 2010, p. 5.

30 Cf. Urquhart 1987, p. 178-79.

31 Cf. Tull 2013, p. 183.

32 Cf. Bellamy/Williams 2010, p. 177-178.

33 Cf. Dorn 2011, p. 10; Bellamy/Williams 2010, p. 175.

numbered in the thousands and were typically deployed in formed units to physically separate parties to the conflict. The opposing armies were isolated from each other by removing them into “Areas of Separation”, thereby leaving a buffer zone, which would be patrolled by UN peacekeepers. This had the effect that troops which had been involved in fighting barely saw the opposing force because the day-to-day liaison between them was done by UN-observers.³⁴ When the buffer zone was successfully established, peacekeepers – apart from daily patrolling – were tasked with verifying aspects of demilitarization, including weapons decommissioning and troop withdrawal.³⁵

2.3. Multidimensional Peacekeeping

As the Cold War came to an end, a changing conflict environment, accompanied by newly emerging normative paradigms, led to a qualitative transformation of PKOs. The latter no longer keep peace between two states, but are normally deployed in intra-state conflicts, where they operate in an area of ongoing violent conflict, not uncommonly in the midst of humanitarian emergencies. Moreover, the growing importance of the liberal peace paradigm, along with the evolving concept of human security, has significantly broadened the range of activities in which PKOs are supposed to engage. Today’s PKOs are no longer meant only to maintain peace, but are intended to contribute to democracy promotion, the creation of conditions conducive to individual development and, not least, to the elimination of the root causes of a conflict.³⁶

2.3.1. Grasping the Concept of Multidimensional Peacekeeping

The transformation of the international environment has given rise to a new generation of so called “multidimensional” PKOs. Although the term “multidimensional peacekeeping” is widely used in the academic literature, there seems to be no common understanding of what exactly “multidimensional” means. While most scholars focus on the new tasks carried out by multidimensional PKOs others pay more attention to the changing conflict environment in which today’s PKOs are deployed.³⁷ Hence, in order to grasp the evolving concept of a multidimensional PKO, the following five characteristics, at least, have to be identified: First, PKOs are typically deployed in the complete absence of a ceasefire agreement or in situations in which an agreement is prone to collapse. Thus, they have to operate in an environment of ongoing violent conflict.³⁸ Moreover, PKOs no longer deal with regular armies, but rather, are confronted with a variety of paramilitary factions with little discipline and ill-defined command structures.³⁹ The

34 Cf. Mackinlay 2001, pp. 57-61.

35 Cf. Bellamy/Williams 2010, p. 175.

36 Cf. *Ibid.*, pp. 3-5.

37 Cf. *Ibid.*, p. 194.

38 Cf. *Ibid.*

39 Cf. UN Secretary General, Supplement to an Agenda for Peace, 1995, §12.

host state's capacity to provide security to its people and to maintain public order is often weak and may be further threatened by separatist territories. And, not least, the basic infrastructure has been destroyed – at least to some extent – and a large part of the population may have been internally displaced. Second, multidimensional PKOs typically play a critical role in supporting political efforts to settle the conflict. They are often mandated to provide good offices to the parties in conflict, facilitate political dialogue and reconciliation and sustain overall political consensus around the peace process.⁴⁰ Third, although multidimensional PKOs tend to be deployed during or after a violent conflict, they “can be made more appropriate for all stages” of the conflict cycle.⁴¹ Of most practical relevance is probably the new role PKOs play on the stage of peacebuilding. In line with the positive peace paradigm, multidimensional PKOs are based on the assumption that preserving a dispute along a ceasefire line does not lead to a lasting settlement but, at best, leads to a timely stabilization of a conflict. In order to achieve durable peace, the implementation of a peace agreement that goes “to the roots of the conflict” is necessary:

“[PKOs] to be truly successful must come to include comprehensive efforts to identify and support structures which will tend to consolidate peace [...]. Through agreements ending civil strife, these may include disarming the previously warring parties and the restoration of order, the custody and possible destruction of weapons, repatriating refugees, advisory and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening governmental institutions and promoting formal and informal processes of political participation.”⁴²

Fourth, as a result of their expanded role in implementing comprehensive peace settlements, multidimensional PKOs are supposed to engage along multiple dimensions and – as the statement cited above reveals – to take on a range of new tasks.⁴³ However, the tendency to mandate PKOs to carry out a continually growing number of duties has led to a significant gap between “desirable duties and real capacities” of PKOs.⁴⁴ This, along with a rise in expectations, not only undermines the capacity of PKOs to fulfill their mandates, but also risks discrediting peacekeeping altogether as a core instrument to resolve violent conflicts. Critics would, therefore, require PKOs to concentrate on their core functions.⁴⁵ In that sense, the UN in its *Principles and Guidelines for Peacekeeping Operations* (2008), tried to curtail the field of activity of peacekeepers through defining five critical peacebuilding activities in which PKOs could play a catalytic role: Disarmament, demobilization and reintegration (DDR) of combatants, Security Sector Reform (SSR), verification of human rights, electoral assistance and support to the restoration and extension of state authority. By contrast, PKOs “are neither designed nor equipped to engage in longer-term institution and capacity-building efforts.”⁴⁶ PKOs should, thus, focus on preparing the ground for development actors with the expertise to carry out

40 Cf. UN 2008, pp. 22-24.

41 Cf. Bures 2007, p. 420.

42 UN Secretary General, Supplement to an Agenda for Peace 1995, §55.

43 Table 1 in the Annex provides an overview over the tasks carried out by multidimensional PKOs.

44 Tull 2010, p. 18.

45 Cf. *Ibid.*, p. 19.

46 UN 2008, p. 28.

peacebuilding activities.⁴⁷ And fifth, by contrast to traditional PKOs which, except for observer missions, have been military in nature, multidimensional PKOs typically involve military, police and civilian components.⁴⁸ However, it should be kept in mind that the military component still represents the major part of a peacekeeping operation, regardless of whether the operation corresponds to the traditional or the multidimensional type of peacekeeping.⁴⁹

2.3.2. Maintaining the Core Principles of Peacekeeping?

Despite the fact that the nature and practice of peacekeeping have evolved significantly over the last few decades, its underlying principles draw considerably on a traditional concept of peacekeeping. This results in a Janus-faced doctrine attempting to “apply the principles of traditional peacekeeping – based on ideas about managing Westphalian interstate conflict – in a post-Westphalian environment.”⁵⁰ The principle of consent has begun to be questioned insofar as consent for PKOs operating in complex interstate conflicts goes beyond the simple agreement of a host state to the deployment of a PKO on its territory.⁵¹ In a “New War” environment, governments often lack an effective monopoly of violence, while sub-state actors control parts of the state territory.⁵² This causes numerous difficulties ranging from identifying the relevant parties to the conflict to the question of whether non-state actors can give their consent to PKOs. And even if the latter are entitled to give their consent, the question arises of how reliable this consent is considering the often fluctuating organizational structures of sub-state groups.⁵³ Furthermore, PKOs operating in internal wars necessarily have to engage with regional political authorities as well as rebel groups. Thus, it would be simplistic to limit consent to the strategic level, namely the host state’s agreement to a PKO. Especially in cases where governments do not have full territorial control, consent must be directly negotiated with rebel groups.⁵⁴

While the impartiality principle, understood as not taking action against any side’s interest, was well suited for traditional PKOs whose involvement in politics remained limited, it is rather ill suited for today’s PKOs. As a result, a changing notion of the term “impartiality” has gained favor.⁵⁵ Impartiality as it is meant today, does not mean non-interference, but focuses on the equal treatment of all parties to the conflict:

“The need for even-handedness towards the parties should not become an excuse for inaction in the face of behavior that clearly works against the peace process. Just as a good referee is impartial, but will penalize infractions, so a peacekeeping operation should not condone

47 Cf. Ibid., p. 29.

48 Cf. Tshiband 2010, p. 6.

49 Table 2 in the Annex provides an overview over the evolving nature of peacekeeping operations.

50 Bellamy/Williams 2010, p. 197.

51 Cf. Beck 2011, p. 7.

52 Cf. UN 2008, pp. 32-33.

53 Cf. Tsagourias 2007, pp. 474-75.

54 Cf. Beck 2011, pp. 7-10.

55 Cf. Levine 2011, p. 425.

actions by the parties that violate the undertakings of the peace process or the international norms and principles that a United Nations peacekeeping operation upholds.”⁵⁶

PKOs are thus required to counter breaches of political agreements and violations of international principles – not by using force but through public exposure.

Initially the use of force principle was strictly limited to self-defense. However, this has changed significantly over the past two decades. Failures of PKOs to protect civilians from mass atrocities and human rights violations led to the extension of the use of force in two ways: First, a reinterpretation of the principle also allowed for the use of force in defense of a mandate against spoilers. Second, today’s PKOs normally have a robust mandate, that is to say, they are tasked to protect civilians within their area of deployment.⁵⁷ That’s why PKOs operating under a robust mandate are sometimes referred to as belonging to “Chapter VI and a half” of the Charter, thereby placing PKOs between civilian conflict resolution based on Chapter VI and more forceful action as authorized under Chapter VII. At the same time, robust peacekeeping should not be confused with peace enforcement, as envisaged under Chapter VII of the Charter. While robust PKOs may use force at the tactical level, with the authorization of the Security Council and the consent of the host state, peace enforcement allows the use of force at the strategic level to impose the will of the Security Council and, thus, obviously does not require consent of the host state.⁵⁸

Returning to the growing practice of equipping PKOs with a robust mandate, recent discussion on the use of force in PKOs reveals that the effect of providing PKOs with robust mandates is increasingly being questioned. Berdal, for example, emphasizes that “by invoking Chapter VII the Council was often just as concerned with conveying the impression of resolve as it was with taking meaningful action on the ground”.⁵⁹ This has led to a growing number of critical voices asking whether the extension of the use of force does not create wrong expectations. Moreover, as Boutros-Ghali has already noted in the *Supplement to an Agenda for Peace*, the use of force beyond self-defense risks blurring “the distinction between the two [peacekeeping and peace enforcement]”⁶⁰ and “can undermine the viability of the peacekeeping operation and endanger its personnel.” Nonetheless, the continuing practice of equipping PKOs with robust mandates confirms the trend towards extending the use of force in PKOs.

To sum up, the analysis has shown that peacekeeping is an evolving concept that has taken different forms in different conflicts. At the same time, however, UN practice in peacekeeping has produced a relatively clear set of principles which, taken together, constitute the basic concept of traditional peacekeeping. New developments have not replaced the traditional concept, but should rather be understood as an adaptation of the original type to changing circumstances.

56 UN 2008, p. 33.

57 Cf. White 2009, pp. 339-345.

58 Cf. UN Information Service: 60 Years of United Nations Peacekeeping, 5 June 2015.

59 Berdal quoted in White 2009, p. 342.

60 UN Secretary General, Supplement to an Agenda for Peace 1995, § 35.

3. Composition of the OSCE Conflict Management Structure

“The CSCE will be a primary instrument for early warning, conflict prevention and crisis management in the region.”
CSCE Budapest Summit Declaration (1994)

3.1. OSCE Bodies and their Contributions to Conflict Management

As the “permanent body [...] for political consultations” the *Permanent Council (PC)* acts as the central forum to discuss all developments which have the potential to turn into violent conflicts and is therefore an important instrument of early warning and raising awareness. At the same time, the PC “take[s] decision on all issues pertinent to the CSCE”⁶¹ and thus has a pivotal role in deciding on the application of OSCE conflict management tools as well as on any other measures considered appropriate to deal with a crisis.⁶² PC decisions are always subject to the consensus principle. This means, first of all, that there is “no substitute to the political will to reach consensus” among participating States “in addressing any stage of a particular conflict”⁶³ and second, that the parties to a conflict have at their disposal a “third party capacity”:

*“[...] any participating State that is a party to a conflict also necessarily has a third-party capacity. Through consensus-based decision-making, such a state is always directly involved in the Organization’s conflict management [and] therefore always has a veto against the application of any conflict-related instruments and measures that are addressed towards itself.”*⁶⁴

Consensus-based decision-making has the advantage that it lends considerable political weight to decisions that are made and fosters a sense of common responsibility but, at the same time, it prevents the OSCE from making any meaningful contribution to conflict resolution in cases of discord among participating States.⁶⁵

OSCE activities are coordinated by the *Chairperson-in-Office (CiO)*, the highest political officer within the OSCE. The CiO produces political input by providing the participating States “with the required drafts, reports and overviews”⁶⁶, thus playing a crucial role in galvanizing the OSCE into action through agenda setting as well as facilitating consensus.⁶⁷ Furthermore, the CiO is mandated to coordinate relations with other organizations and can, therefore, mobilize support for OSCE activities and

61 CSCE, Ministerial Council Decision No. 7, CSCE Structures and Operations. Rome 1993.

62 Cf. Cohen 1999, pp. 19-21.

63 Hill 2010, p. 7.

64 Evers 2012, p. 11.

65 Cf. Stefan-Bastl 1999, p. 340.

66 OSCE, Ministerial Council Decision No. 8, Role of the OSCE Chairmanship-in-Office, Porto 2002.

67 Cohen 1999, p. 23; The Chairmanship is held by one state on an annually rotating basis.

facilitate high-level consultations on specific issues. And, not least, the CiO appoints the Heads of Mission and provides political guidance for field activities.⁶⁸

The degree to which the CiO is able to carry out his leadership role largely depends on the international status of the country chairing the OSCE, the Foreign Minister's breadth of experience and the commitment of his government to the tasks at hand.⁶⁹ At the same time, the Secretary General as "chief administrative officer" does not have the mandate to give political guidance. Rather, his role is limited to supporting the CiO in the preparation of meetings and the implementation of OSCE decisions. In other words, there is no central OSCE institution that could effectively coordinate and control the OSCE's conflict management activities in case of a weak Chairmanship.⁷⁰

The *Conflict Prevention Centre (CPC)* supports the OSCE and its participating States in their conflict management activities from within the Secretariat and thus serves as a kind of transmission belt between OSCE FoPs and the decision-making bodies. With respect to conflict management, the main task the CPC has to fulfill is covering the three elements which are required, from an operational point of view, to deploy a mission: Planning, staffing and equipment.⁷¹ Although the CPC must work with only limited personnel as well as the financial resources at hand, important reorganization measures as well as innovative ideas, developed in response to the Ministerial Council decision 3/11 on the Conflict Cycle, adopted in 2011, have considerably strengthened the CPC's capacity to cover the three elements.⁷² This is especially true with respect to the timely recruitment of personnel to staff a planned FoP. The "normal" OSCE recruitment system, which is based on personnel seconded by participating States, turned out – notwithstanding its advantages – to be rather ineffective in quickly mobilizing qualified personnel for a new FoP. To address this challenge, a standardized computer based recruitment system was developed. The latter systematizes and, therefore, speeds up recruitment procedures by linking the human resources department within the Secretariat with that of participating States.⁷³ In addition, the CPC has developed a so-called phased approach based on an internal rapid deployment roster, which has information on staff who are available at short notice. This roster can be used to quickly select experienced staff from existing FoPs or the Secretariat and temporarily relocate them to reinforce missions or build the nucleus of new FoPs. These so-called "first responders" are replaced – in a second phase – with seconded personnel recruited through standard procedures.⁷⁴

68 OSCE, Ministerial Council Decision No. 8, Role of the OSCE Chairmanship-in-Office, Porto 2002.

69 Cf. Cohen 1999, p. 24.

70 Cf. Zellner 2005, p. 28.

71 Cf. CORE-NEWS 2000, p.1.

72 Cf. OSCE Ministerial Council Decision No. 11, Elements of the Conflict Cycle. Vilnius 2011.

73 Cf. CORE-NEWS 2000, p.1, To date, job offers has been designed by individual missions, submitted CVs have differed markedly in their form, and information has been provided by emails, fax and phone calls.

74 Cf. Neukirch 2014, p. 128.

Moreover, – to accelerate procurement of the necessary equipment – a so-called “virtual pool” of equipment has been established, which allows the CPC to provide a new mission with the necessary equipment without having to store large amounts of items, which would be too resource intensive. Instead, it keeps only less expensive items in stock, while a database provides information on a) what equipment can be requested from existing field operations or other organizations and b) where critical equipment can be quickly procured. This information, along with a system of window contracts, facilitates the prompt purchase of further critical items in crisis situations.⁷⁵

3.2. OSCE Instruments for Conflict Management: Field Operations

OSCE field operations, as the Organization’s main instrument for conflict management, have evolved from OSCE practice. Or, as the former Secretary General Wilhelm Hoynck put it, FoPs were “strictly speaking, not provided for by the inventory codified at the Helsinki Summit Meeting of July 1992. But there was a growing need for an international presence in areas of potential conflict.”⁷⁶ On a conceptual level, the sound political mandate for OSCE PKOs in the Helsinki Document, on the one hand, and, on the other hand, the evolving OSCE practice of using so-called “ad hoc arrangements” to engage in conflict management, provoked a discussion on how the two instruments are linked with each other. While Halacinski (1995) interprets OSCE FoPs “as a special form of OSCE peacekeeping operations”⁷⁷, Ronzitti (1997) disagrees, emphasizing that:

“[...] notwithstanding the similarities [...] long-term missions and peacekeeping operations also have distinctive features. The main characteristic of peacekeeping operations is that they have a sound legal basis in the Helsinki document, unlike long-term missions which have evolved from OSCE practice.”⁷⁸

From my point of view they are both right. While the idea of OSCE peacekeeping did originate separately from the practice of FoPs, through their flexible nature, FoPs proved to be useful in addressing various forms of conflicts at different stages of the conflict cycle and thus evolved into “a peculiar brand” of OSCE conflict management that may or may not involve peacekeeping.⁷⁹

Due to the fact that OSCE FoPs were born out of practice and designed to confront specific crisis situations, they do not conform to a uniform pattern. In fact, there are “no general exclusion clauses” that prevent missions from engaging in any circumstances. Rather, they are an instrument “with as much flexibility as the Permanent Council, including the host country, is prepared to negotiate.”⁸⁰ While the

75 Cf. Ibid. p. 129.

76 Hoynck quoted in Cohen 1999, p. 85.

77 Halacinski 1995, p.

78 Ronzitti 1997, p. 254.

79 Bellamy/Griffin 2007.

80 Cohen 1999, p. 91.

first type of OSCE field activities (from 1992) were small missions⁸¹ focusing on early warning and conflict resolution, the formats of OSCE FoPs have grown more diversified over the years, both in size as well as in the range of their tasks. Today, mission mandates range from conflict prevention and acute conflict management to providing assistance in post-conflict resolution.⁸² Missions are subject to a chain of command that leads back to the PC, which decides in consensus on the provision as well as the extension of mandates.⁸³ This provides the missions with high moral authority and demonstrates the commitment of the parties to the conflict to cooperate. At the same time, FoPs rely significantly on the goodwill of the parties concerned. Its activities can, therefore, easily be hampered if support for the mission is lost.⁸⁴

In summary, this overview has shown that the OSCE's conflict management structure is characterized, on the one hand, by its flexibility. There are few guidelines or exclusion clauses that would prevent the Organization from engaging in any circumstances and applying a broad range of tools. At the same time, however, the OSCE's capacity to manage conflicts very much depends on the willingness of the participating States to find consensus on when and how to apply the existing tools and provide the executive bodies with the necessary resources to react to emerging conflicts.

81 Usually staffed with ten international representatives. Cf. Meyer 2000, p. 79.

82 Cf. Zellner 2004, pp. 281-84.

83 Cf. Cohen 1999, p. 86. Mandates are usually given for six months, but subsequently extended.

84 Cf. Bellamy/Griffin 2007, p. 12.

4. Conceptual Discussions on OSCE Peacekeeping

“The OSCE can deliver – if the participating States enable it do so and provide support.”

Didier Burkhalter, OSCE Chairman-in-Office (2014)

4.1. The Framework of Helsinki II

The Helsinki Document does not provide a definition of peacekeeping, but concentrates on describing the different elements constituting the OSCE concept of peacekeeping.⁸⁵ According to Chapter III of the Helsinki Document, OSCE PKOs may, depending on the concrete conflict situation, assume a variety of forms, from observer and monitoring missions to large deployment of forces, including civilian and military components. Possible tasks of PKOs include observation of ceasefires, monitoring the withdrawal of troops, support to maintain law and order, provision of humanitarian and medical aid assistance and assistance to refugees. None of the tasks carried out by PKOs should involve enforcement actions. Furthermore, the Helsinki Decisions have a comprehensive set of preconditions for the deployment of a PKO. The first three of them – the consent of the parties concerned, the impartiality of the peacekeeping forces and the use of force only in self-defense – are well known as the key principles of UN peacekeeping. However, the Helsinki provisions define a number of additional requirements, namely a consensus decision by the PC, a clear and precise mandate, the existence of a durable ceasefire and the provision of safety guarantees at all times for the personnel involved. The set of very detailed rules on peacekeeping in the Helsinki Document are surprising considering the fact that UN peacekeeping was born out of practice and was, itself, never codified in the UN Charter. It rather seems as if the OSCE had carried out this exercise in modeling their provision to a large extent “on what UN practice has produced in the way of concrete results over the years.”⁸⁶ As the brief analysis of the Helsinki Guidelines has shown, OSCE provisions on peacekeeping go even further in adding conditions, which have been subject to UN discussions on peacekeeping, but are scarcely found in practice. This, in turn, raises the question of how workable the OSCE provisions on peacekeeping would be in practice. Even from a conceptual point of view, there are several difficulties that give rise to questions about the applicability of the Helsinki Framework. First of all, it is questionable whether the adoption of a “clear and precise mandate” is necessary for the smooth operation of a PKO.⁸⁷ Second, the conditions for dispatching a PKO are rather rigid. While it is understandable that a ceasefire should be in place before a PKO is deployed, an “effective and durable” ceasefire will hardly be achieved in contemporary conflicts, where ceasefires are often fragile and violence is ongoing. And third, the Helsinki provisions require safety guarantees “at all times of personnel involved”. While it is certainly desirable

85 Cf. CSCE: Helsinki Document 1992. The Challenges of Change. Chapter III, para. 17-56.

86 Siekman 1992, p. 18.

87 Cf. Cohen 1999, p. 191.

to have effective safety guarantees, this provision will hardly be able to be met considering the conflict situations in which today's PKOS are generally deployed.⁸⁸

To better understand how these conceptual flaws influence the deployment of PKOs it is worthwhile giving a closer look to the planning of a PKO for Nagorno-Karabakh.

4.2. Planning for a Peacekeeping Operation in Nagorno-Karabakh

Although planning started earlier, the intention of the participating States to dispatch a PKO to Nagorno Karabakh was formally declared at the Budapest Summit in 1994: Providing that an agreement on cessation of the conflict had been reached "[participating States] declared their political will to provide [...] a multinational CSCE peacekeeping force, organized on the basis of Chapter III of the Helsinki Document 1992."⁸⁹ At that time, conditions for the rapid deployment of the PKO seemed quite favorable. On 12 May 1994, an agreement on an informal ceasefire was reached and all parties concerned declared their commitment to the deployment of a PKO.⁹⁰ The High Level Planning Group (HPLG) – established to deal with the planning of the future operation – therefore started to work out concepts on the nature and the operational requirements of an OSCE PKO and submitted its recommendations for evaluation to participating States.⁹¹ The draft outline presented in June foresaw a force structure of three infantry battalions, two or three independent infantry companies, observers and support and logistic units – in total, approximately 3000 personnel at a cost of 100 million dollars for the first six months.⁹² The scale of the planned endeavor, however, raised concern among the participating States. It was doubtful whether the Organization would be operationally prepared to field such a large-scale operation. Consequently, the participating States feared that a considerable strengthening of the CPC and a significant increase in budget would be necessary.⁹³ However, the issue which led to the most controversy was the question of how to interpret the principle of non-use of force. While the draft on the composition of the PKO – in line with the Helsinki Guidelines – explicitly ruled out enforcement actions, the draft rules of engagement seemed to water down this provision by stating that monitors might use armed force, apart from self-defense, in cases where the operation was forcefully prevented from carrying out its mandate.⁹⁴ Several delegations expressed concerns about whether

88 Cf. Ronzitti 1997, p. 250.

89 CSCE Budapest Document 1994. Towards a Genuine Partnership in a New Area. Chapter II, para. 4.

90 Cf. Kwaastieniet 1998, p. 17.

91 Cf. Vilén 1996, pp. 92-93.

92 Cf. High Level Planning Group: Mission Statement for a Possible Peacekeeping Mission to the Nagorno-Karabakh Conflict, REF.CIO/23/95. Corr. 1, 27 June 1995.

93 Cf. Permanent Mission of Austria, Comments and Suggestions on the HPLG Concept for OSCE PKM to Nagorno-Karabakh, REF.PC/628/95; Permanent Mission of Ireland: Comments on the HPLG Concepts, REF.PC/521/95; Permanent Mission of Switzerland: Mission Concept on the High-Level Planning Group. Comments, REF.CIO/71/95.

94 Cf. See Rules of Engagement Annex REF.CIO/23/95. Corr. 1. (note 92).

the latter provision would conform to the requirements for an operation undertaken by a Regional Arrangement on the basis of Chapter VIII of the UN Charter, which only allows for peaceful settlements of conflicts. It was, therefore, deemed necessary to obtain authorization from the Security Council, as the use of force could not be completely ruled out.⁹⁵ This view finally prevailed and the participating States decided at the Budapest Summit “to provide, with an appropriate resolution of the United Nations Security Council, a multinational OSCE peacekeeping force”⁹⁶ to Nagorno Karabakh. While conditions to finally deploy the PKO were never reached and a concrete request to the Security Council became unnecessary, the decision had, nonetheless, a considerable impact on OSCE debates on peacekeeping. For the first time, participating States entered discussions on the necessity of providing PKOs with so-called robust mandates in order to enable them to effectively carry out their tasks. The trend of the discussion, in turn, was markedly influenced by the experience with UNPROFOR in Bosnia, which was forced to operate in the midst of civil war, but without robust rules of engagement. From the perspective of many participating States, the failure of UNPROFOR demonstrated that, in “New War” conflict environments, only a robust PKO would have the necessary room for escalation dominance in order to be effective. By contrast, conflicts where the deployment of a traditional PKO or even an unarmed observer mission would be appropriate had become the exception.⁹⁷ With respect to OSCE peacekeeping, this meant that the possibility of a PKO being deployed under the OSCE flag had considerably diminished. Although the OSCE could, in principle, deploy a military PKO, acting under a robust mandate provided by the Security Council, this is, in practice, unlikely to happen. As will be discussed in the next chapter, the majority of participating States are extremely reluctant to deploy military PKOs and clearly opt for limiting the OSCE’s involvement to the civilian part of peacekeeping.

Returning to the preparations for a PKO to Nagorno Karabakh, they proceeded despite the controversies briefly outlined above and by mid-1995, the OSCE was, in principle, prepared for an imminent deployment of a multinational operation to Nagorno Karabakh.⁹⁸ However, the well-known unfortunate history of the Karabakh conflict made the final launching of this PKO impossible. Due to the fact that a stable ceasefire could not be achieved and the parties to the conflict had been unable to agree on a mandate, the conditions for the deployment of a PKO set up in the Helsinki Framework could never have been met, thus preventing the first OSCE PKO from being dispatched. In this sense, the Ministerial Council held in Budapest in 1995 took note that the HPLG “completed preparatory work on planning of an envisaged peacekeeping operation” and acknowledged that “conditions which would allow the deployment of such an operation are, however, still lacking.”⁹⁹

The unsuccessful attempt to deploy a PKO to Nagorno-Karabakh confirms what could already have been stated from a conceptual point of view: the process of

95 Cf. Kwaasteniet 1998, p. 18.

96 CSCE Budapest Document 1994. Towards a Genuine Partnership in a New Area. Chapter II para. 4.

97 Cf. Permanent Mission of Italy, EU Statement on the OSCE Role in the Field of Peacekeeping, PC.DEL/1378/03; see also Homan 2003; Kwaasteniet 1998.

98 Cf. Nowak 1996, p. 134.

99 OSCE: Budapest Document. Chairman’s Summary, DOC.MC/1/95, Budapest 1995.

dispatching a PKO based on the Helsinki Provisions has turned out to be rather cumbersome, “making the risk, that it will never be put into practice very real.”¹⁰⁰ Moreover, the debates among participating States on the nature and the operational requirements for PKOs have already shed some light on the topics dominating discussion on peacekeeping.

4.3. Cooperation with other International Organizations in Peacekeeping

The term “peacekeeping” appears for the first time in the OSCE vocabulary in the Prague Ministerial Meeting Document on *Further Development of CSCE Institutions and Structures*, which tasks the Helsinki Follow-up Meeting with giving “careful consideration to possibilities for CSCE peacekeeping or a CSCE role in peacekeeping”.¹⁰¹ This formulation shows that the participating States had two different concepts in mind when they started their elaboration on peacekeeping: full-fledged peacekeeping under the auspices of the CSCE, on the one hand, and PKOs carried out in collaboration with other organizations, on the other hand. As the discussion on the Helsinki Guidelines has shown, it was the first option, that is, the idea of providing the OSCE with the mandate to carry out its own PKOs, that finally prevailed and found a prominent place in Chapter III of the Helsinki Document. However, this does not mean that no consideration had been given to the question of whether the CSCE should collaborate with other organizations when fielding PKOs. Quite the contrary, the debates in Prague as well as in Helsinki revolved, to a large extent, around this question. Already at the Helsinki Follow-up Meeting, a US proposal was put forward, which only envisaged a subsidiary role for the CSCE in peacekeeping. The Organization could provide the political mandate for a PKO, but leave its implementation to organizations, such as NATO, with the necessary military structures in place.¹⁰² Interestingly, however, the divergence of views did not run along the usual conflict lines: While a number of countries, such as Canada, Norway, Poland and even Russia had expressed their support for collaboration in peacekeeping, other countries, particularly France, but also Spain, Ireland and Belgium, were more hesitant about the idea that NATO could be granted a role as Europe’s standard peacekeeper. Up to five days before the start of the Helsinki Summit, consensus on this particular question was still lacking, thereby blocking further discussion on the topic. Then, however, within the first few days of negotiations, the participating States reached consensus on a text, which finally replaced the last placeholder in the Helsinki Document.¹⁰³ Paragraph 52 provides the Organization with the political mandate to “benefit from resources and possible

100 Ronzitti, 1997, p. 249.

101 CSCE: Prague Document 1992. *Further Development of CSCE Institutions and Structures*. Chapter VI, para 23.

102 Cf. Permanent Mission of the US: CSCE Sanctioned Peacekeeping, 13 May 1992.

103 Cf. Placeholder in Chapter C in the Proposal on Peacekeeping under the Auspices of the OSCE: An Outline, Helsinki Follow-up Meeting, CSCE/HM/WG1/9/Rev. 1.

experience and expertise of existing organizations [... and] request them to make their resources available.”¹⁰⁴

This does not, however, mean that discussion on the role of other organizations in OSCE peacekeeping would have been off the table. As early as 1992, a Russian request for financial and political support for PKOs undertaken by Russia or the CIS on the territory of the former Soviet Union initiated further discussion on collaboration in peacekeeping.¹⁰⁵ On the one hand, the participating States recognized the stabilizing function Russia could have in the area and were well aware that tackling CIS conflicts without involving Russia would be impossible. At the same time, the idea of granting legitimacy to Russian PKOs was strongly opposed by the Baltic States, Ukraine and some Eastern European countries, which were concerned about Russia having a prominent role in conflict management in the FSU region. They particularly feared that Russia could use its peacekeeping forces as a means to maintain control over its “near abroad”.¹⁰⁶ In an attempt to balance both views, the participating States expressed their willingness to support Russia’s peacekeeping efforts but – at the same time – established specific conditions: a) that the OSCE had to be used as a forum for consultations before a PKO could be initiated, b) that operations had to be based on OSCE principles, and c) that the operation must take place under the monitoring of the OSCE.¹⁰⁷ Based on these conditions, the decision was taken at the Rome Council in 1993 that the CSCE could consider “the setting up of cooperative arrangements in order, *inter alia*, to ensure that the role and functions of a third party military force in a conflict area are consistent with CSCE principles and objectives.”¹⁰⁸

However, it was in connection with the discussions on a Charter of European Security that the question of *whether* and *how* collaboration with other organizations in the field of peacekeeping could and should take place, came up again. Based on a decision adopted at the Ministerial Council in Copenhagen 1997 which, *inter alia*, tasked participating States “to examine rigorously the OSCE’s role in connection with peacekeeping operations [...] in the light of practical experience gained by other organizations within the field of peacekeeping”, a further round of debates on OSCE peacekeeping was launched.¹⁰⁹ The three major views that have largely dominated the subsequent discussions are well reflected in three Food-for-Thought Papers

104 Other organizations are allowed to take on specific tasks but overall guidance rests with the OSCE.

105 Whether Russian-led PKOs are “real” PKOs is very controversially discussed as key principles are often only half respected. For a good overview of RU/CIS peacekeeping, see Greco 1997.

106 Cf. Allison 1994, pp. 47-49.

107 Cf. Nowak 1996, pp. 137-138.

108 CSCE, Ministerial Council Decision No. 2, Further Development of the Capabilities of the CSCE in Conflict Prevention and Crisis Management, Rome 1993. The concept of third party peacekeeping was not further developed as Russia – unwilling to place its PKOs under international oversight – vetoed an Italian proposal on concrete guidelines for third party peacekeeping. Allison 1994, p. 49.

109 OSCE Ministerial Council Decision No. 5, Guidelines on an OSCE Document-Charter on European Security, Copenhagen 1997. Discussion on peacekeeping took place in Working Group A of the Security Model Committee established to discuss a security model for Europe. From its establishment in 1995 to the Istanbul Summit in 1999 59 meetings took place. Cf. Pavlyuk 2010.

which were tabled by the US, the EU and the Russian Federation.¹¹⁰ According to the paper provided by the US delegation, there is no major role for the OSCE in peacekeeping as this field has already been filled by other organizations. The OSCE should invest its resources in those areas, such as crisis prevention and post conflict resolution, where it has gained considerable experience and, thus, promises a comparative advantage compared to other organizations. Enhancing the OSCE's role in peacekeeping would only mean duplicating capabilities, which already exist elsewhere. At the other end of the continuum, the Russian paper sets no limit on the operations in which the OSCE could envisage getting engaged. The Russian proposal repeatedly and clearly states that the OSCE should not be prevented from developing the necessary operational capacity to play a more significant role in military peacekeeping. Rather, strengthening the OSCE's capacity in this field would prevent peacekeeping from becoming the monopoly of one selected organization in Europe. Russian proposals even went so far as to promote the build-up of a permanent OSCE peacekeeping contingent, consisting of military, police and civilian personnel, the setting-up of a permanent body responsible for implementing practical tasks related to future PKOs and making arrangements for the allocation of the necessary financial and technical resources. The paper provided by the EU represents a compromise between the two "maximum positions". Instead of giving preference to one specific option, it provides an overview of different ways the OSCE could get involved in peacekeeping. First of all, the OSCE could play a role in multidimensional PKOs and make contributions in areas where it has specific expertise, namely in human rights verification, election monitoring and police training. Other areas of a more military nature in which the OSCE could envisage getting engaged, would include disarmament and demobilization as well as military observation and verification. As a second option, the OSCE could make the decision to deploy a PKO, but task another organization with the implementation of the mandate. However, that organization would have to act under the political guidance of the OSCE and would, therefore, be required to report regularly to the PC. And finally, the OSCE could field military PKOs under its own flag. This option, however, should only be considered if there are no other organizations willing to and capable of taking the lead in an envisaged military PKO.

Based on the views expressed in the three papers, the key controversy over the collaboration of the OSCE with other organizations could be summarized as follows: While, according to Russia, the OSCE should play a leading role in guaranteeing peace and security in Europe and, therefore, be enabled to apply all instruments – including peacekeeping – to manage conflicts, most delegations emphasized the importance of a cooperative security model for Europe. With this model, different security organizations would cooperate with each other in an equal and pragmatic manner to more effectively prevent and manage conflicts in Europe. This, in turn, means that every organization would invest its resources in those areas in which it has a comparative advantage, while duplications of efforts would be avoided whenever possible. The OSCE is, thus, better advised to leave military peacekeeping

110 Cf. Permanent Mission of the US, OSCE Peacekeeping Food-for-Thought, PC.SMC/29/98; Permanent Mission of the Russian Federation, Talking Points on the Question of Peacekeeping, PC.SMC/47/98; Permanent Mission of Austria, Food-for-Thought on Peacekeeping, PC.SMC/71/98.

to organizations with the necessary expertise and operational capacity and focus its resources on developing its expertise in the civilian part of PKOs.

Reflecting these controversies, the language on peacekeeping that found its way into the Charter for European Security defines a very broad and largely situation-based approach to peacekeeping and, thus, contributes little to further concretizing the OSCE's role in the field of peacekeeping. According to the Charter, participating states could

*"[...] on a case-by-case basis [...], decide to play a role in peacekeeping, including a leading role when participating States judge it to be the most effective and appropriate organization. [...] it could also decide to provide the mandate covering peacekeeping by others and seek the support of participating States as well as other organizations to provide resources and expertise. [...] it could also provide a coordinating framework for such efforts."*¹¹¹

4.4. Revitalizing OSCE Peacekeeping? The 2003 Review Conference

At the OSCE Ministerial Council in 2002, a further attempt to revitalize OSCE peacekeeping was undertaken when the participating States decided to "conduct a review of peacekeeping, with a view to assess the OSCE's capacity to conduct peacekeeping operations and identify options for potential OSCE involvement in peacekeeping in the OSCE region." During its Chairmanship in 2003, the Netherlands invested a great deal of time in carefully implementing this mandate. In a Special Group of Friends, in which all participating States were present, the OSCE's political and operational capacities to deploy and operate PKOs were discussed. The Forum for Security Cooperation contributed to the discussions by focusing on military technical implications. And not least, a workshop to explore changes in doctrines and practices of peacekeeping and to analyze their implications for the OSCE's role in peacekeeping was organized. Still, a glance at the documents adopted at the Ministerial Council 2003 in Maastricht shows that no decision was able to be reached on this sensitive topic.¹¹² This chapter looks back at the debates and discussions and tries, thereby, to identify the key controversies preventing participating States from agreeing on any consensus document.

4.4.1. Options and Operational Capacity for OSCE Peacekeeping

As a starting point for discussing the OSCE's capacities to plan, deploy and operate PKOs, a background paper prepared by the Operational Planning Unit of the CPC provides participating States with a framework for different types of operations the Organization might envisage launching and assesses the operational and logistical capacities required for the deployment of the types identified. With respect to the types of operations, the paper describes four generic options: First, there is the traditional *blue helmet type of operation* that consists of military forces of battalion size units and is organized in a military style command and control structure led by a

111 OSCE, Charter for European Security. Istanbul 1999, para 46.

112 Cf. Milinkovic 2004, p. 193.

force commander. Second, within a broader concept of peacekeeping, *unarmed observer and/or monitor operations* could be deployed to verify compliance with ceasefire agreements, assist in training of police forces and/or engage in confidence-building measures and human rights verification. The third option represents a *combination of the first two options involving police and civilian personnel as well as military troops*. This option might be used as a security provider enabling the civilian part to carry out its tasks in a fragile security environment. And finally, as a fourth option, the OSCE might decide to undertake *PKOs in cooperation with other organizations*. The OSCE would exercise overall political control over PKOs carried out in cooperation with or sub-contracted to other organizations.¹¹³

With respect to the assessment of the operational and logistical capacities required for the deployment of the operations identified, the paper starts by emphasizing that the Secretariat is not prepared operationally to deploy traditional blue helmet operations: It has neither the necessary structures nor arrangements in place to generate and deploy formed units nor would the Organization be capable of providing the necessary logistical support and training for armed peacekeeping forces. The Secretariat would, thus, have to rely on troop contingencies as well as logistical support provided by troop contributing states or other organizations. Unlike armed forces, however, the OSCE is quite familiar with deploying and operating unarmed civilian missions. In such cases, the Secretariat could use its existing recruitment procedures and would also have sufficient means and capabilities to plan, prepare and subsequently support the operation. With respect to multidimensional PKOs, the difficulties of recruiting formed contingencies as well as providing logistical support are similar to those discussed with traditional PKOs. With the fourth type, the paper states that the OSCE could, in principle, collaborate with other organizations or engage in so-called turnkey operations (see below). However, for an effective collaboration, arrangements to facilitate cooperation during the different phases of the operation as well as appropriate control and command structures allowing the supervisory bodies to provide effective strategic guidance would first have to be set up. Furthermore, for any organization operating under an OSCE mandate, the respect of this organization for core OSCE principles must be guaranteed.

To sum up, the documents conclude that the OSCE has neither the experience nor the operational capacity to deploy armed PKOs of the blue helmet type. Should the participating States decide to field armed PKOs, substantial and costly enhancement of the Secretariat's operational capacity would be needed. Or – as a second possibility – so-called turnkey operations could be envisaged. Participating States or other organizations would have to provide the OSCE with fully formed and trained units that are interoperable as well as operationally and logistically self-sustaining.

As envisaged in the Porto Decision, the FSC contributed to the review process by analyzing the four options identified from a military technical perspective. While the

113 Cf. Conflict Prevention Centre, *Current OSCE Capabilities for Deploying and Running Peacekeeping Operations*, SEC.GAL/81/03; Permanent Mission of the Netherlands: *Potential Options for OSCE Activities in the Field of Peacekeeping Operations*, CIO.GAL/54/03/Rev.1.

technical-military implications have been assessed for all four options¹¹⁴, the FSC has devoted most of the discussions to the first option, as armed PKOs would present the greatest challenge to the OSCE.¹¹⁵ The debates reveal that two key issues, especially the role of the FSC and the structures of command and control, led to significant controversies among the participating States. Russia invested a great deal of resources in trying to strengthen the FSC's part in the process of planning, deploying and operating a PKO. Due to its military expertise, the FSC would not only play an advisory role in the negotiations on the necessary legal documents (mandate, terms of reference and rules of engagement), but also take an active part in the planning and the operational phase. And not least, the Head of Mission would – in accordance with Russian proposals – be appointed by a joint PC/FSC decision. The controversy over command and control structures results directly from these efforts to enhance the FSC's role – as well as that of the PC – in the overall implementation of a PKO. While the Helsinki Guidelines assign overall operational control to the CiO, the Russian proposals promote the creation of a commanding body – the Temporary United Command (TUC) – in order to provide overall guidance to the operation of a PKO. Especially important, however, is the fact that the TUC would be led by a Head of Command who would be appointed – as has already been noted – by a joint PC/FSC decision.¹¹⁶ Russia tried, thereby to adapt the Helsinki provisions in the sense that operational guidance would be shifted from the CiO to the consensus bodies. However, this led to controversies, as many delegations doubted that political bodies with time-consuming decision-making procedures are suitable for directing military PKOs in which immediate action can be decisive. Rather, most participating States were of the view that the complexity of a PKO requires a clear, structured and rapid chain of command.¹¹⁷

4.4.2. Strengthening OSCE Peacekeeping – The Russian Perspective

The review process in 2003 should, in fact, be understood as the continuation of a dialogue originally initiated by the Russian Federation in 2002. Exactly ten years after the adoption of the Helsinki Guidelines, the Russian delegation attempted to revitalize thinking on peacekeeping by presenting the FSC with a Food-for-Thought Paper entitled *Guidelines for the OSCE Peacekeeping Operations and Formation/Functioning of its Peacekeeping Forces*. According to the Russian delegation, the initiative should have been understood as an attempt to adapt existing provisions to new realities, thereby strengthening the OSCE's role in peacekeeping.¹¹⁸ However, a closer analysis of the document shows that several slight, but meaningful, adaptations considerably change the system of command and control contained in the Helsinki Guidelines. In fact, the Russian proposal is similar in this respect to the one that the delegation brought up in the review discussions in 2003 and, thereby,

114 Cf. Permanent Mission of Sweden, Working Paper for the FSC Working Group on Peacekeeping, Evaluation of Options, FSC.DEL/333/03; FSC.DEL/396/03; FSC.DEL/397/03; FSC.DEL/398/03.

115 Cf. Permanent Mission of Sweden, FSC Chef-de-File's on Peacekeeping Report, FSC.DEL/476/03.

116 Cf. Permanent Mission of the Russian Federation, Evaluation of Option A, FSC.DEL/443/03.

117 Cf. Delegation Statements at the Workshop on Peacekeeping, PC.DEL/426/03.

118 Cf. Permanent Mission of the Russian Federation, Guidelines for the OSCE Peacekeeping Operations and Formation/Functioning of its Peacekeeping Forces, FSC.DEL/499/02.

provoked similar criticism. In the view of most participating States, the proposed structure is too complex, with unclear attributions of responsibilities and accountabilities and, thus, is unsuitable for the smooth operation of a PKO. The rest of the document mainly repeats the basic principles of peacekeeping as well as provisions on recruitment, financing and other practical matters already contained in the Helsinki Document.

In addition to the Food-for-Thought Paper, the Russian Federation came up with several other concrete proposals on how to enhance the OSCE's capabilities in peacekeeping. Inspired by UN practice, it suggested creating stand-by arrangements between the OSCE and participating States, which would enable the Organization to recruit and deploy peacekeeping forces in a timely and smooth manner. To ensure financial predictability, the creation of a peacekeeping fund, which would be fuelled by voluntary contributions, was suggested. Moreover, with the aim of strengthening the interoperability of forces as well as supporting participating States without experience in peacekeeping, national centers responsible for the training of peacekeeping forces could regularly share lessons learned and even be used to train OSCE peacekeeping troops. And not least, the Russian delegation proposed creating – on the basis of existing structures, such as the CPC or the HLPG – a separate body responsible for planning, deploying and operating the PKO. Building on experience gained by the UN, such a body could put together best practices in peacekeeping and develop proposals on how to strengthen the OSCE's capabilities to field PKOs.¹¹⁹

4.4.3. Controversial Issues and Common Ground

The reaction of participating States to the Russian initiative and the subsequent review process on peacekeeping in 2003 can be summarized in two ways. On the one hand, there was an honest readiness to use the opportunity to think about recent developments in the field of peacekeeping and analyze possible implications for the OSCE. On the other hand, however, the review process revealed a general reluctance by most participating States to engage in discussions on practical steps to strengthen the OSCE's capabilities in peacekeeping.¹²⁰ In an attempt to synthesize the multiple discussions on many aspects relevant to peacekeeping, this reluctance can be traced back to four key points of disagreement. First of all, EU and NATO member countries repeatedly emphasized the political aspect of the discussions on peacekeeping and argued that these could not be reduced to technical questions only. Before entering into discussions on practical and organizational steps, the question of whether there was a real need for OSCE peacekeeping had to be addressed. Western countries, in particular, repeatedly questioned the added value of OSCE engagement in peacekeeping. Instead of duplicating structures which already exist elsewhere, the OSCE would be better advised to build on its well-known expertise in early warning

119 Cf. Permanent Mission of the Russian Federation, *Proposals on Organizational and Military Technical Aspects of OSCE Peacekeeping Operations*; FSC.DEL/249/03 Cf. Permanent Mission of the Russian Federation, *Statement on the OSCE Role in the Field of Peacekeeping*, FSC.DEL/463/03.

120 Cf. Milinkovic 2004, p. 197.

and conflict prevention.¹²¹ Furthermore, the financial implications of potential OSCE engagement in peacekeeping were repeatedly underlined. Considering the fact that the Organization lacks the necessary planning capacity as well as an appropriate logistical support system, substantial financial investment would be required to enable the Secretariat to deploy and operate military PKOs.¹²²

The principal gap between the positions of participating States, however, concerned the question of structures of command and control. While the Russian delegation insisted on strengthening the role of the consensus bodies (PC and FSC) within the decision making process as well as the planning and operating of potential OSCE PKOs, Western European countries emphasized the necessity of a clearly defined command and control structure, which would be capable of efficiently implementing a mandate and provide a strict coordination of functions of all PKO components.¹²³

And not least, Western European States were, for different reasons, extremely reluctant to discuss the very idea that the OSCE could get involved in military peacekeeping. Most often, concerns were raised that, due to the fact that the OSCE has no legal personality, so-called Status of Force Agreements (SOFA) could not be concluded between the OSCE and the host states. These agreements would, thus, have to be negotiated between the individual troop-contributing countries and the host states, potentially without the OSCE having a say. Or, even worse, the absence of a SOFA could leave OSCE peacekeeping forces in the field without legal protection which, in turn, would make it difficult for governments to provide troops for OSCE PKOs.¹²⁴

Obviously all these disagreements made it impossible to find consensus on concrete steps toward strengthening the OSCE's role in peacekeeping. Still, this does not mean that the review discussion did not produce any results. A significant level of common understanding was able to be reached on the fact that peacekeeping concepts and practice have markedly evolved over the past ten years. While, in its initial phase, peacekeeping was an exclusively military undertaking, it now represents a multifunctional endeavor, which incorporates military as well as police and civilian elements.¹²⁵ With respect to the OSCE's role in peacekeeping, this means that at least those activities which make up the civilian part of peacekeeping, clearly fall within the OSCE's expertise. Thus, a majority of participating States were of the view that the OSCE already carries out peacekeeping, even if it does not officially label its activities as such.¹²⁶

121 Cf. Permanent Mission of Italy, EU Statement on the OSCE Role in the Field of Peacekeeping, PC.DEL/1378/03; Permanent Mission of the US: Statement on U.S. Peacekeeping Paper, PC.SMC/40/98.

122 Cf. Ibid.; Permanent Mission of Finland, Report of the Group of Friends on the OSCE Role in the Field of Peacekeeping, PC.DEL/1425/03.

123 Ibid; see also discussion in the FSC Working Group in chapter 4.4.1.

124 Cf. Statements of delegations at the OSCE Workshop on Peacekeeping. Permanent Mission of Finland, OSCE Workshop on Peacekeeping, PC.DEL/426/03.

125 Cf. Milinkovic 2004, p. 198.

126 Cf. PC.DEL/1378/03 (note 121); PC.DEL/1425/03 (note 122).

To sum up, the numerous rounds of debates on OSCE peacekeeping provide valuable insight into the broad range of issues dominating discussions among participating States. At the same time, however, it can be said that it was particularly the controversy over whether the OSCE should engage in traditional armed peacekeeping or rather focus its resources on conflict prevention, where the Organization has the most expertise at its disposal, that prevailed in the debates and ultimately prevented participating States from agreeing on significant steps towards strengthening the OSCE's role in peacekeeping.

5. OSCE Experience in the Field of Peacekeeping

"The OSCE should not be shy in formally accepting that it has, in fact, already developed a practical role in the broad peacekeeping area as a result of its own expertise, and its presence in the field where much of this experience has been gained."

Branislav Milinkovic, former Serbian Ambassador to the OSCE (2004)

5.1. The Kosovo Verification Mission

In a press conference in Belgrade in October 1998, Ambassador Holbrook informed the international community about the outline of what was, at that time, an oral agreement: An international operation mounted by the OSCE – to be called the Kosovo Verification Mission – would be deployed to Kosovo to verify compliance with the Milosevic-Holbrooke agreement and the subsequent Security Council Resolution 1199. In response to this unanticipated challenge, the former CiO, the Polish Foreign Minister Geremek, travelled to Belgrade to conclude a formal agreement with Foreign Minister Jovanovic on the deployment of an OSCE FoP to Kosovo. This agreement, together with the mandate subsequently adopted by the PC, laid the basis for the establishment of an observer mission to be deployed to Kosovo.¹²⁷

With the decision to dispatch the KVM, the OSCE got engaged in an undertaking unheard of in OSCE terms. This not only applied to the large size of the envisaged mission – the KVM was to be composed of up to 2000 monitors – but also to its nature. In fact, the KVM was charged with taking on tasks which are normally performed by military PKOs.¹²⁸ In an attempt to systematize the broad and complex range of tasks with which the KVM was entrusted, the mission would be organized into a military and a civilian category. With respect to the military aspects, two concrete tasks were assigned to the KVM: a) ceasefire verification and b) verification of the reduction of Yugoslav force levels to the size they were in January 1998. Similarly complex, the human dimension category involved a broad range of tasks from collaboration with humanitarian organizations and reporting on judicial

127 Cf. Walker 2001, pp. 127-128.

128 Cf. Ghebali 2014, p. 738.

prosecution of abuses committed by police and military forces to institution building and election observation. In general the KVM was – due to its presence – intended to stabilize the situation on the ground and, thereby, buy time for ongoing negotiations on a political settlement.¹²⁹

Apart from its field of activity and its projected scale, the KVM was also unique in the sense that – for the first time – OSCE and NATO were engaged, in close collaboration, in a FoP. According to the agreement concluded between the Supreme Commander of NATO and the Senior Commander of the Yugoslav Army, NATO was authorized to support monitoring activities carried out by the KVM on the ground through an air surveillance component (*Eagle Eye*).¹³⁰ Moreover, the Alliance was allowed to deploy an extraction force to Macedonia to provide the mission with an evacuation capacity should a forcible withdrawal become necessary.¹³¹ Notwithstanding the positive impact the collaboration had in terms of security provision for the KVM, the widespread conviction that NATO used its partnership with the mission to plan a future intervention severely hampered the perception of the mission as an impartial observer. Especially among Serbian authorities, the evenhandedness of the KVM was questioned from the very beginning, which, in turn, made collaboration with the respective authorities an even more burdensome procedure than expected.¹³²

Following the adoption of the KVM's mandate by the PC, Geremek told observers that implementing the mandate would pose both “a tremendous challenge and a tremendous opportunity” for the OSCE.¹³³ He was not, in fact, exaggerating. If the KVM had reached its intended size, the mission would have been four times larger than all previous OSCE FoPs put together.¹³⁴ However, there was no appropriate structure in place, which could have been used to deploy such a large scale mission. Rather, the structure had to be built from scratch. This turned out to be problematic, especially with respect to the recruitment of verifiers.¹³⁵ While the secondment system worked well in staffing small missions of up to 25 members, using the same system to recruit 2000 observers turned out to be extremely difficult. One month after the Milosevic-Holbrooke agreement had been reached, only one third of the 2000 verifiers were deployed – far too few to ensure a permanent presence, even in the critical areas. Five months after the agreement was adopted, still less than half of the targeted number had been reached. And, shortly before the KVM had to leave, only two thirds of the maximal number of verifiers had been deployed. This unsatisfactorily slow growth in personnel corresponded to numerous logistical problems. Appeals by the OSCE to participating States for mobile medical care, medical and armored vehicles, – the latter were especially relevant due to the danger

129 Cf. Permanent Mission of Norway, Agreement on the OSCE Kosovo Verification Mission, CIO.GAL/65/98.

130 Cf. NATO: Operation Eagle Eye <http://www.jfcnaples.nato.int/page7194727.aspx> [19.05.14].

131 Cf. Bellamy/Griffin 2007, p. 17.

132 Cf. Speaking Notes of Ambassador Gabriel Keller: The OSCE/KVM. Autopsy of a Mission, PC.FR/14/99.

133 OSCE Newsletter 5/10 1998.

134 Cf. Walker 2001, p. 128; Bellamy/Griffin 2007, p. 14.

135 Cf. Krasznai 2001, p. 149.

of minefields and armed attacks – went unanswered for a long time. It was not until the end of November 1998 that the KVM finally received its first armored vehicles and by the end of December had about 40 of them – one for every seven verifiers.¹³⁶

It is, thus, unsurprising that the question of the physical security of verifiers caused special concern among the participating States. Although there were security guarantees from the Yugoslav authorities, it was obvious that, on a tactical level, the KVM's security fully depended on the consent of the belligerents. Being unarmed, OSCE verifiers would be completely defenseless in case of violent attacks.¹³⁷ This was especially problematic as the Kosovo Liberation Army had never given its consent to the deployment of the mission.¹³⁸ On the other hand, the fact that observers were unarmed carried with it some advantage. First, it is questionable whether Milosevic would have given his consent to the presence of an international armed force on Yugoslav territory.¹³⁹ And second, it was precisely due to their vulnerability that neither party could perceive OSCE verifiers as a threat. This proved to be crucial in building up close relations to parties to the conflict, which allowed the mission to carry out tasks. This would have been impossible without the support of all of the relevant stakeholders.¹⁴⁰

While, at the outset, the mission's prime objective was verifying compliance with the military aspects of the Milosevic-Holbrooke agreement, it soon got engaged in human rights verification. This engagement, however, led to serious controversies with Serbian authorities, as according to them, the mission's mandate did not include human rights tasks.¹⁴¹ By contrast, the majority of participating States were of the view that human rights verification – although the KVM's mandate did not contain specific language on human rights – is implicit in the mandate of every OSCE mission. Geremek explained this reasoning as follows:

*"Whenever the OSCE is active in the field, human rights inherently belong to its mandate and this even though it may not be explicitly mentioned there. [...] Kosovo illustrates a key and fundamental OSCE principal: the human dimension and the security dimension are linked and indivisible. [...] there is no security and long-term stability without respect for human rights."*¹⁴²

This view was not, however, shared by all participating States. Russia – supported by Belarus and Ukraine – repeatedly emphasized that there was no explicit reference to human rights in the mandate and, thus, the KVM could not unilaterally pursue an issue beyond the terms of a PC mandate. Along the same lines, Milosevic repeatedly

136 Cf. Loquai 2000, pp. 82-84.

137 Bellamy/Griffin 2007, p. 17.

138 The Kosovo Albanians were not involved in the negotiations process. Bellamy/Griffin 2007, p. 13.

139 Due to the worsening security situation, Geremek sent a request to President Milosevic to allow several monitors to carry small arms in order to protect the Head of Mission. However, this was rejected by Milosevic who stated that he would not be in a position to accept foreign armed forces on the Yugoslav territory. Cf. Permanent Mission of Poland, Non-Paper of the FRY Authorities, CIO.GAL/91/89.

140 Cf. Bellamy/Griffin 2007, p. 18.

141 Ibid.

142 Quoted in Walker 2001, p. 141.

stated that outsiders had no right to intervene in what he considered an internal affair. KVM observers, thus, found themselves confronted with the challenge of deciding how to behave in terms of human rights verification. This dilemma was further aggravated due to the fact that Vienna was “essentially cautious, if not silent on the issue”, thus leaving the KVM without any guidance on how to deal with this issue.¹⁴³

As with all PKOs, the success or failure of the KVM depended on progress towards a political settlement. However, this seemed to be more and more unlikely over the first few months of 1999. Incidents of non-compliance by all parties to the conflict increased and ceasefire violations became the norm. Finally, at the end of February, Ambassador Walker publicly declared that, due to numerous breaches, the ceasefire did not, in fact, exist anymore. For the KVM this meant, that it became impossible to guarantee the security of its personnel and the mission had to be withdrawn.¹⁴⁴

5.2. The Special Monitoring Mission to Ukraine

5.2.1. The Diplomatic Background to the Establishment of the SMM

On Friday, 21 March, 2014, after three and a half weeks of intense negotiations, the OSCE Permanent Council decided in PC.DEC/1117 to establish a Special Monitoring Mission to Ukraine. Composed initially of 100 civilian monitors, the mission was supposed to contribute “to reducing tensions and to fostering peace, stability and security” in Ukraine.¹⁴⁵ Today, it is difficult to trace back, when exactly the idea of deploying an observation mission had initially been brought into the discussion. Most probably, the initiative goes back to the Swiss Chairmanship which, even in its training for the Chairmanship, dealt with observer missions as one instrument in the OSCE conflict management toolbox applicable in case of an emergent crisis.¹⁴⁶ As this finally became a reality, the idea of establishing the SMM was, for the first time, publicly announced by the OSCE CiO, Didier Burkhalter, in his speech to the UN Security Council.¹⁴⁷ Negotiations on the mandate of the SMM, however, turned out to be extremely difficult. Due to incompatible positions on the geographic scope of the mission, an agreement on a mandate seemed almost impossible to reach. Only after three and a half weeks of lengthy discussions did the participating States manage – thanks to some creative ambiguity – to successfully overcome this major stumbling block and agree on a mandate. This tasks the OSCE with deploying observers “throughout Ukraine”, which is somewhat ambiguous language, allowing both parties to the conflict to interpret the SMM’s area of deployment in a way that best suits their political interests. While according to the Ukrainian interpretation

143 Walker 2001, pp. 129-133.

144 Cf. Permanent Mission of Norway, Statement by the OSCE Chairman-in-Office, CIO.GAL/34/99.

145 Permanent Council Decision on the Deployment of an OSCE Special Monitoring Mission to Ukraine. PC.DEC/1117, 21 March 2014.

146 Cf. Interview delegation Vienna, 6 May 2015.

147 Cf. Burkhalter, Didier: *Creating a Security Community for the Benefit of Everyone*, New York, 24 February 2014.

“the mandate of the missions covers the entire territory of Ukraine [...], including the Autonomous Republic of Crimea”, Russia “proceeds from the assumption that the geographical area of deployment [...], reflects [...] the fact that the Republic of Crimea and Sevastopol have become an integral part of the Russian Federation.”¹⁴⁸ It is hardly surprising that this ambiguity gave rise to discussions on the SMM’s right to freedom of movement and, thereby, hampered the work of the mission.¹⁴⁹ On the other hand, the fact that negotiations almost exclusively revolved around the geographical scope of the SMM, carried with it the advantage that the rest of the mandate could be worded rather broadly. This turned out to be very helpful when the SMM was tasked with verifying the implementation of the Minsk protocol and various adjustments had to be undertaken to enable the mission to fulfill its new role.¹⁵⁰

There seems to be almost unanimity among politicians as well as commentators and experts that it was fortunate that Switzerland chaired the OSCE in 2014.¹⁵¹ Through active diplomacy, the CiO reacted quickly to the emerging crisis in Ukraine and activated a broad range of instruments that the OSCE has at its disposal for conflict management. For the Organization, this meant that it demonstrated its continued relevance as the international forum best suited to respond to crises in the OSCE area, especially against the background of reemerging dividing lines between Russia and the West.¹⁵² Apart from the readiness of the Swiss Foreign Office to invest considerable resources in conflict management, the fact that Switzerland is not a member of either NATO or the EU and is internationally recognized as a neutral country, further contributed to the capacity of the Chairmanship to take on the role of a neutral honest broker.¹⁵³ And most importantly, due to its so-called (diplomatic) potential for escalation, the Swiss Chairmanship was capable of acting as an effective facilitator. When, for example, Permanent Council discussions on the mandate of the SMM were blocked and consensus seemed to be completely out of reach despite repeated facilitation efforts by the Swiss Chair, the task force in Berne stepped in. Not infrequently, only a direct phone call by Swiss President Burkharter to his counterpart, Vladimir Putin, or the intervention of the CiO Special Envoy, the Swiss Ambassador to Germany, Tim Guldemann, with German Foreign Minister, Frank-Walter Steinmeier, who, in turn, facilitated consensus at the highest political level, could prevent the negotiations in Vienna from failing. Patience, however, remained of utmost importance as political instructions moving up and down in the political hierarchy often needed entire days to get back to Vienna. On Friday, the 21 March, delegations in Vienna had to endure waiting until seven in the evening before the Russian ambassador – finally receiving instructions from Moscow – could give his consent to the final draft mandate and the button to start preparation for deploying the SMM could be pressed.¹⁵⁴

148 Cf. PC.DEC/1117 (note 145); Interview delegation in Vienna, 6 May 2015.

149 The OSCE was also accused of de facto legitimizing the annexation of Crimea.

150 Cf. the detailed description on how the nature of the SMM has evolved in the next subchapter.

151 Cf. Nünlist 2015; Zannier 2014a; D`Urso/Sammuto 2015.

152 For an overview over OSCE’s conflict management in Ukraine see Nünlist 2014.

153 Cf. Interview delegation Vienna, 6 May 2015.

154 Cf. Ibid. For more information see Greminger 2014; NZZ, 18 March 2014; NZZ, 22 March 2014.

5.2.2. Operational Challenge: Planning, Deploying and Operating the SMM

In its decision to establish the Special Monitoring Mission to Ukraine, the PC agreed on the deployment of a maximum of 500 civilian observers, whose presence would contribute to stabilizing the situation on the ground and, thereby, pave the way for a political settlement of the conflict. In detail, the PC tasked the SMM to “gather information and report on the security situation”, to “report on specific incidents [...] including those concerning alleged violations of fundamental OSCE principles”, “to monitor and support the respect for human rights, [...] including the rights of persons belonging to national minorities”, “to establish contacts with local, regional and national authorities, civil society, ethnic and religious groups, and members of the local population”, “to facilitate the dialogue on the ground in order to reduce tensions”, “to report on any restrictions of the monitoring mission’s freedom of movement or other impediments to fulfillment of its mandate” and “to coordinate with and support the work of the OSCE executive structure, including [...] the United Nations, the Council of Europe and other actors of the international community”.¹⁵⁵ The SMM was thus designed to fulfill two core functions: Providing the international community with objective information and monitoring and supporting compliance with human dimension principles. However, there was no time for the SMM to consolidate and to focus on its “core” tasks. Rather, a rapidly changing security environment and new duties assigned to the mission forced the mission to continuously adjust to new circumstances. When the first observers were deployed in March 2014, the situation was tense, but not interlarded by violence. However, this changed rapidly during the first few months of the SMM’s operation. The Ukrainian government increasingly lost control over Eastern Ukraine and fighting became more and more intense. Mines and unexploded ordnance made patrols in several areas a risky undertaking and, not least, the growing number of armed groups not operating under the control of the “Donetsk Peoples Republic” (DPR) or the “Luhansk Peoples Republic” (LPR) further worsened the security situation in which the SMM had to operate.¹⁵⁶ At the same time, international negotiations to manage the crisis were ongoing and on 3 September – after the security situation had worsened dramatically – Russian President Putin and Ukrainian President Poroshenko reached agreement on an immediate ceasefire. Subsequently, on 5 September, the Minsk Protocol was signed by the Trilateral Contact Group and complemented by a memorandum outlining concrete measures to implement the steps agreed upon in the Minsk Protocol.¹⁵⁷ For the SMM this meant that its duties evolved markedly. According to the Minsk Protocol and the memorandum, the mission was assigned to play a leading role in monitoring compliance with the agreement. In particular, the SMM was tasked with taking on new duties, such as monitoring the ceasefire, verifying the withdrawal of weapons and monitoring the Russian-Ukrainian state border, normally carried out by military

155 Cf. PC.DEC/1117 (note 145).

156 Cf. Interview SMM observer, 1 May 2015; Neukirch 2015, pp. 189, 194.

157 Cf. *Ibid.*, pp. 192-193. The Trilateral Contact Group included Ambassador Heidi Tagliavini as OSCE representative, the Ukrainian Ambassador Pavlo Klimkin (later replaced by the former Ukrainian President Leonid Kutschma), and the Russian Ambassador Mikhail Zurabov.

peacekeeping missions.¹⁵⁸ Against this background, the CPC faced two challenges: First, it had to deploy the target number of 500 monitors as soon as possible. And second, various adjustments had to be undertaken in order to enable the SMM to operate in a highly volatile security environment and to fulfill its new duties.

With respect to the first challenge, the CPC achieved notable success. While the quick deployment of professionals was one of the major problems the OSCE faced when establishing the KVM, the recruitment process to staff the SMM worked remarkably efficiently. Especially thanks to the rapid deployment roster, the CPC was able, at short notice, to withdraw experienced staff from other field operations in order to bridge the personnel gap in the first build-up phase of the mission. In total, thirty two so-called first responders from the headquarters in Vienna as well as from nine existing field presences, were selected from the roster and, within four days, were temporarily deployed to Kiev to fill the crucial posts at the headquarters there. Approximately one week after the decision on the SMM was adopted, the first observers recruited via the normal secondment system arrived in Ukraine. By the end of April, most of the first responders had been replaced by personnel seconded by participating States and the first target of building-up the initial 100 monitors was met.¹⁵⁹ However, the continuously worsening security situation, as well as the new tasks assigned to the SMM, required an immediate extension of the mission to its maximum size of 500 observers. Thus, the Secretariat took steps to continuously enlarge the SMM. Two weeks after the start of the operation, 210 observers had been deployed to locations across Ukraine. At the end of the year, 380 observers were operating in Ukraine and, at the end of April 2015, the SMM has reached a strength of 430 monitors.¹⁶⁰ Apart from the rapid deployment roster, the so-called virtual pool of equipment, created to quickly allocate critical equipment, proved to be very useful in guaranteeing the quick establishment of the SMM. Due to the existing database containing information on where to procure critical equipment, as well as a system of window contracts,¹⁶¹ the Secretariat was able to promptly send flak jackets, armored vehicles and further necessary equipment needed to operate the mission to Kiev.¹⁶² And not least, the OSCE proved its flexibility when a way had to be found to finance the SMM, against the background of neither an approved budget nor a crisis response fund. Cash savings from previous years and resources from the OSCE contingency fund were able to be used to finance the set-up of the SMM as well as its first month's operational costs. However, when the decision to extend the SMM was taken, another mechanism to finance the mission had to be found. Participating

158 The Minsk Protocol tasks the SMM with monitoring the cessation of the use of weapons, holding the detachments and military formations of the sides on their line of contact, monitoring the withdrawal and prohibition of deployments of weapons with a caliber greater than 100mm, monitoring the prohibition of the deployment of heavy armaments and military equipment in specified areas, monitoring the prohibition of the installation or laying of mines within the boundaries of the safety zone, monitoring the withdrawal of foreign armed formations and military hardware from the territory of Ukraine, monitoring the Ukrainian-Russia state border and the safety zone in border regions. Cf. Neukirch 2015, p. 193.

159 Cf. *Ibid.*, pp. 185-186.

160 Cf. SMM Status Reports 2014/2015. This analysis deals with activities of the SMM until 30 April.

161 Prearranged contract on the purchase of specific items.

162 Cf. Neukirch 2015, p. 186.

States, therefore, decided to draw on extra budgetary resources provided by individual states to guarantee the operation of the SMM – and, rather unexpectedly, readiness to contribute funding turned out to be high.¹⁶³

These important achievements notwithstanding, there was – as has already been pointed out – little time for the SMM to consolidate. Rather, the mission had to be adjusted and prepared to fulfill its new role as a quasi-peacekeeping operation. By “hardening” what had originally been planned as a civilian observer mission, the OSCE worked hard to enable the SMM to operate in a highly volatile security environment and to effectively carry out the new tasks under its original mandate. In detail, this means that candidates with military and related expertise were prioritized in the recruitment process and new training, such as on verification and ceasefire monitoring, stress management awareness, and dealing with hostage taking, was developed.¹⁶⁴ Not least, the CPC had to create a mission-wide security system and build up a medical infrastructure, appropriate for a mission operating in a high risk environment.¹⁶⁵ With respect to the former, all observers in Eastern Ukraine were issued with a protective kit, comprising flak jacket and helmet, MFA diplomatic cards and SMM badges as well as armored vehicles for any road movement.¹⁶⁶ In addition, a VHF radio system, which allows communication between patrolling members, as well as mission-wide satellite communication to guarantee an emergency-back up, were established. At the same time, – to provide the SMM with medical support – paramedics and ambulances were deployed to East Ukraine and planning for the establishment of a blood supply system and related medical products is being carried out.¹⁶⁷

Furthermore the Secretariat initiated planning for expanding the mission’s technological capacity. In order to enable SMM observers to carry out their verification tasks more effectively, their work was to have been complemented by technological information-gathering, such as satellite imagery, unmanned aerial vehicles (UAV), fixed and aerostat mounted surveillance cameras and night cameras.¹⁶⁸ However, this proved to be extremely challenging as the OSCE had almost no experience in using such technology. Thus, the CPC first had to define what technology was best suited to assist the SMM in carrying out its verification tasks. Second, the additional costs of such measures had to be calculated and ways to cover those additional costs had to be found. Third, the CPC needed to consider whether the SMM had the necessary expertise to operate the technology or if experts had to be recruited to provide observers with the necessary training. And to further complicate matters, the technology had to be up and running as soon as possible.¹⁶⁹

163 Cf. Zannier 2014b.

164 Cf. Special Monitoring Mission to Ukraine, Weekly Report on Resources, SEC.FR/349/15.

165 Cf. Neukirch 2015, p. 194.

166 Cf. Special Monitoring Mission to Ukraine, Security Summary – Main Upgrading Actions in SMM to date, SEC.FR/553/14.

167 Cf. SEC.FR/349/15 (note 164); Special Monitoring Mission to Ukraine, Update on Preparations for the Package of Measures for the Implementation of the Minsk Agreements, SEC.FR/170/15.

168 Cf. *Ibid.*

169 Interview OSCE official, 8 May 2015.

With respect to concrete technology, drones were considered to be particularly useful in supporting the work of the SMM. They would allow the mission to gather information and situational awareness in areas which were not accessible for ground patrols, due to security concerns or refused access. However, the acquisition as well as the operation of UAVs, was not without difficulties. First of all, an operational concept for the use of drones had to be developed. Although the UN Department of Peacekeeping Operation provided the CPC with the operational concept it had developed, this proved to be too complicated for a one-to-one application by the SMM. Thus, it first had to be adjusted to the specific needs of the mission and the security environment in which the SMM operated.¹⁷⁰ Second, the acquisition of UAVs turned out to be more difficult than expected. The Secretariat initially intended to purchase Austrian drones. However, delivery would have taken months, so that other acquisition possibilities had to be considered.¹⁷¹ Against this background, the German government – in cooperation with France – showed willingness to send a dozen unarmed UAVs to East Ukraine, where they were intended to provide air observation of the Russian Ukrainian border as well as the buffer zone agreed upon in the Minsk Protocols.¹⁷² Yet concerns of the German Federal Armed Forces about sending civilian operators without the protection of an armed component to East Ukraine massively complicated the discussions. The SMM, designed as an exclusively civilian mission, was reluctant to deploy armed soldiers under its auspices. Consideration was, therefore, given to dispatching the respective military units under a separate mandate, but this was rejected by Russia. Ultimately, the incompatible positions on the protection of the operators made the deployment of German UAVs impossible.¹⁷³ For the drones to have been used, the CPC would have had to recruit additional personnel with the necessary expertise to operate UAVS as well as to analyze the data received.¹⁷⁴ And, not least, the operation of UAVs “on the ground” also turned out not to be without difficulties. Since the first commercially procured UAVs started operating at the end of October 2014, they have encountered jamming twice and have been shot at by both sides.¹⁷⁵ Moreover, the weather represented another obstacle for the successful use of drones: UAVs are not usable at temperatures well below zero, which, in turn, is not an unusual occurrence in the Ukrainian winter.¹⁷⁶ In order to complement UAV observation, the CPC also started planning for the use of satellite imagery. In February 2015, the European Union deployed two experts to the headquarters in Kiev where they provided the communication between the SMM and the EU Satellite Centre.¹⁷⁷ One month later, an agreement between the OSCE and France and Germany on the provision of further satellite imagery was concluded.¹⁷⁸ And in April, the CPC started to explore

170 Cf. *Ibid.*

171 Cf. *Süddeutsche Zeitung*, 17 November 2014.

172 Cf. *Süddeutsche Zeitung*, 7 October 2014.

173 Cf. *Süddeutsche Zeitung*, 17 November 2014.

174 Cf. Interview OSCE official, 8 May 2015.

175 Cf. Briefing by Ertuğrul Apakan to the UN Security Council, 12 November 2014.

176 Cf. Interview with Lamberto Zannier, Carnegie Europe, 5 March 2015.

177 Cf. SEC.FR/170/15 (note 167).

178 Cf. OSCE Secretary General, Talking Points Permanent Council 16 April 2015, SEC.GAL/72/15.

the possibility of dealing with commercial satellite image providers as the direct ownership of data by the SMM would facilitate their use in reporting and future verification activities.¹⁷⁹

5.2.3. Ears and Eyes on the Ground: the SMM in the Field

As its name indicates, the main task an SMM observer carries out in his daily work is monitoring the security situation on the ground and reporting findings to the headquarters in Kiev from where reports are sent to the CPC and subsequently forwarded to the political bodies. Monitoring is usually done in small teams of up to 10 monitors, who are patrolling from location to location along previously agreed patrol routes.¹⁸⁰ While this task might be easy to fulfill in times of peace, providing an overall judgment of the security situation turns out to be extremely difficult in a conflict, which is not all-encompassing, but occurs at checkpoints and around critical infrastructure.¹⁸¹ To always be in the right spot at the right time, a dense network covering the whole conflict region twenty-four hours a day would be needed. However, this is impossible to achieve due to the simple fact that there are not enough observers at hand and – as will be described in more detail below – due to security concerns and limited access to areas controlled by separatist groups.

Apart from reporting, the SMM actively contributes to facilitating dialogue and reducing tensions in the conflict area by monitoring prisoner exchanges, assessing the situation of minority groups, assisting in dealing with IDPs, brokering local ceasefires and negotiating with separatist groups, which seized political and administrative buildings in the Donetsk and Luhansk Oblasts.¹⁸² As a key prerequisite to delivering on all these tasks, SMM observers have to work hard to establish a wide network of close relations with important local stakeholders as well as to build close working relations with other international actors active in Ukraine. And not least, the close collaboration between different OSCE institutions has proved to be crucial in reducing tensions and stabilizing the situation on the ground.¹⁸³ How the dense network of the SMM can be useful to mitigate tensions and facilitate cooperation can best be described using the example of the downing of MH 17 in July 2014. At 13:20 on 17 July, a Malaysian flight MH 17 from Amsterdam to Kuala Lumpur crashed in Eastern Ukraine approximately 80 km east of Donetsk – in the area controlled by the separatists. Thus the question immediately arose of whether the separatists would grant experts, tasked with investigating the downing, access to the crash site. To clarify this question, the OSCE reacted promptly by using an already planned video link between the Trilateral Contact Group and representatives of the DPR and LPR on the evening of July 17. During this conference, an agreement was reached to allow SMM observers to access the crash site.¹⁸⁴ On the morning of

179 Cf. Special Monitoring Mission to Ukraine, Update, SEC.FR/231/15.

180 Cf. Interview SMM observer, 1 May 2015.

181 Cf. Interview with Alexander Hug, Security and Human Rights, 21 February 2015.

182 Cf. Special Monitoring Mission to Ukraine, Report of the Chief Monitor Ambassador Ertugrul Apakan to the OSCE Permanent Council for the Period 12 May to 6 July, PC.FR/19/14.

183 Cf. Interview OSCE observer, 1 May 2015; Interview with delegations Vienna, 6 May 2015.

184 Cf. Interview with delegations Vienna, 6 May 2015.

the following day, an observer team, led by Deputy Chief Monitor Alexander Hug and escorted by armed guards provided by the DPR, visited the area where the plane crashed for the first time. However, access was ultimately restricted to less than 200 meters to the site by a group of armed individuals together with the security guards provided. It was only the following day, after further negotiations and due to the intervention of a high ranking DPR official, that the SMM team was granted full access to the site.¹⁸⁵ In the coming week, the SMM guaranteed an almost daily presence at the site, where they facilitated access for international experts and investigators and observed the removal of debris and dead bodies. This example shows that, due to its presence on the ground, the SMM was able to play a crucial role in facilitating access, thereby providing the international community with objective information on the work at the crash site. Moreover, the interaction at different political levels proved to be of crucial importance for the successful work of the mission. While, as previously mentioned, the Trilateral Contact Group, through direct negotiations with the separatists, allowed the SMM to get quick access to the crash site, the substantive declaration claiming immediate access, adopted by the Permanent Council, provided the political backing for the work of the SMM.¹⁸⁶ However, at the same time, it became clear how difficult it is to operate in such a volatile environment, where control of commanders over their “guards” is often weak, and facilitating cooperation turns out to be a lengthy and burdensome undertaking.

The challenges the SMM faced when trying to fulfill its role increased further with the new tasks assigned to the mission by the ceasefire agreements reached in Minsk in September 2014. In effect, the civilian observers were mandated, through these documents, to take on duties normally carried out by military peacekeeping missions. It is hardly surprising, then, that managing these new tasks was extremely difficult for the SMM. First of all, OSCE observers without a military background often lack the necessary knowledge to recognize specific weapon categories.¹⁸⁷ Second, even for observers with a military background, it is extremely difficult to verify to whom military assets belong, as they are normally not clearly marked and, to a large extent, the Ukrainian and the Russian Forces use the same hardware.¹⁸⁸ Third, the groups having control over heavy weapons naturally want to hide them, so they often prevent observers from getting access to locations where military hardware could be located. Moreover, to date, separatist groups have failed to provide the information essential for the SMM to verify details about the withdrawal of heavy weapons, such as inventories, routes of withdrawal and concentration points.¹⁸⁹ Fourth, the frontline agreed upon in the Minsk Protocol is approximately 500 km long and the security zone built around it will be 100 km so that the SMM had to cover an area almost as big as Switzerland. And not least, monitoring the

185 Cf. Special Monitoring Mission to Ukraine, Spot Report. Visit to Malaysia Airlines Crash Scene in Donetsk Region, SEC.FR/404/14. Special Monitoring Mission to Ukraine, Spot Report. Second Visit to Malaysia Airlines Crash Scene in Donetsk Region SEC.FR/407/14.

186 Cf. Interview delegation Vienna, 6 May 2015.

187 Cf. Interview SMM observer, 1 May 2015.

188 Often the rebels use military material they have seized from the Ukrainian army.

189 Cf. SEC.FR/170/15 (note 167, 177).

Ukrainian-Russian border turned out to be an almost impossible task. To date, OSCE observers only monitor two out of eight checkpoints controlled by the separatists, while the stretch of the border beyond control of the SMM is around 400 kilometers long. The capacity of SMM observers to verify whether there are fighters and weapons crossing the border is, therefore, rather limited.¹⁹⁰

These difficulties have been further aggravated by a continuously deteriorating security situation. Thus, it is hardly surprising that Alexander Hug, Deputy Chief Monitor, has repeatedly insisted that security must be “the main parameter” determining the mission’s work. Being unarmed and, therefore, unable to use force even in self-defense, SMM observers provide an easy target for attack or hostage taking. At the end of May, several teams of observers were captured by armed groups. While all of them were set free – one patrol after being detained for 30 days – mission resources had to be primarily invested in negotiating the release of the monitors, thus distracting the SMM from carrying out its main tasks.¹⁹¹ Moreover, the observer teams operating “on the rebel side” have had to rely entirely on security guarantees provided by the rebel groups. This, in turn, means that observers in some crucial areas, such as Donetsk and Luhansk, are only able to carry out their verification tasks as long as they get the necessary guarantees from the separatists or even have to be escorted by them, due to the risk of minefields. And not least, SMM observers have repeatedly been denied access to critical areas controlled by separatist groups, such as Horlivka, in the south of Debaltzevo and in some of the border regions.¹⁹² Thus they have had to invest considerable time in negotiating access to critical areas. Once granted, however, the same permission can easily prove to be useless the next day due to continuous changes in the leadership structures of the various rebel groups, that is to say, the emergence of another group that seeks to establish control over a certain area.¹⁹³ Thus, it is scarcely surprising when OSCE observers emphasize the negative impact the feeling of “being completely at their mercy” has on the general mood within the monitoring teams.

In summary, the analysis has shown that both the KVM and the SMM combine various features which would, in principle, justify the designation of both missions as peacekeeping operations. Most importantly, the KVM and the SMM were designed to stabilize the conflict on the ground by carrying out core peacekeeping functions. Furthermore, both missions were based on the core principle of peacekeeping: consent, impartiality and non-use of force. At the same time, however, they lacked one important element constituting peacekeeping operations: formed contingencies of armed soldiers. The KVM has been and the SMM still is a civilian mission composed of individually recruited unarmed observers.

190 Cf. Permanent Mission of the EU: EU Statement in Response to the Report by Chief Monitor of the OSCE Special Monitoring Mission to Ukraine, Ambassador Ertuğrul Apakan, PC.DEL/123/15.

191 Cf. Neukirch 2015, pp. 189-190.

192 Cf. Apakan, Ertuğrul: Briefing to the UN Security Council, New York, 12 November 2014.

193 Cf. Interview SMM observer, 1 May 2015; Special Monitoring Mission to Ukraine, Report of the Chief Monitor to the OSCE Permanent Council for the Period 7 May to 14 September PC.FR/26/14.

6. Is there a Role for OSCE in Peacekeeping?

“How come we have civilian monitors doing what effectively is a military task, a task of a peacekeeping operation?”

Rasa Ostrauskaite, Deputy Director of the Conflict Prevention Centre (2014)

6.1. Quasi Peacekeeping? – Grasping OSCE’s Role in Peacekeeping

There are many provisions in OSCE documents which would, in principle, enable the Organization to deploy a broad range of PKOs, ranging from small observer missions to large scale military operations. Nonetheless, these provisions have – for several reasons – never been applied so far. First of all, most participating States are extremely reluctant, for financial reasons, unclear command and control structures, as well as a lack of credible rules of engagement, to dispatch PKOs under the auspices of the OSCE. Moreover, most participating States do not believe that the Organization is operationally prepared to plan, deploy and operate PKOs. And not least, the increasing expertise of other organizations in peacekeeping has made a more active OSCE engagement less necessary. Thus, one could conclude that there is no role for OSCE in peacekeeping. However, this conclusion could – as has already been pointed out – be questioned by focusing on OSCE practice. Since the first mission was deployed in 1992, OSCE FoPs have played an active role in peacekeeping or, with respect to the KVM or the SMM, could even be classified as PKOs. Based on the conceptual discussion in the second chapter of this work, different criteria can be used to support such an assumption. First of all, from a conceptual perspective, both the KVM as well as the SMM have been based on the core principles of peacekeeping: consent, impartiality and the non-use of force. Moreover, both operations have been embedded in the conflict cycle in the sense that they were intended to maintain a fragile ceasefire and, thereby, pave the way for a political settlement of the conflict. The KVM and the SMM have been operating in a highly volatile conflict environment, characterized by ongoing violence and the involvement of a broad range of actors (armies, paramilitary factions, separatist groups, political authorities, NGOs etc.). And, most importantly, both operations were tasked with carrying out activities, which are among the core peacekeeping functions. Based on this classification, it could be argued that, contrary to the conclusion presented at the beginning of this chapter, the OSCE has already deployed full-fledged PKOs, which have not been based on the Helsinki Guidelines but, rather, have represented *ad hoc* arrangements designed to react flexibly to specific conflicts. However, such a conclusion would also be premature, as both the KVM and the SMM, lacked one element which is critical for PKOs. Traditional as well as multidimensional PKOs are, at least partly, composed of armed military contingents. By contrast, OSCE FoPs, independent of their field of activity, always consist of unarmed, individually recruited civilians. This somewhat simple fact leads most analysts to conclude that the OSCE plays a role in the civilian part of peacekeeping and has even deployed quasi PKOs, but has never been engaged in peacekeeping in its traditional sense. Against this background, this work suggests understanding the OSCE’s quasi PKOs as verification missions, based on the most original type of UN PKOs, the so-called observer missions, thereby underlining their civilian nature but, at the same time, highlighting their more proactive nature. By contrast to UN observer missions, the KVM as well as the SMM not only took on

observer functions, but were also tasked with verifying compliance with military commitments as well as human dimension principles.

6.2. OSCE's Political and Operational Capacity in Peacekeeping

Irrespective of whether the OSCE has already deployed “real” PKOs, any future role of the Organization in the field of peacekeeping necessarily requires both the political capability of the participating States to reach consensus on when and how to intervene and the political and operational capacity to guide and support field operations.

There are several political features which make the OSCE's conflict management different from similar activities of other organizations and which have a direct influence on the OSCE's political capacity in peacekeeping. First, the OSCE continues to be the only security organization in Europe with an all-inclusive membership. This feature might have lost much of its relevance over the last two decades as Cold War rivalries between East and West seemed over and the OSCE was no longer perceived as particularly important as a forum for inclusiveness. Today however, against the background of reemerging dividing lines in Europe, the OSCE is, once more, the only organization which, due to its inclusiveness, is not perceived as biased and, thus, represents the only forum, in which joint action and collective crisis management is still possible. A second specific characteristic differentiating the OSCE's conflict management is the so-called double capacity of any state party to a conflict, which provides every party with a permanent veto position. This third party capacity can be advantageous in the sense that it provides for a high political commitment to decisions which are adopted. The SMM's capacity to carry out its tasks in Ukraine, for example, very much depends on the consent of all parties to the conflict. However, this acceptance is not necessarily a given, but results, to a large extent, from the fact that all parties have been involved in the negotiations on the establishment of the mission. At the same time, however, the fact that no decision can be taken without the agreement of all parties to the conflict might well paralyze the Organization and prevent it from taking any meaningful action. Therefore, the question arises of how the OSCE can react in a timely manner, despite the consensus rule. And here, the third crucial element determining the OSCE's political capacity to act as an effective conflict manager – a dedicated and effective Chairmanship – comes into play. The way the Swiss Chairmanship facilitated consensus on a mandate for the SMM demonstrated what can be achieved through effective leadership. At the same time, however, the Ukraine crisis also highlighted how much effective leadership in the OSCE depends on specific circumstances. Or to be more precise: Effective leadership is significantly dependent on which country is chairing the OSCE. It has repeatedly been pointed out that it was due to the fortunate circumstance that Switzerland, one of the few neutral countries in Europe, which is not a member of either the EU or NATO and has long experience in conflict mediation, chaired the OSCE in 2014. Yet, there may well be other situations in which a chairing country is in a far less ideal position to deal with an emerging crisis and help settle the conflict. One only has to assume that the Chairmanship is a party to the conflict in question or – less dramatic – the crisis is just not at the top of the Chairman's country's priority list. This might well prevent the OSCE from taking an

active part in managing a crisis. Effective political leadership in the OSCE is, to a large extent, bound to specific circumstances and is, thus, highly contingent.

While deploying and operating the SMM, the Organization has, at least, demonstrated two things. First, it has once more proven what has often been highlighted as one of the OSCE's biggest comparative advantages – its flexibility. It is impressive how quickly the SMM was adjusted to a continuously changing conflict environment and – most importantly – to an increasingly complex mandate, normally carried out by military PKOs. At the same time – and this might be more surprising – the Secretariat demonstrated its capacity to plan. When consensus on the final draft mandate for the SMM was reached, the CPC was able to build on what I would call two planning cycles. The first already started in 2011 when the OSCE decision on *the Conflict Cycle* led to the development of different contingency tools, which enabled the CPC to quickly staff and equip a new FoP. The second cycle, by contrast, only started three weeks before the decision on the SMM was taken. While negotiations in the PC were ongoing, the CPC worked hard on planning a mission, which nobody could know for certain would ever be deployed. Thus, as consent on the mandate was finally achieved, the CPC was prepared and the deployment process was able to start immediately. Notwithstanding these important achievements, it will come as no surprise that the Secretariat and the SMM itself were continuously overstretched and the SMM, especially, was in a permanent state of adjustment. This, of course, led to shortcomings, which complicated the work of the mission. However, these shortcomings were to be expected considering the fact that the OSCE had to build up structures and arrangements from scratch. What would be important now, is to build on the experience with the SMM and draw on lessons learned so that future FoPs, operating under similar conditions, could rely on the current experience. With respect to the KVM, a systematic reappraisal of lessons learned seemed not to have taken place. Thus, one can only hope that the experience gained with the SMM will be better used to prepare the OSCE operationally for future deployments of verification missions.

6.3. Potential for Future Development of OSCE Peacekeeping

As the analysis of OSCE FoPs has shown and the discussion in the previous parts of this chapter has underlined, the OSCE has already played a role in peacekeeping, though not in military peacekeeping, which is – rightly or wrongly – still understood as “real” peacekeeping. Thus, the question arises of whether the OSCE will engage in this “real” form of peacekeeping in the future or – more generally speaking – what the potential future development of OSCE peacekeeping could be. Based on the discussions analyzed in the second part of this work, three options for future involvement of the Organization in peacekeeping might be identified. First, participating States could still decide to engage in traditional peacekeeping and deploy armed PKOs. For different reasons, however, this is unlikely to happen. The majority of participating States remain of the view that OSCE FoPs should keep their civilian character. Moreover, the CPC is not prepared operationally to deploy whole contingencies of armed forces. And not least, one might question the added value of arming FoPs. Armed PKOs – even if equipped with a robust mandate – have no enforcement capacity. Thus, they would – in the same way as the SMM – have to negotiate with separatist groups and could not just force them to cooperate. One

might, therefore, reasonably argue that the civilian face of an OSCE FoP while, to a certain degree, a disadvantage – allows the missions to operate more effectively on the ground. As the analysis of the KVM and the SMM has shown, the fact that OSCE observers are unarmed make them better prepared to get the consent of the relevant parties to the conflict. Thus, they might be even more capable of carrying out verification tasks, as these greatly depend on the willingness of all parties to cooperate.

Given the reluctance of most participating States to “arm” OSCE FoPs, the second option for future development of OSCE peacekeeping focuses on how civilian missions could be better enabled to carry out tasks which are normally assigned to military PKOs. While keeping their civilian character, consideration could be given to how the nature of OSCE FoPs might be “hardened” in order to prepare them to take on the role of a military PKO. Based on the experience with the SMM, this hardening may be envisaged on different levels: Military and related expertise could be prioritized in the recruitment process, training tools would have to be adapted, arrangements for a medical infrastructure should be set up and – not least – the use of specific techniques for facilitating verification could be further developed. Such a hardening of FoPs would – as has been repeatedly emphasized – enable the OSCE to cover the whole conflict cycle and to more actively engage in peacekeeping while, at the same time, maintaining the civilian character of the Organization.

As a third, and final option for future development of OSCE peacekeeping, collaboration with other organizations could be envisaged. This cooperation might, again, take several forms. First, the OSCE could provide the political mandate for a PKO while other organizations are tasked to implement them. However, most participating States are rather skeptical of providing a mandate for PKOs carried out by other organizations, mainly due to the fact that it would be extremely difficult to monitor whether PKOs operated by other organizations were complying with OSCE principals. Second, the OSCE could profit from the expertise and resources of other organizations while deploying its own FoPs. Such collaboration would definitely be desirable. However, the fact that, to date, there have been few contacts between the OSCE and other organizations at a working level, means that this contact would have to be intensified. Thus, Zannier is right when he points out that the nature of OSCE cooperation with the UN must become “more pragmatic and action-oriented”.¹⁹⁴ And, third, the OSCE could deploy and operate FoPs in cooperation with other organizations, most probably the UN since collaboration with NATO, such as happened in Kosovo, would probably not be accepted by Russia. In such cases, the OSCE might be tasked to contribute to or even coordinate the civilian part of multidimensional PKOs.

6.4. A New Approach to Revitalizing OSCE Peacekeeping?

More than a decade after the last review discussions on peacekeeping in 2003, the topic seems to be back on the OSCE agenda again. Based on the experience with the

194 Cf. Zannier 2015b, p. 109.

SMM, the Swiss delegation is currently preparing a working paper on options for future developments of OSCE peacekeeping. According to the delegation, the paper proceeds from the assumption that there will be no consensus on OSCE engagement in military peacekeeping – as previous discussions have repeatedly demonstrated. However, it should be possible to launch a systematic discussion on how to strengthen OSCE FoPs to more effectively carry out the military components of peacekeeping while, at the same time, keeping the civilian character of OSCE field activities. Thus, it seems as if the objective of a new round of discussions on peacekeeping would not be to initiate a new debate on whether the OSCE should launch traditional PKOs of the blue helmet type and, thereby, risk repeating debates from previous years, but rather to start with a more pragmatic approach. It might be that such an approach would be more successful in producing some concrete proposals on which measures would be desirable to strengthen the capacity of OSCE FoPs to take an active part in traditional peacekeeping. However, against the background of the current political context, it is difficult to assess how key players will react to the Swiss proposal. Is Russia ready to engage in a new round of discussions on peacekeeping? To what extent are EU countries and the US willing to take a more proactive role in broadening the OSCE's scope of action in the field of peacekeeping? And not least, whether participating States will reconsider their reluctance to discuss the very idea that OSCE could get involved in the more traditional form of peacekeeping will depend, to a great extent, on the success or failure of the SMM. In any case, the SMM has definitively proved the OSCE's capacity to take risks and to strive for new horizons. Most hopefully, participating States will honor this achievement by looking at OSCE field operations in a more self-confident way and supporting them in treading on untested grounds.

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Appendix

Table 1: The Evolving Nature of UN Peacekeeping: An Overview

	Traditional Peacekeeping Operations	Multidimensional Peacekeeping Operations
Type of Conflict	Interstate; inter-allianc	Intrastate; internal
Main Threats	Armed attack; invasion	Civil war; ethnic or religious conflicts; human rights violation
Conflict Environment	Holding ceasefires; separation military from civilians, combat zones from rear areas	Fragile ceasefires; ongoing violence; humanitarian crisis; weak states
Main Actors	States; state armies	State authorities; paramilitary groups; rebel groups; secessionist groups; NGOs; IOs, local population
Main Objectives	National and international stability	Conflict resolution; comprehensive peace agreements; human security
Means	Deterrence; liaison	Deterrence and cooperation, mediation
Main Tasks	Observation of ceasefires, troop withdrawals; border protection	Observation of ceasefires; humanitarian assistance; human rights verification; post conflict resolution
Type of Operations	Peacekeeping forces (lightly armed troops); observer missions (unarmed civilians)	Multidimensional operations (lightly armed troops/police component/civilians)

Source: Author's own compilation inspired by Dorn 2011

Table 2: Tasks of Multidimensional Peacekeeping Operations

Component	Function
Military Component	<ul style="list-style-type: none"> • Monitoring ceasefires/protecting borders • Overseeing the withdrawal of foreign forces • De-mining/destruction of weapons • Disarmament, demobilization and reintegration of former combatants • Providing security for elections
Police Component	<ul style="list-style-type: none"> • Reforming the judicial system • Monitoring and training local law enforcement authorities
Civilian Component	<p><u>Political Element</u></p> <ul style="list-style-type: none"> • Building effective and legitimate political institutions • Promoting national reconciliation • Monitoring electoral processes; providing technical assistance <p><u>Human rights element</u></p> <ul style="list-style-type: none"> • Monitoring human rights • Investigating cases of alleged human rights violations • Promoting human rights <p><u>Humanitarian element</u></p> <ul style="list-style-type: none"> • Delivering humanitarian aid • Implementing refugee reparation programs • Resettling displaced persons • Reintegrating ex-combatants

Source: adapted from Tshiband 2010, p. 7

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CORE Centre for OSCE Research
Institute for Peace Research and Security Policy
at the University of Hamburg
Beim Schlump 83, 20144 Hamburg, GERMANY
Tel.: +49 40 866077 – 0
Fax: +49 40 8663615
E-Mail: core-workingpaper@ifsh.de
www.core-hamburg.de