The Special Monitoring Mission in Ukraine:
a useful but flawed OSCE tool

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The OSCE's Special Monitoring Mission (SMM) in Eastern Ukraine is tasked with monitoring the ongoing conflict between the Ukrainian army and separatist forces impartially, monitoring compliance with the Minsk II Agreement, and being the eyes and ears of the international community. An unarmed mission in a live war that has killed over 6.000 people, it has also had to manoeuvre through a complex political and diplomatic minefield, balancing between the need to secure the acquiescence of Russia for its existence and for its deployment on the ground, whilst ensuring that Russia does not compromise the Mission's credibility and neutrality. The success – or failure – of the SMM will not only impact the situation in Ukraine, but the whole future of the OSCE and its ability to operate in conflict regions. EU member states constitute half of the membership of the OSCE, and yet the EU often punches below its weight in the councils of the organisation. It is time for the EU to act in a more coordinated fashion in the OSCE framework, and to offer leadership on the future of the SMM and beyond.

BACKGROUND

When the two-decade long Conference for Security and Cooperation in Europe (CSCE) became a fully-fledged international organisation, at a summit in Budapest in December 1994, expectations were mixed as to what it could achieve. Russia hoped the Organisation for Security and Cooperation in Europe (OSCE) could replace NATO and the already defunct Warsaw Pact as the new European security mechanism, stretching from Vancouver to Vladivostok. However, in Western capitals, it was perceived as an organisation that could help manage relations with Russia and assist post-communist countries in the transition to liberal democracy. That transition from 'Conference' to 'Organisation' coincided with NATO's decision to expand eastwards, and Russia's first war in Chechnya. This meant the organisation's role had to be rethought before it was even born. Arguably it has never found its niche in the global or European security architecture. That is not to say the OSCE has not done a lot of good work. Its missions on the ground are credited with helping many emerging democracies on their path to reform, and positively contributing to managing difficult conflict situations. Its specialised agencies, such as the Office for Democratic Institutions and Human Rights (ODIHR), are valued for their impartiality and professionalism.

The core mission of the OSCE, and the one on which it continues to be primarily judged, remains that of guaranteeing peace and security in Europe. Here the OSCE's record has been patchy. The August 2008 Georgia-Russia War was perhaps the lowest point in the organisation's history. The OSCE was the primary international organisation that was responsible for overseeing the conflict in South Ossetia. Its failure to prevent the outbreak of the war, or to be decisive in bringing it to an end, was further aggravated when Russia vetoed the extension of the mandate of the OSCE Mission to Georgia shortly after the war's end. The OSCE has laboured on ever since, with its prestige damaged, dreading the prospect of the next European crisis that will precipitate its demise. Ukraine in 2014 could easily have been the last straw. It did not happen. Instead, the crisis gave the OSCE a new lease of life, mainly thanks to an able Swiss Chairmanship and a quick moving Vienna bureaucracy.

In Dushanbe, on 2 April 2015, the current OSCE Chairperson-in-Office, the Serbian Foreign Minister Ivica Dacic, told foreign ministers of the Russian-led Collective Security Treaty Organization (CSTO) that "the crisis in and around Ukraine had a serious impact on security and stability in the OSCE area", adding that "as the crisis brought many questions about the post-Cold War European order there is a need to intensify efforts to utilise the OSCE as a

forum for inclusive dialogue and a tool for engagement". One such tool has been the SMM. Many think that the success or failure of this Mission is not only crucial for Ukraine, but will also determine the future of the OSCE, at a time when the organisation is deep in self-reflection mode.

When the Ukraine crisis started to unfold, soon after President Yanukovich announced an unceremonious retreat from plans to sign an Association Agreement with the EU in November 2013, the OSCE found itself centre stage. Coincidentally, that year Ukraine held the OSCE's rotating chairmanship and the annual meeting of foreign ministers took place in Kiev on 4-5 December amidst the drama unfolding on and around Maidan. This was an uncomfortable moment for the organisation, with western foreign ministers and diplomats, including Lamberto Zannier, Secretary-General of the OSCE, making pilgrimages to Maidan.

When the crisis reached its climax in February 2014, the OSCE was better informed and prepared to take decisions than in any other crisis in its history. This did not mean that taking decisions through its consensus procedure was any easier. The first deployment on the ground was on the basis of the 'Vienna Document 2011'[1], a mechanism intended to avert open warfare between states. Under its provision, on 4 March 2014, 18 OSCE participating states unilaterally decided to send 35 unarmed military personnel to Ukraine in response to its request. Under Chapter III of the "Vienna Document 2011", a member state may voluntarily host visits to dispel concerns about unusual military activities. Ukraine requested all OSCE participating states to send military representatives from 5 to 12 March 2014, starting in Odessa. This was the first time this mechanism had been activated. Eighteen OSCE participating States – all NATO members – responded positively, sending up to two representatives each. This early mission was soon faced with the limitations of its powers when it was stopped from entering Crimea, days before the hastily organised "referendum", and its subsequent annexation by Russia. This was the first sign of a problem that consequently turned into a serious shortcoming.

The Ukraine crisis escalated in March 2014, with fears that Russia would try to annex the Donbass Region using similar tactics as in Crimea. The OSCE's Permanent Council, with the consensus of the 57 participating states, agreed to a request by the Ukrainian government to establish the SMM. This unanimous expression of international will did, however, not come without a cost.

The mandate of the Mission approved at the meeting of the Permanent Council on 21 March 2014 stated: "the aim of the said mission will be to contribute, throughout the country and in cooperation with the concerned OSCE executive structures and relevant actors of the international community (such as the United Nations and the Council of Europe), to reducing tensions and fostering peace, stability and security; and to monitoring and supporting the implementation of all OSCE principles and commitments". However, it also said that "monitors will initially be deployed to Kherson, Odessa, Lviv, Ivano-Frankivsk, Kharkiv, Donetsk, Dnepropetrovsk, Chernivtsi, Luhansk". The exclusion of Crimea from the mandate immediately exposed the Mission to criticism, and the OSCE was accused of *de facto* recognising Russia's annexation of the peninsula and the port of Sevastopol. The mandate stated that "any change in deployment shall be subject to a decision of the Permanent Council", thus giving Russia a veto on any deployment to Crimea. Seasoned Turkish diplomat, Ertugrul Hakapan, was appointed Head of Mission.

STATE OF PLAY

Throughout its one-year deployment the Mission has come under criticism from all sides of the conflict, with the loudest grievances voiced by the Ukrainians, some of whom see SMM as a Trojan horse.

Ukraine, and most OSCE members, see Russia as an aggressor in the context of the Ukraine crisis. The presence of Russian members in the SMM is therefore perceived as an anachronism, especially since Ukrainian monitors are excluded. There have been numerous accusations of a collusion between the Russian members of the Mission and the Russian-backed separatists in Eastern Ukraine, although they are often based on anecdotal evidence. In September 2014 it was proven that two "uniformed individuals", most likely separatists, boarded an OSCE vehicle in Donetsk city. The OSCE subsequently expressed "regret" for the incident and vowed to prevent repeat occurrences. An episode of 'the X-Files', a current affairs programme on Ukrainian television channel 1+1, further disseminated accusations of bias and Russian dominance of the OSCE Mission. An advisor to Defence Minister Basil Budik wrongly said on television last November that over 80% of monitors in the Mariupol area are Russian. He subsequently apologised.

There is a deep-set feeling in Kiev that the OSCE is biased towards the Russians, which will take a lot of work to undo. This is often echoed by westerners who are sympathetic to the Ukrainian cause. Wesley Clarke, the retired

American General and Former NATO Supreme Commander, told Washington think tank, the Atlantic Council, on 30 March 2015 that "more than half the make-up of OSCE …were Russian military," suggesting that they passed information on Ukrainian military deployment to the Russian side and the separatists. Clark went on to conclude that the OSCE Mission was "essentially non-functioning".

However, according to the OSCE, as of 25 March 2015, only 26 of 459 international monitors are Russian citizens. This is more than any other country, other than the US (with 49 monitors), but far less than half. As part of the Mission there were also 53 international and 201 national staff members, including assistants, advisors and other administrative personnel.[2]

Speculation about the size of the Russian element in SMM has once more intensified, following the extension of the mandate of the SMM to March 2016 and the possible increase of the number of monitors to one thousand. However, Mission sources have stated that this will happen "only if it is needed", namely if full access is granted throughout the whole territory of Ukraine. For now the number of monitors remains under five hundred with an estimated cost to the OSCE of around 65 million EUR for the next 12 months.

Other concerns stem from the Mission's operational capability in the face of a sophisticated military force. In his Atlantic Council speech General Clark stated that OSCE drones have been jammed and shot at by separatist forces, using technology US forces have not faced in its wars in the Middle East. This exemplifies the limited extent to which unarmed OSCE monitors have the ability to operate in a conflict between two 21st century armies. Their physical ability to manoeuvre is also frequently impeded by both sides, while the Mission's inability to work in Crimea solidifies Russia's territorial claim to the region.

The Mission continues to walk on a very tight rope, often blending neutrality with opacity. "The OSCE is not in the business of naming names and pointing fingers," chief OSCE spokesman Michael Borciurkiw told the authors of this Brief in February. Incident reports typically give the direction from which an attack was launched and the ballistics used, without directly pointing the finger at a particular side. On 22 January 2015, when a trolleybus was shelled in Donetsk city, killing 13 civilians, the OSCE described the incident but blamed neither side, thus angering both. Information is disseminated in an opaque fashion, as decisions are made collectively, with little insight available into the process through which conclusions have been reached. It is often difficult to get the OSCE to respond directly to queries, or to explain why decisions were taken.

The SMM's main role is to be the eyes and ears of the international community, giving decision makers a clear picture of what is happening on the ground. Yet its importance is wider than that. It has become the most visible engagement on the ground of the international community with the Ukraine crisis. The complexity of the situation, the size of the Mission and the context in which it is operating makes it the precursor of possible future OSCE deployment in other similarly sensitive areas, such as in Nagorno-Karabakh and Georgia, where the OSCE has been involved for many years and where the prospect that it may be asked to provide either a peacekeeping force or a large monitoring force remains. All eyes are therefore on the Mission, and on its success or failure. The dilemma of the OSCE is clear: it needs Russia's agreement for the Mission to exist and Russian cooperation for the mission to operate, yet if it allows Russia to compromise the Mission, the whole credibility of the OSCE in future peacekeeping and monitoring operations will be compromised. Striking a balance has not been easy and is unlikely to become easier in the second year of the Mission.

PROSPECTS

While the SMM's performance in the field has been exemplary, the composition of the Mission was problematic from the outset. It reflects the OSCE's dilemma – an organisation that is run by consensus, which means that the parties to any crisis are likely to be veto-wielding member states. The organisation is not old or experienced enough to have had a number of successes and failures on which precedents and good practices could be built. Indeed, the importance of the SMM partly lies in its capacity to contribute to that experience. It is, however, clear that the deployment of Russian members in the Mission was always going to be problematic. Russia was allowed to exploit the ambiguity about whether it was directly involved in the conflict or not – an ambiguity that became unacceptable once it had annexed Crimea.

Going forward, the OSCE can consider establishing an autonomous Office for Operations on the model of ODIHR. The Permanent Council could turn to that office when it needs to deploy missions on the ground, and whilst it would continue to define the broad mandate, most operational details, including the composition of the Mission and other modalities, will continue to be the prerogative of the Director of Operations.

Many issues arise in the context of the SMM and its communication strategy, particularly regarding the audience in the host country and its area of operation. One senses a certain element of siege mentality in the way the Mission approached its task. The Ukrainian public's evident distrust of the Mission made its work more difficult.

One of the challenges for the SMM has been to place itself within the context of other ongoing OSCE responses to the Ukraine crisis, as well as other initiatives such as the so-called Normandy Format, spearheaded by the presidents of France and Germany. This format, whilst considered efficient, often left the OSCE gasping to catch-up and struggling to remain fully in the loop. There is a strong argument for why the OSCE Chairman-in-Office should have been included in this format, including in the negotiations of Minsk 2.

Often, the EU uses the OSCE as a "feel-good mechanism" – a tool that can be deployed to park problems for which there is no immediate solution, whilst giving the impression that it is actively engaged with the issue. The SMM has been used in such a way, even though, despite its overall positive contribution, it remains a flawed tool. The EU needs to clearly recognise the limitations of the SMM as it is currently composed and mandated, and not be deluded by an exaggerated sense of what it can do or achieve.

In the short term the EU should continue to support the SMM and welcome any possibility of expanding the Mission and its mandate since this is well in line with the EU's own policy of helping to create stability in Ukraine and contain the danger of further conflict. However, the risk that the SMM will become a guarantor of an unacceptable status quo has to be recognised. The EU's position on the flaws of the SMM mandate and composition needs to be well highlighted, and the EU should insist that the SMM's mandate be expanded to include Crimea. If it fails to do that, further extensions of the SMM mandate beyond March 2016 should not even be considered.

The EU needs to recognise its important role within the OSCE context, as the organisation representing nearly half of the OSCE member states. It should sharpen its performance and up its game in OSCE councils. It also needs to define its own vision of what it wants the OSCE to be in the future and build a coordinated position amongst its members. With the "panel of eminent persons", appointed at the Basel Ministerial Meeting in December 2014, already busy drafting a new vision for the OSCE, and with Germany preparing to take over the Chairmanship in 2016, there has never been a better time for the EU to influence the organisation's future. The EU should have in place a mechanism that will help it interact efficiently and in a timely manner with the OSCE on operational issues, allowing the EU to quickly respond to requests for mission members, military or civilian observation missions, or even peacekeeping forces. This will entail financial contingency, and planning and preparation, in Brussels as well as in the capitals of the member states. Not doing so is no longer a realistic option.

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1   Vienna document 2011, OSCE, available at: http://www.osce.org/fsc/86597
2   The SMM is also sometimes confused with the much smaller OSCE observer mission to checkpoints on the Ukraine-Russia border, in two Russian towns: Donetsk, not to be confused with the larger city in Eastern Ukraine of the same name, and Gukovo. This mission had 21 staff members on 1 April 2015.