The OSCE norms and activities related to the Security Sector Reform: An incomplete puzzle

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The OSCE is actively engaged in current activities addressing the various facets of security sector reform (SSR). From the perspective of an institution which considers that the security of States and their citizens are mutually reinforcing, such an engagement appears completely natural. SSR represents a common concern for States in transition from war to peace and from authoritarian rule to democracy, as well as for any rule of law State. Democratic governance of the security sector is essential at all stages of the conflict management cycle: while having the potential for reducing the risk of armed violence in conflict-prone States, it happens to be an inescapable component of compromise packages conducive to a final peace settlement and constitutes a crucial element of peace-building strategies in post-conflict settings. A State with a dysfunctional security sector can disrupt political stability within its own region. As the security sector is linked to effective government authority, strong democratic institutions based on the rule of law also contribute to the prevention and combating of transnational threats, risks and challenges such as organized crime, terrorism and illicit trafficking of all kinds. However, the OSCE involvement on the SSR turf is plagued with a regrettable conceptual deficit due to the absence of an integrated concept of SSR. The present analysis offers a critical overview of OSCE achievements at both the normative (standard-setting) and operational level before assessing the consequence of the lack of overarching guiding principles governing the OSCE’s SSR-related activities.

The OSCE’s SSR-related normative achievements

The OSCE has produced norms in four main areas of SSR.

1. Democratic control of armed forces. Sections VII-VIII of the Code of Conduct on Politico-Military Aspects of Security (1994) regulate the role and use of armed forces. They rest on a set of quadruple norms: the primacy at all times of effective democratic constitutional civilian power over military power (§§ 21-24), the subjection of armed forces to international humanitarian law (§§ 29-31, 34), respect for the human rights and fundamental freedoms of armed forces personnel (§§ 23, 27, 28, 32, 33) and the democratic use of armed forces in the performance of internal security missions (§§ 36-37). In addition, the Code offers a number of

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SSR-related provisions concerning military capabilities (§§ 12-13), military expenditures (§ 22), and defence policy and doctrine (§ 35). Having been negotiated under the iron law of consensus, the instrument is not a perfect one. Despite its pioneering character, it contains several gaps or loopholes. It has no connection with the Vienna Document on csbms. It prescribes democratic control of armed forces only at the executive and legislative levels, with no reference to the judiciary. It lacks operative provisions on internal security forces, intelligence services, the police or border guards. Finally, the Code’s single explicit provision on paramilitary forces — an element which often causes dysfunctions in the security sector — is clearly superficial.

2. Border management. On the basis of § 35 of its Strategy to Address Threats to Security and Stability in the 21st Century, the OSCE framed a Border Security and Management Concept in December 2005. The document invites the governments to encourage the development of a free, secure and lawful movement of persons, goods, services and investments across borders (§ 4.1). It also authorizes the OSCE as an institution to promote confidence-building measures in border areas, to coordinate exchanges of information, experience and best practices, and to provide, upon request, technical assistance for combating transnational security threats (terrorism, organized crime, illegal migration and illicit trafficking), as well as supporting the free and secure movement of persons (with specific reference to national minorities, migrants and asylum seekers), and economic and environmental cross-border cooperation. Admittedly, the OSCE Border Security and Management Concept lacks any real substance. It offers an embryonic regime whose provisions are either too general or sketchy, and which does not contain formal references to the security sector or just to good governance.

3. Policing. In this area, the OSCE has showed creativity through the instrumentalities of both the High Commissioner on National Minorities (HCNM) and the Strategic Police Matters Unit (SPMU). In 2006, at the 592nd Plenary Meeting of the Permanent Council, the HCNM presented Recommendations on Policing in Multi-Ethnic Societies. Addressing the correlation between policing and inter-ethnic relations across the OSCE, the text contains a set of 23 recommendations (followed by an explanatory note dealing with each of the latter) on police recruitment and representation, training and professional development, engagement with ethnic communities, operational

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3 This omission is all the more regrettable as the Copenhagen Document (1990) and the Moscow Document (1991) on the Human Dimension include provisions on the role of the judiciary within the framework of the rule of law.

4 MC.DOC/2/05 of 6 December 2005.

5 Actually, it contains an oblique allusion to good governance through a provision calling for ‘high standards in border services and competent national structures’ (§ 4.4).
practices, and the prevention and management of conflict⁶. In parallel, the Senior Police Adviser to the OSCE Secretariat produced a Guidebook on Democratic Policing — a compendium of existing norms, principles and practices defining the rule of law objectives of a democratic police force, stressing the role of ethics and human rights in police activities, and articulating the basic requirements of accountability and transparency⁷.

4. Rule of law and good governance. While the core elements of the rule of law have comprehensively been identified within the 1990 Copenhagen Document on the Human Dimension (and refined or complemented in several subsequent texts⁸), the OSCE did not articulate whatsoever a definition of ‘good governance’ despite its centrality to SSR issues. The OSCE began to make meek references to that concept as from 2001. Within the framework of the Plan of Action for Combating Terrorism, annexed to a Bucharest Ministerial Council Decision on anti-terrorism, participating States identified ‘poor governance’ as one of the causes undermining economic and environmental security (§13) and vaguely agreed to develop projects for the crystallisation of ‘good governance’ (§ 10). In 2003, through the Strategy to Address Threats to Security and Stability in the 21st Century, they confirmed that ‘weak governance, and a failure by States to secure adequate and functioning democratic institutions that can promote stability, may in themselves constitute a breeding ground for a range of threats’ (§ 4).⁹ Comparable provisions also appeared in the 2003 Strategy Document for the Economic and Environmental Dimension.¹⁰ In short, there are presently no OSCE global norms on rule of law-based governance. A number of norms of uneven length and substance do exist in some specific areas (independence of the judiciary, treatment of persons deprived of liberty, anti-corruption and trafficking in human beings). Unfortunately, they are not related by a common thread or explicit guiding principles.

It is worth mentioning that SSR-related norms have also been coined by other intergovernmental institutions in the Euro-Atlantic area. The most developed norms in that area presently concern the security sector’s actors invested with the power to use force or to enforce law: armed forces (OSCE, NATO); intelligence services, police and law-enforcement bodies (Council of Europe, OSCE), and border guards (European Union). Other norms regulate,
somewhat unevenly, the oversight functions of the executive, legislative and judicial branches of government.

The OSCE’s SSR-related operational achievements

SSR-related endeavours underpin the activities of all the security dimensions of the OSCE. Given their cross-dimensional nature and cross-cutting objectives, they are undertaken by means of the Field Missions, ODIHR and HCNM. These bodies can also perform in tandem with the CPC and the Forum for Security Co-operation (FSC). Through its Field Missions, the CPC and/or the ODIHR, the OSCE helps participating states to reform military legislation and provides training in the rights of service members. Under the guidance of the FSC, it assists with the disposal of stockpiles of obsolete and dangerously deteriorating surplus weapons and munitions (as in Georgia and Tajikistan) as well as highly toxic rocket fuel (in Ukraine, Kazakhstan and Armenia). Most of the services delivered by ODIHR in its rule of law programmes (support for the establishment of impartial judiciaries, parliamentary reform, prison reform, law enforcement strategies, anti-corruption measures and anti-trafficking policies) aim at strengthening the security sector. The consolidation and/or creation of democratic institutions based on the rule of law is also a common concern of the OSCE Field Missions. Although they are of a cross-cutting nature, those activities especially take place within the Human and Politico-Military dimensions. They are designed to assist states in democratic transition, including both post-conflict and non-conflict states. At the geopolitical level, they target States in the Western Balkans and in the former USSR — with particular focus on border and security management and policing.

Border management

Border management projects have become a current feature of the OSCE’s operational activities. Initially, the Field Missions monitored operations along Albania’s border during the Kosovo crisis (1998–1999), Macedonia’s northern border during and after an ethnic Albanian uprising (2001–2002), as well as the Chechen, Ingush and Dagestan border segments of Georgia’s border with the Russian Federation (2000–2005). In addition, the ODIHR, in co-operation with the Field Missions and IOM, has implemented assistance projects aimed at the demilitarization, professionalization and humanization of border services management in the South Caucasus (Armenia, Azerbaijan and Georgia), Central Asia (Kazakhstan, Kyrgyzstan and Tajikistan) and Eastern Europe (Ukraine). Furthermore, the CPC has established a training programme for border guards and customs officials to counter cross-border SALW trafficking at the Termez-Hayraton checkpoint shared by Uzbekistan and Afghanistan (2002–03); this programme was extended in 2004 to other checkpoints along the

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Uzbek-Turkmen, Uzbek-Tajik and Uzbek-Kyrgyz borders (at Khorezm, Samarkand and Fergana). In co-operation with bilateral donors and the EU’s Borders Management in Central Asia programme, the CPC supported Tajikistan’s efforts to combat narcotics trafficking and to develop a Border Management Strategy and immigration control procedures on the Tajik-Chinese border. In the framework of the follow-up to the Ohrid Process for Border Security and Management in South-Eastern Europe, it provided training to the Community Assistance for Reconstruction, Development and Stabilization (CARDS) beneficiary countries in the development of risk analysis and threat assessments. The CPC also assisted the OSCE Project Co-ordinator’s Office in Ukraine and the Office in Belarus in their respective efforts to provide the local border police with a capacity to analyse cross-border traffic flows. Finally, it gave support to the Office of the Co-ordinator of Economic and Environmental Activities for the purpose of harmonizing border controls on goods and to the Anti-Terrorism Unit as regards false travel document security.

As a follow-up to the OSCE Border Security and Management Concept, the Permanent Council established a National Focal Point (NFP) network and a contact point in the OSCE’s Secretariat. The CPC manages the network, a task which includes the updating of the list of NFPs and the centralization of data and requests to, from and between the network’s members. A small sub-unit (the Operations Service) helps put the Concept into practice, especially in Central Asia and Eastern Europe, in conjunction with the Field Missions and external partner institutions such as the UN Office on Drugs and Crime. The Field missions are also running projects based on the Border Security and Management Concept. Thus, the OSCE Presence in Albania contributes to the effectiveness of the Albanian Border and Migration Police in dealing with cross-border and organized crime by means of training courses (within the EU CARDS programme) and the facilitation of regular joint border co-operation meetings with neighbouring states. The Spillover Monitor Mission to Skopje supports the establishment of a modern border police in Macedonia. Since the deployment by the EU of a proper Border Assistance Mission to the Moldovan-Ukrainian border in 2005, the OSCE Mission to Moldova has been coordinating its activities with the EU mission. As for the Mission to Georgia, it is assisting the border police with the establishment and operationalization of a proper training system.

Policing

The involvement of the OSCE in policing activities has developed gradually

12 CARDS is the EU’s programme for the Western Balkans (see Council Regulation No. 2666/2000 of 5 December 2000). The Ohrid Process is a joint effort initiated in May 2003 by South-Eastern European countries, the EU, the OSCE, NATO and the Stability Pact.
13 PC.DEC/757 of 5 December 2006.
through the Field Missions operating in the Western Balkans. In October 1998 the OSCE agreed to take over the monitoring of police activities in the Danube area of Croatia hitherto administered by the UN Temporary Administration in Eastern Slavonia. In the following year, in Kosovo, it contributed to the creation of a police service school and the introduction of international professional police standards. After the adoption of the 1999 Istanbul Charter for European Security, which stressed the importance of monitoring local police activities (§§ 44-45), the OSCE assisted Serbia/Montenegro in developing professional police services and creating a multi-ethnic police force in the southern municipalities of Presovo, Medvedja and Bujanovac. Following the Ohrid Framework Agreement of August 2001, the Spillover Monitor Mission to Skopje helped recruit and train new police cadets selected from the ethnic Albanian minority and supported the police in the exercise of their authority in regions that had formerly been in crisis. For its part, the OSCE Presence in Albania initiated the reform of the law on the Albanian State Police and contributed to the revision of the Police Academy curriculum to bring it into line with European standards, while also assisting in the formulation and implementation of an Albanian Integrated Border Management Strategy and Action Plan. Finally, following Montenegro's independence in 2006, the OSCE was involved in programmes to reform the police and institute community policing, and assisted with the implementation of the National Strategy and Action Plan against Corruption and Organized Crime, as well as with the preparation of the National Integrated Border Management Strategy and Action Plan.

In the aftermath of the attacks of 11 September 2001, the Bucharest Ministerial Council meeting (2001) decided to strengthen the OSCE's ability to provide assistance in police matters at the request of its participating states. By the end of 2002, the OSCE Secretariat had established a Strategic Police Matters Unit tasked, under the leadership of a Senior Police Adviser, with responding to requests from participating States for assessing policing needs and planning. SPMU experts became active in most of the field missions that run policing projects. They provided policy advice and support through initial needs assessment exercises, information gathering, programme development and the establishment of twinning partnerships or regional and cross-regional contacts among police training institutions. The main projects or programmes initially conducted by the SPMU, in conjunction with the Field Missions, generally included police education and training, community policing, and administrative and structural reforms. Outside the Western Balkans, they have mainly been implemented, as shown in the following table, in the Caucasus and Central

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Asia\textsuperscript{17}.

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<th>Caucasus</th>
<th>Central Asia</th>
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<tr>
<td><strong>Armenia:</strong></td>
<td><strong>Kazakhstan:</strong> Support for law enforcement reforms.</td>
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<td>Creation of a police emergency response system in Yerevan.</td>
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<td>Implementation of a community policing model in a district of Yerevan.</td>
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<td>Refurbishment of the Police Training Centre for new police recruits.</td>
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<td><strong>Azerbaijan:</strong></td>
<td><strong>Kyrgyzstan:</strong> Introduction of community policing in Bishkek and at the regional level. Setting up a national criminal information analysis system and a radio communication system for crime investigation. Creation of the specialized Public Order Management Unit in the south of Kyrgyzstan (Osh city). Assistance programme for improving the quality of police investigations and the police capacity for combating drug trafficking.</td>
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<td>Twinning with the Czech Republic for the development of a modern introductory training course for police recruits. Implementation of a pilot project introducing community policing in a rural town in north-western Azerbaijan (Mingechevir).</td>
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<td><strong>Georgia:</strong></td>
<td><strong>Uzbekistan:</strong> Training in investigation techniques and related criminal procedures and legislation.</td>
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<td>Elaboration of a concept for a Ministry of the Interior reform plan, including the development of its law enforcement capacity for combating terrorism and organized crime. Provision of basic equipment to the Development Unit within the Ministry of the Interior. Introduction of community policing in the Armenian-speaking region of Samtske-Javakheti. Promotion of a modern human resource management system for recruitment and remuneration. Public opinion polling on relations between the police and the population in selected districts in Tbilisi.</td>
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Particular importance is attached to \textit{multi-ethnic police training}, border policing and community policing. Multi-ethnic police training aims to establish an indigenous police force in which ethnic communities are proportionally represented and which is therefore able to enhance confidence and co-operation in conflict-prone multi-ethnic areas. Distinct from border security, \textit{border policing} essentially concerns the fight against transnational crime. The objective of the \textit{community policing} approach is to ensure that the police force is seen as a provider of public services rather than as a repressive agent. Community policing gives members of the community the opportunity to take a direct and

\textsuperscript{17} Two other institutions also contribute to policing activities: the ODIHR and the HCNM. They produce specialized annual reports – since 2002 for the former and 2004 for the latter – appended to the OSCE Secretary General’s own annual report on police-related activities.
active part in the work of the police by developing both formal and informal relationships with them.

The OSCE’s police-related activities suffer from two shortcomings – shortfalls in funding and a lack of consistency in design. Since its establishment, the SPMU has contributed, in co-operation with the field missions, to over 20 police assistance projects on the basis of voluntary (extra-budgetary) financing. While police assistance activities undertaken directly by field missions (as in South-Eastern Europe) were funded through the regular OSCE budget, assistance programmes for the states of the Caucasus and Central Asian relied on voluntary funding for some years.¹⁸ In 2005 the SPMU warned that this practice was becoming ‘unsustainable’, because it made programme implementation ‘fragmented, rushed or non-sequential’¹⁹; the practice has since been discontinued. The SPMU has realized that ‘isolated assistance measures … are much more likely to make a country assistance-dependent than to lead to self-sustainable development of the justice and security sector’.²⁰ Actually, it was not uncommon for police assistance programmes to be undertaken in areas selected because of political considerations, but where the conditions for the effective delivery of criminal justice do not exist.²¹

The absence of an OSCE integrated concept of SSR: Conceptual deficit and missed opportunities

Although it has accumulated impressive knowledge and experience in many areas of SSR the OSCE does not formally acknowledge its relevant activities under that specific label — a situation that also prevails at the UN, NATO and the Council of Europe.²² The omission stems primarily from the lack of an integrated SSR conceptual approach. Awareness of the need for such an approach has, however, occasionally surfaced within the OSCE — but to no avail.

In 2005, the SPMU called for the elaboration of an ‘OSCE doctrine of security sector reform’. Just limited to the rule of law, the doctrine was meant to include all the elements which are necessary for an effectively functioning criminal justice system.²³ As pointed out by the SPMU, the objective of

¹⁸ SEC.DOC/2/05 of 29 June 2005, § 6.17.
¹⁹ SEC.DOC/2/06 of 2 November 2006, § 5.6.
²⁰ Ibid., § 1.8.
²¹ SEC.DOC/2/06 of 2 November 2006, § 1.7.
²² This is not the case either at the EU or at the Organization for Economic Co-operation and Development (OECD), which both possess an overarching SSR concept. It should be mentioned that the OECD, which played a pioneering role in conceptualizing SSR, uses the term ‘security system’ rather than that of ‘security sector’.
²³ The SPMU drafted an internal food-for-thought paper, which was summarized in SEC.DOC/2/06 of 2 November 2006, paras. 1.4 et seq. See also SEC.GAL/90/05 of 25 April 2005 (OSCE Senior Police Adviser’s Presentation to the Preparatory Committee of 26 April 2005).
establishing the rule of law required not just law enforcement capacity and institution-building, but comparable and synchronized improvements across the entire criminal justice sector;\(^{24}\) accordingly, legislative, law enforcement, prosecutorial, judicial and penal reform needed to be part of a single doctrine destined ‘to guide the formulation of OSCE mission mandates, present a clear statement of purpose in association with existing ones and distinguish between the activities of the OSCE and its international counterparts in the future’.\(^{25}\) The expected advantage from the doctrine was to provide a means of measuring outcomes, avoiding ad hoc police assistance strategies, and promoting country-specific and culture-specific strategies reflecting full ownership by the recipient.\(^{26}\)

The fact that the argument apparently failed to attract the general attention of participating states ultimately forced the SPMU to avoid referring to SSR in the Secretary General’s report on police-related activities undertaken by the OSCE in 2006. However, in September 2006, the Belgian Chairmanship reopened the issue from a broader perspective by means of a Food-for-Thought Paper (tabled at the Working Group on Non-Military Aspects of Security) and a Draft Proposal recommending the speedy elaboration of an OSCE Concept on Security Sector Governance to be submitted to the 2007 Ministerial Council meeting.\(^{27}\) The Food-for-Thought Paper presented the overarching concept as ‘... an institution-building framework for the participating States to receive, at their request, assistance from the OSCE and its participating States in addressing the entire spectrum of security-related issues to promote their full compliance with the relevant OSCE principles and commitments’.\(^{28}\)

As to the Draft Proposal, it sketched the main features that the OSCE Concept on Security Sector Governance was expected to include — namely cross-dimensionality and comprehensiveness; a local ownership focus; flexibility and adaptability to national and regional environments (in particular, different states of transition); and a human rights orientation (with gender and national minority perspectives). Within this enumeration, at least two elements apparently raised some objections: on the one hand, the possibility of ‘multi-sectoral strategies’ in relation to the criteria of cross-dimensionality and comprehensiveness; and, on the other hand, the possible development of common terminology and concepts with partner organizations in terms of an agreed body of knowledge. Ultimately, because of persistent disagreement among participating states, the Belgian Chairmanship tabled a more modest

\(^{24}\) SEC.DOC/2/06 of 2 November 2006, § 17.
\(^{25}\) SEC.DOC/2/05 of 29 June 2005, § 1.6.
\(^{26}\) SEC.GAL/90/05 of 25 April 2005 (Senior Police Adviser’s Presentation to the Preparatory Committee of 26 April 2005) and SEC.DOC/2/05 of 29 June 2005, para. 6.3.
\(^{27}\) Food-for-Thought Paper, PC.DEL/859/06 of 13 September 2006; Draft Proposal, PC.DEL/999/06 of 27 October 2006 (plus Rev. 1 of 15 November and Rev.2 of 23 November).
\(^{28}\) PC.DEL/859/06 of 13 September 2006.
proposal only suggesting the drafting, by the Permanent Council in consultation with the FSC, of an OSCE Review of Security Sector Governance Activities for submission to the Ministerial Council during 2007.\(^{29}\) For undisclosed reasons, this minimal compromise failed to achieve consensus.

In 2007, drawing on the latest Belgian proposal and on discussions held in the Working Group on Non Military Aspects of Security, the Slovak delegation placed on the Security Committee’s agenda a draft decision proposing the adoption of a review of OSCE basic norms and principles in the field of security sector governance and reform; the text included, as an annex, an analytical inventory of such norms and principles\(^{30}\). The Spanish Chair endorsed the proposal through a draft Ministerial Council decision\(^{31}\). As underscored by Slovakia, the initiative was not meant to introduce new commitments, but just – as a follow-on from a recent statement by the President of the UN Security Council acknowledging the role of regional organizations in supporting security sector reform/governance\(^{32}\) — to serve as a signal to other organizations as to how the OSCE approaches the subject of security sector reform/governance. Within the Security Committee, the Slovak proposal was vetoed by Russia and the US on a dubious pretext — that it would entail new activities to be assumed by the Secretariat, especially the CPC — but presumably because the ultimate objective of the project (an integrated SSG/SR conceptual framework) would have entitled the OSCE to undertake more scrutiny as regards the democratic control and use of the armed forces of the participating States. Within the PC’s Security Committee, Slovakia expressed perplexity that the OSCE could not come to an agreement on the matter on which the UN Security Council had unanimously endorsed (with Russian and US blessing) a Presidential statement\(^{33}\).

**Conclusion**

The OSCE has accumulated impressive knowledge and experience in many areas of security sector reform. However, while its approach to security is global and cross-dimensional, it persists in addressing security sector-related issues in a piecemeal fashion. Conducted on a case-by-case basis with no overall design, the OSCE’s assistance projects do not target the security sector as a whole. As a consequence, their effectiveness can be considered limited in both scope and impact. It would be relevant for the OSCE to reflect its best practices and formal norms in a single text reaffirming its basic values, principles commitments and

\(^{29}\) MC-DD/30/06 of 28 November 2006 (plus Rev. 1 of 30 November).
\(^{33}\) PC.DEL/1174/07 of 3 December 2007.
standards, and recognizing the inter-linkages among the entire components of the security sector reform. Such a text would allow one to address not only direct security sector concerns, but also germane security sector-related issues such as all forms of trafficking, terrorism, organized crime and corruption, as well as socio-economic and environmental threats and challenges.

The OSCE obviously needs an SSR agenda based on an overarching policy framework complemented by operational guidelines for at least two main reasons. The first advantage would be the introduction of more cohesion and coherence in the design and implementation of assistance programmes, thereby facilitating the setting of the long-term priorities and scope of future OSCE action in this area. Practical experiences have clearly demonstrated to what extent, for instance, police, judicial and defence reform and disarmament, demobilization and reintegration intersect. A second advantage would be the enhancement of the synergy of inter-institutional endeavours. The adoption of an overarching framework would result in better interaction and complementarity with partner international organizations in the Euro-Atlantic area, while also strengthening the OSCE’s role as a regional organization under Chapter VIII of the UN Charter. In any case, the process could provide the OSCE with an opportunity to remedy a major weakness in its field activities: the lack of a mechanism for the evaluation of operational performance.