

The 2013 OSCE Ministerial Council meeting in Kyiv: Addressing persistent dividing lines

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Abstract

Against the larger international relations background, this article analyses the outcomes of the 20th OSCE Ministerial Council (MC) meeting, which was held in Kyiv, Ukraine, on 5 and 6 December 2013. The political crisis – related to the non-signing by the Ukrainian government of the EU Association Agreement which erupted in Ukraine in the days prior to the MC meeting is also taken into account. An analysis is made of adopted decisions in the three security dimensions as well as of drafts that failed to reach consensus. The main documents include declarations on the ‘Helsinki+40 process’ and the protracted conflicts as well as innovative cyber security measures.

Keywords

OSCE Ministerial Council; protracted conflicts; Helsinki+40 process; EU Eastern Partnership Summit Vilnius; US-Russia relations; protection of journalists; cyber security measures; Vienna Document on Confidence- and Security-Building Measures; mass protests in Ukraine

On 5 and 6 December 2013, Ukraine hosted the 20th OSCE Ministerial Council (MC) meeting in Kyiv. The MC of the Organization for Security and Co-operation in Europe (OSCE) meets once a year in the country holding the Chairmanship and is the highest OSCE decision-making body. The meeting was attended by foreign ministers or their representatives from the 57 OSCE participating States. In addition, the meeting was joined by representatives from the OSCE’s six Mediterranean Partners for Co-operation as well as by the four Asian partner states. The MC was preceded by an OSCE Parallel Civil Society Conference which was organized by the Civic Solidarity Platform in Kyiv as well as by a panel discussion of the newly-established network of OSCE think-tanks.

Ministers gathered at the MC in Kyiv amid a political crisis in Ukraine with mass demonstrations taking place in the Ukrainian capital as well as incidents of police violence against protesters. In addition, dividing lines between participating States once again came to the surface, highlighting the need for the OSCE community to bridge their differences and to rebuild the foundations of co-operative security. Despite those challenging circumstances, participating States – with the help of the Ukrainian Chairmanship acting as an “honest broker” adopted a package of decisions in all three security dimensions, a decision to continue the Helsinki+40 process, as well as declarations on protracted conflicts.²

Political crisis in Ukraine

Mass demonstrations started in Kyiv when the Ukrainian government in an unexpected move took the decision to suspend talks with the European Union (EU) on an Association Agreement and a deep free trade agreement. The Ukrainian President Viktor Yanukovich had pledged to take his country closer to the EU and therefore the hopes were high that the relevant agreements would be signed by Ukraine at the EU Eastern Partnership Summit in Vilnius on 28 and 29 November. It came as a big disappointment when on 21 November the Ukrainian government adopted a resolution on the suspension of talks with the EU and instead ordered the resumption of “an active dialogue”³ with the Moscow-led customs union, consisting of the Russian Federation, Belarus, and Kazakhstan.

2 All documents of the 2013 OSCE Kyiv MC meeting are available at: http://www.osce.org/event/mc_2013

3 Press release by the Department of Information and Communication of the Secretariat of the Cabinet of Ministers of Ukraine (CMU), Government adopted resolution on suspension of preparation process to conclude Association Agreement with EU, Kyiv, 21 November 2013. Retrieved 3 January 2013, http://www.kmu.gov.ua/control/en/publish/article?art_id=246866213&cat_id=244314975.

Tensions increased further when in the early hours of 30 November Ukrainian riot police violently dispersed peaceful protesters in Maidan Square in Kyiv. This violent attack by the police led to a considerable increase in protesters on 1 December, bringing back to mind images of the 2004 Orange Revolution. Although the Ukrainian President Yanukovich condemned “the actions that led to forceful confrontation and suffering of people”⁴ in an address to the Ukrainian people on 30 November and the Ukrainian Foreign Minister Leonid Kozhara released a statement prior to the OSCE MC meeting announcing a “thorough investigation”⁵ into the violent incidents, the damage had already been done. Ukraine – in its capacity as Chairmanship-in-Office – had clearly breached core OSCE commitments of freedom of assembly and expression.⁶

In response, the United States (US) Secretary of State John Kerry decided not to attend the event and Britain and France decided to send deputies instead of foreign ministers. In addition, Catherine Ashton decided to give priority to other meetings in Brussels and sent her Deputy Secretary General instead.

The opening session of the MC meeting was characterized by statements condemning the violent actions by the Ukrainian police and reminding Ukraine to uphold OSCE commitments, especially in its capacity as the OSCE Chairmanship-in-Office. The US stressed that “all the principles and values on which this Organization was founded almost 40 years ago hang in the balance today between the Maidan and Bankova, and across the country: sovereignty, freedom of choice, freedom of association and alliance, freedom of assembly and expression, democracy and constitutional governance, peace and stability”. The US stressed that “all sides must renounce violence; those who abuse human rights must face justice; the fundamental freedoms of expression and peaceful assembly must be respected [...]”⁷ The EU echoed the US statement and further underlined that “it is essential for all participating States and particularly the country holding the Chairmanship in Office to uphold the OSCE acquis”.⁸

Even the OSCE Secretary General (SG), who usually does not make any political statements, released a press release underlining that “[r]espect of fundamental rights, such as freedom of assembly, the right to free expression and giving journalists the liberty to do their work is essential to ensuring cohesive and secure societies. All sides should enter dialogue peacefully and without resort to violence or other actions which prevent constructive engagement.” He added that “[t]he OSCE remains available – and so am I personally to help to foster dialogue between all sides in the present situation”.⁹ In a sign of solidarity, a number of OSCE delegations and also the OSCE SG visited the protests in Maidan Square.

4 Press Office of President Viktor Yanukovich, President’s address to Ukrainian people, 30 November 2013. Retrieved 4 January 2014, <http://www.president.gov.ua/en/news/29634.html>.

5 OSCE Press Release, Statement by the OSCE Chairperson-in-Office, Minister of Foreign Affairs of Ukraine Leonid Kozhara, Kyiv, 4 December 2013. Retrieved 4 January 2013, <http://www.osce.org/cio/109200>.

6 See for example commitments related to freedom of expression and assembly contained in the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990. Retrieved 3 January 2014, <http://www.osce.org/node/14304>.

7 Remarks by Victoria Nuland, Assistant Secretary of European and Eurasian Affairs at the OSCE Ministerial Council, Kyiv, Ukraine, 5 December 2013, MC.DEL/5/13.

8 Statement by the Head of the EU delegation, Ms Helga Schmid, Deputy Secretary General of the European External Action Service, 5 December 2013, MC.DEL/4/13.

9 OSCE, Press Release, OSCE Secretary General on Ukraine as Ministerial Council Meets, Kyiv, 4 December 2013. Retrieved 7 January 2014, <http://www.osce.org/sg/109203>.

The crisis in Ukraine thus again prompted questions as to the validity of countries holding the OSCE Chairmanship that are not abiding by the Organization's fundamental principles. Similar questions were asked prior to Kazakhstan's OSCE Chairmanship in 2010. In any case, the OSCE should remain available to Ukraine during this process of political crisis and assess possibilities to assist the country. The Organization has several options available to do so, for example through special envoys, technical missions by the OSCE's Conflict Prevention Center or more formal options such as monitoring and fact-finding missions.

In addition, the crisis in Ukraine highlighted the two major challenges currently facing the OSCE community. First, the decline in respect by some participating States for fundamental OSCE commitments in the human dimension and, second, the (re)emergence of old and new dividing lines between Western OSCE participating States, on the one hand, and the Russian Federation (supported by a number of other states from the Commonwealth of Independent States (CIS)), on the other.

Addressing differences and dividing lines: the Helsinki+40 process

The decline in respect by some participating States for fundamental commitments in the human dimension can be observed in a number of participating States. In some states such as Kazakhstan, the Russian Federation and Azerbaijan, media freedom has come under attack. In other states such as Belarus and Uzbekistan democratic principles are not respected. As the US remarked in its opening statement at the Kyiv MC, "[...] the failures by OSCE participating States to implement human dimension commitments today are too numerous to recount [...]".¹⁰ This is problematic as the OSCE is built on the concept of comprehensive security, which means that all three security dimensions are interlinked and warrant equal attention.

The political crisis in Ukraine also brought to light the geopolitical contest raging between the Russian Federation and the EU. Russia was seen by many EU states as exerting pressure on Ukraine to abort its planned signature of the EU Association Agreement. Interventions by Moscow included bans on Ukrainian exports and intensified customs controls. In addition, there were speculations that the Russian President Putin had threatened his Ukrainian counterpart during a secret meeting in November 2013. The EU was infuriated by Moscow's interventions and stressed at the OSCE MC opening session that "[a]ny attempt to exert pressure or undue influence on another State's sovereign choice regarding its relations with other states and international organizations undermines this core principle [the Helsinki Principles related to 'Sovereign equality, respect for the rights inherent to sovereignty']".¹¹

This geopolitical contest between the Russian Federation and the EU has to be placed within the larger, international context. Russia has been resentful not only of the EU neighbourhood policy but also of NATO enlargement and certain OSCE activities that it sees as attempts to encroach on its 'sphere of influence'. From approximately 2000/2001 onwards, the Russian Federation increasingly realized that it could not use the OSCE as an instrument to counter NATO and EU policies in what it considers its natural 'sphere of influence'. Several events within the last one and a half decades have contributed to this deepening divide between the Russian Federation and Western states in the OSCE. The NATO bombing campaign in Kosovo in 1998, the linkage of the Russian fulfilment of the 1999 Istanbul commitments (a Russian military withdrawal from Georgia and Moldova) to the ratification by NATO countries of the Adapted Treaty on Conventional Armed Forces in Europe (CFE Treaty), repeated criticism by the Office for Democratic Institutions and Human Rights (ODIHR) of Russian

10 MC.DEL/5/13, 5 December 2013.

11 MC.DEL/4/13, 5 December 2013.

Duma elections and planned US missile shields in Eastern Europe are just a few examples. The years 2007 and 2008 were decisive in this context: In July 2007 the Russian Federation unilaterally suspended the CFE Treaty and in June 2008 the former Russian President Dimitry Medvedev suggested starting discussions on a new and improved European security architecture.¹²

The statement by the Russian Foreign Minister Sergey Lavrov at the opening session of the Kyiv MC is indicative in this context. He stressed that “[d]ividing lines in the OSCE area have not diminished. In the trade and economic sphere, attempts are being made to create an artificial watershed between integration processes in the European Union (EU) and Eurasia following the logic “with us or against us”. In the politico-military field, NATO is refusing to co-operate with the Collective Security Treaty Organization (CSTO).”¹³

The OSCE should make every effort to address the dividing lines and to rebuild the foundations of co-operative security in the OSCE area. Its broad membership, comprehensive approach to security and experience in dealing with tensions during the Cold War put the Organization in an ideal position to do so. Building on past initiatives by the 2009 Greek OSCE Chair (Corfu Process) as well as the 2010 Kazakh, 2011 Lithuanian and 2012 Irish Chairs, the current discussions within the Helsinki+40 process are the most recent attempt to overcome the dividing lines and to bring all participating States especially Russia back on board. The Helsinki+40 process was decided upon at the 2012 Dublin OSCE MC meeting “as an inclusive effort by all participating States to provide strong and continuous political impetus to advancing work towards a security community, and further strengthening co-operation in the OSCE on the way towards 2015, a year that marks four decades since the signing of the Helsinki Final Act.”¹⁴

Under the Ukrainian Chairmanship, the Helsinki+40 process discussions were launched in the form of an open-ended informal working group. However, it is too early for any concrete results to have emerged and therefore the Kyiv MC could only adopt a general ‘Declaration on Furthering the Helsinki+40 Process’.¹⁵ In this declaration, participating States reconfirmed their commitment to further develop the Helsinki+40 process in order to create a security community “free of dividing lines, conflicts, spheres of influence and zones with different levels of security”.¹⁶ The declaration on the Helsinki+40 process is the main political document of the OSCE Kyiv MC meeting. Although it does not yet contain any concrete results or plans, it represents a clear commitment by all participating States to move forward the process of reconciling their interests and redefining the role of the OSCE in the future.

Similar to the failed attempt by the 2010 OSCE Astana Summit, participating States could again not agree on attaching a concrete Plan of Action (addressing substantive topics) to the Helsinki+40 declaration. Therefore, the foreign ministers of Ukraine, Switzerland and Serbia presented a detailed roadmap during a ministerial luncheon on the margins of the Kyiv MC meeting, outlining eight thematic areas, including a description of

12 President of Russia, Official Web Portal, Speech at Meeting with German Political, Parliamentary and Civic Leaders, Berlin, 5 June 2008. Retrieved 5 January 2013, http://archive.kremlin.ru/eng/text/speeches/2008/06/05/2203_type82912type82914type84779_202153.shtml.

13 Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, at the Twentieth Meeting of the OSCE Ministerial Council, MC.DEL/10/13, 5 December 2013.

14 OSCE, Ministerial Council, Dublin 2012, Decision on the OSCE Helsinki+40 Process, no number, no date. Retrieved 7 January 2014, <http://www.osce.org/mc/97974>.

15 OSCE, Ministerial Council, Kyiv 2013, Declaration on Furthering the Helsinki+40 Process, MC.DOC/1/13, 6 December 2013.

16 Ibid.

objectives and potential results.¹⁷

The envisaged areas of discussion are summarized in the following list:

- Fostering military transparency by revitalizing and modernizing conventional arms control and Confidence and Security-Building Measure (CSBM) regimes.
- To further enhance OSCE capacities in addressing transnational threats
- To further strengthen OSCE capacities across the conflict cycle
- To strive for tangible progress towards the settlement of the protracted conflicts in a peaceful and negotiated manner
- To enhance the strategic orientation of the economic and environmental dimension
- To strengthen the human dimension
- To enhance the effectiveness and efficiency of the OSCE
- To increase interaction with the Partners for Co-operation and with international and regional organizations working in similar fields.

As an initial assessment, the eight thematic areas seem to be well-balanced and in the strategic interest of all key players. First, the roadmap addresses issues that belong to core OSCE business and that should therefore be in the equal interest of all participating States. This includes the settlement of protracted conflicts and improving early warning and conflict prevention capacities. Although key players differ regarding the implementation of these topics, they need to be addressed urgently so that the Organization does not lose its credibility. Similarly, the issue of OSCE reform should be in the interest of all states because the Organization has to adapt to future threats and challenges. Second, it is important to understand that all issues included in the roadmap are interlinked and that trade-offs may occur as participating States attach different levels of importance to different sub-areas. For example, the topics of addressing transnational threats and enhancing the economic and environmental dimension are particularly important to the Russian Federation, whereas strengthening the human dimension is close to the heart of Western OSCE delegations.

Through quid pro quos and mutual concessions it can be hoped that a “landmark document” will be adopted in 2015, the year that marks the 40th anniversary of the Helsinki Final Act, consolidating the common acquis achieved during the last 40 years and providing strategic guidance for the Organization’s future work. Until then, work will continue in an informal working group on the various sub-areas. Track II initiatives, such as the OSCE SG’s Security Day Conferences as well as ideas by the OSCE network of think-tanks will also provide input.

17 Ukrainian OSCE Chairmanship, Permanent Mission of Switzerland to the OSCE, the UN and the International Organizations, Permanent Mission of the Republic of Serbia to the OSCE and other International Organizations in Vienna, Helsinki+40 Process: A Roadmap Towards 2015, MC.DEL/8/13, 5 December 2013.

Political declaration and decisions on protracted conflicts

Similar to previous OSCE MC meetings, the Kyiv MC could not agree on a final political declaration (the last one adopted dates back to the 2002 Porto MC meeting). The reason behind this is that participating States have fundamentally different views on the protracted conflicts in the OSCE area. The OSCE addresses the protracted conflicts through agreed-upon negotiation formats. These include negotiations in the so-called “5+2” format (Moldova and Transnistria as the conflict parties; the Russian Federation, Ukraine and the OSCE as mediators and guarantors; and the USA and the EU as observers) aimed at achieving a settlement of the Transnistria conflict, as well as the OSCE Minsk Group, negotiating a solution to the conflict in and around Nagorno-Karabakh. The OSCE also co-chairs the Geneva International Discussions (alongside the UN and the EU), launched after the outbreak of war in 2008 between Russia and Georgia.

In fact, the dividing lines among participating States manifest themselves most strongly in their different views on the protracted conflicts. Since 2002, it has become impossible to agree on language regarding the protracted conflicts that is acceptable to the respective conflict parties, Russia, the United States and the EU. Hence, since 2002, negotiations on the political declaration collapse every time because of the paragraphs dealing with the protracted conflicts. On the one hand, the conflict parties, including Georgia and Moldova (supported by the US and the EU), prefer strong and specific language on their respective conflicts which includes references to a Russian withdrawal from Georgia and Moldova (1999 Istanbul commitments) as well as language on “territorial integrity”. The Russian Federation, on the other hand, prefers to keep the language on the protracted conflicts very general.

Instead of watering down language from previously agreed upon political declarations, most states prefer not to have a political declaration at all. This is wise because the OSCE must retain its credibility as a serious Organization engaged in conflict resolution. As Victor-Ives Ghebali pointed out in one of his articles in this journal, it has been a “fatal mistake” that participating States at the 2002 Porto MC “softened Moscow’s obligation to respect the Istanbul commitments by merely taking note of Russia’s intention to achieve withdrawal from Moldova ‘provided necessary conditions are in place’ [...]”.¹⁸

Given the different opinions on the protracted conflicts and the stalled negotiations, it is a positive sign that the Kyiv MC adopted two ministerial statements on conflicts. The first is a ‘Ministerial Statement on the Work of the Permanent Conference on Political Issues in the Framework of the Negotiation Process for the Transnistrian Settlement in the “5+2” Format’.¹⁹ The statement demonstrates the unanimous support of all 57 participating States for the work achieved in the “5+2” format within the last two years, following a decision to resume official negotiations in September 2011 after a six-year hiatus. The statement underlines “the need to achieve tangible progress in the negotiations on all three baskets of the agreed agenda for the negotiation process [...]”.²⁰ It also contains a reference to the “territorial integrity of Moldova”, which is especially important to Chisinau. However, as the US remarked during the MC closing session, the Ministerial Statement “does not address all the issues relevant to this Organization’s work to promote a political

18 Victor-Yves Ghebali, ‘The 2005 Ljubljana Ministerial Council Meeting’, in Helsinki Monitor, 2006, Vol. 17, Issue 1, pp. 17-18.

19 OSCE Press Release, Joint Statement by Heads of Delegation of the OSCE Minsk Group Co-Chair Countries and the Foreign Ministers of Azerbaijan and Armenia. Retrieved 6 January 2013 <http://www.osce.org/mg/109210OSCE>. As endorsed by the Ministerial Council, Kyiv 2013, Ministerial Statement on the Work of the Permanent Conference on Political Issues in the Framework of the Negotiation Process for the Transnistrian Settlement in the “5+2” Format, MC.DOC/3/13, 6 December 2013.

20 MC.DOC/3/13, 6 December 2013.

settlement of the conflict, since it is focused exclusively on the 5+2 talks”.²¹ The US stressed the need to “focus on Summit commitments relating to Russian military withdrawal from Moldova and the need to transform the current peacekeeping force into a genuinely multinational presence”.²² Thus, the Ministerial Statement on Transdniestria again highlighted the rift between Western OSCE states, on the one hand, and Russia, on the other, with regard to the protracted conflicts.

Furthermore, the MC endorsed a ‘Joint Statement by the Heads of Delegation of the OSCE Minsk Group Co-Chair Countries and the Foreign Ministers of Azerbaijan and Armenia’.²³ The Joint Statement merely expresses the willingness of all sides “to continue working together on a just and peaceful resolution of the Nagorno-Karabakh conflict [...]”.²⁴ It can, however, be seen as a positive sign that the foreign ministers of Azerbaijan and Armenia have resumed their high-level dialogue in 2013 under the auspices of the Minsk Group Co-Chairs (Russia, France and the US) and will continue to do so in 2014.

On a negative note, the Kyiv MC meeting could not adopt a statement on Georgia, despite the OSCE’s efforts in the context of the Geneva International Discussion. According to negotiators, a draft statement on Georgia was negotiated on the margins of the MC meeting but could not be adopted because the gap between the Georgian and Russian positions was too large. To close this gap, both sides would have to show a strong political will and seek compromise solutions on key issues, including the re-establishment of an OSCE presence in Georgia.²⁵ Other contentious issues include the non-use of force, the return of refugees and internally displaced persons (IDPs), humanitarian access to affected communities, and of course the ongoing installation of fences along the administrative boundary lines in Georgia. Although these issues will have to be addressed in future negotiations, key actors should try to think creatively and flexibly and be open to arrangements that might not address all their differences immediately.

The politico-military dimension

Despite challenging circumstances, there was sufficient common ground for participating States to adopt two documents in the politico-military dimension. The first is an endorsement by the Kyiv MC²⁶ of the ‘Update of the OSCE Principles Governing Non-Proliferation’, adopted by the Forum for Security Co-operation (FSC)²⁷ in a session preceding the MC. This update reflects the significant progress that has been made since 1994 and commits all states to implement their relevant international obligations. Given the new momentum generated by the entry into force on 5 February 2011 of the new Strategic Arms Reduction Treaty (START Treaty) between Russia and the US, participating States could adopt this political document in which they restate and update their common position regarding non-proliferation.

21 United States Mission to the OSCE, Ministerial Council Closing Statement, MC. DEL/52/13, 6 December 2013.

22 Ibid.

23 OSCE, Ministerial Council, Kyiv 2013, Ministerial Statement, MC.DOC/4/13, 6 December 2013.

24 Ibid.

25 The mandate of the OSCE Mission to Georgia expired at the end of 2008 and was not prolonged.

26 OSCE, Ministerial Council, Kyiv 2013, Document No. 5/13, Ministerial Declaration on the Update of the OSCE Principles Governing Non-Proliferation, MC.DOC/5/13, 6 December 2013.

27 OSCE, Forum for Security Co-operation, Decision No. 7/13, Update of the OSCE Principles Governing Non-Proliferation, FSC. DEC/7/13, 4 December 2013.

The second document concerns a decision on ‘Small Arms and Light Weapons and Stockpiles of Conventional Ammunition’.²⁸ The decision is mainly of a declaratory character and does not contain any major novelties. It takes note of FSC activities during 2012 and 2013 and tasks the FSC in 2014 to intensify efforts to further implement commitments on small arms and light weapons and stockpiles of conventional ammunition. The decision also calls on participating States to continue dialogue concerning possible implications with regard to the prospective entry into force of the Arms Trade Treaty.²⁹

What came as a disappointment was the fact that participating States failed to adopt a decision on ‘Issues Relevant to the Forum for Security Co-operation’ for the second year in a row. According to negotiators, participating States worked very constructively to reach agreement on language in most sub-areas of the decision. However, agreement was impossible on language with regard to “modernizing and updating” the Vienna Document on Confidence-and Security-Building Measures (VD on CSBMs). The language that was still acceptable to all participating States in 2010 and 2011 was rejected by the Russian Federation at the Kyiv MC meeting. The Russian Federation opposes any strong language on the VD because it wants to keep the renegotiation of the CFE Treaty as a strong bargaining chip. In addition, the Russian Federation is conducting military reforms and is therefore not keen on increased military transparency. Most Western states could in turn not accept a softening of language on the VD. They believe that the VD on CSBMs is an important tool for military transparency until a fully-fledged arms control regime (that includes the Russian Federation) can be re-established. This divergence of opinion led to a deadlock and the subsequent failure of the decision.

The decision would have been important, given the uncertain future of the conventional arms control regime in Europe after Russia’s suspension of the CFE Treaty in 2007. The VD on CSBMs is about information-sharing, inspections and evaluations in the military realm. It was first concluded in 1990 and has since been updated many times, most recently in 2011. The VD – although ‘only’ a politically-binding agreement among the 57 OSCE participating States – can be seen as a very successful instrument with a high implementation rate. However, the updating and modernizing of the VD has stalled significantly in the last few years and has mainly concerned technical and procedural issues.

The economic and environmental dimension

The economic and environmental dimension is usually seen as a unifying element where consensus can be found more easily than in the two other dimensions. Although the two adopted decisions in this dimension cannot be considered as major breakthroughs, they are important first steps and are a good basis for future OSCE endeavours in this area.

The decision on ‘Improving the Environmental Footprint of Energy Related Activities in the OSCE Region’³⁰ is the result of the Ukrainian Chair’s priority for energy security. It draws upon the conclusions and recommendations of the 21st Economic and Environmental Forum on that same topic, which was held in Prague on 11-13 September 2013. It highlights the impact that energy production, transportation and consumption have on the environment and links it to comprehensive security. It calls on participating States

28 OSCE, Ministerial Council, Kyiv 2013, Decision No. 8/13, Small Arms and Light Weapons and Stockpiles of Conventional Ammunition, MC.DEC/8/13, 6 December 2013.

29 On 2 April 2013, the UN General Assembly adopted the landmark Arms Trade Treaty, regulating the international trade in conventional arms, including small arms, battle tanks, combat aircraft and warships.

30 OSCE, Ministerial Council, Kyiv 2013, Decision No. 5/13, Improving the Environmental Footprint of Energy-Related Activities in the OSCE Region, MC.DEC/5/13, 6 December 2013.

to pursue “energy diversification coupled with more environmentally sustainable energy options, with a focus on renewable energy and energy efficiency.”³¹

Furthermore, the Kyiv MC adopted a decision on the ‘Protection of Energy Networks from Natural and Man-Made Disasters’.³² Given the fact that energy networks can be vulnerable to natural and man-made disasters, it is important to ensure their protection and thereby improve the security of the OSCE region as a whole. However, because of disagreement among participating States, the decision excludes “nuclear energy installations or gas and oil infrastructure”, thus significantly reducing its scope.

Both decisions in the economic and environmental dimension encourage participating States “to make best use of the OSCE as a platform for a broad dialogue, co-operation, exchange of information and sharing of best practices [...]”³³ The Platform for Co-operative Security was adopted at the 1999 Istanbul Summit. It constitutes the main basis of the OSCE’s cooperation with other international organizations. In the context of the above-mentioned decisions, cooperation with other specialized organizations may be particularly useful.

The human dimension

The human dimension has been an area of considerable controversy and disagreement among OSCE participating States since the early days of the Conference on Security and Co-operation in Europe (CSCE). It was only because of the diplomatic skill of some Western states that human rights issues made it into the 1975 Helsinki Final Act. By giving in to Russian demands concerning the recognition of the inviolability of post-World War II borders, Russia, for its part, agreed to add human rights issues to the Helsinki Final Act. Hence, ever since 1975, the OSCE is about comprehensive security, which includes as an equal part the human dimension.

This principle of the equality of all three security dimensions was significantly challenged at the 2011 Vilnius MC meeting as well as at the 2012 Dublin MC meeting. Both meetings failed to adopt any decisions in the human dimension because Russia unilaterally blocked the consensus. In his analysis of the 2011 Vilnius MC meeting, Wolfgang Zellner explains that the reason for the Russian blockage of human dimension decisions could be found in a “re-worsening” of the political atmosphere between the US and Russia.³⁴ He further analyses that the issuing of the rather critical ‘Statement of Preliminary Findings and Conclusions’ by the International Election Observation Mission to the Russian Duma elections the day before the MC meeting led Russia to retaliate and block the consensus on the human dimension.³⁵ In the case of the 2012 Dublin MC, Russia could not be brought on board to join consensus on human dimension decisions due to an “underlying significant divergence on what is meant by fundamental rights and democratic principles in today’s world (despite the existence of clear precedents and agreed basic texts from Helsinki onwards)”³⁶

31 Ibid.

32 OSCE, Ministerial Council, Kyiv 2013, Decision No. 6/13, Protection of Energy Networks from Natural and Man-Made Disasters, MC.DEC/6/13, 6 December 2013.

33 Ibid.

34 Wolfgang Zellner, ‘Back to reality: The 2011 Vilnius Ministerial Council meeting’, in *Security and Human Rights*, 2012, Vol. 23, Issue 1, p. 7.

35 Ibid.

36 Frank Cogan, ‘Reflections on Ireland’s Chairmanship in Office of the OSCE, 2012’, in *Security and Human Rights*, 2013, Vol. 24, Issue 1, p. 23

Against this background, it was considered a great relief that the Kyiv MC broke this three-year hiatus and again adopted decisions in the human dimension. Among them is a decision on ‘Freedom of Thought, Conscience, Religion or Belief’,³⁷ which addresses specific concerns that have been raised during human dimension meetings in the past. It addresses issues of interreligious dialogue, the protection of religious sites, the inclusion of religious communities in public discussions on legislative initiatives, and discrimination of religious communities by public officials. Furthermore, foreign ministers adopted a decision on ‘Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a particular Focus on Roma and Sinti Women, Youth and Children’.³⁸ The decision addresses the findings of the ODIHR status report on the implementation of the Action Plan, which was originally adopted in 2003 and hence celebrates its 10th anniversary.

One of the major missed opportunities of the Kyiv MC meeting was the failure of participating States to adopt a decision on the protection of journalists in the OSCE area. The draft was considered as particularly important for two reasons. First, the 2012 Dublin MC meeting had failed to adopt a decision on the freedom of the media, because the Russian Federation as the only delegation blocked the consensus. Second, the adoption of a decision on the protection of journalists would have sent a particularly strong signal from Ukraine, a country in the midst of a political crisis with police violence taking place against protesters and journalists in Maidan Square.

The draft decision on the protection of journalists tabled by the Ukrainian Chairmanship was a balanced text that reaffirmed the importance of free, independent and pluralistic media, stressed the important role of the OSCE Representative on Freedom of the Media and underlined the key role that governments play in the protection of journalists. The main contentious issue was related to the definition of the journalistic profession, which is interpreted by Russia in a narrow sense to include only traditional media professionals and by the US in a wide sense to also include new forms of online journalism and bloggers. At the MC closing session, the US used particularly strong language to condemn the Russian refusal to join consensus: “I am particularly disappointed that the Russian Federation was the only delegation unable to join consensus on the Chairmanship’s last draft of a decision on protection of journalists. That was, in my view, a missed opportunity for the Russian government to reaffirm its commitment to protect journalists in a country where many journalists, courageous people like Anna Politkovskaya, have been murdered”.³⁹

To a certain extent, Russia had to pay the price for its refusal to join the consensus on the decision on the protection of journalists. The effect was that negotiations on the Russian-sponsored draft on strengthening freedom of movement and human contacts in the OSCE area broke down. This was due to the fact that the EU had linked some sort of concession on its part on the issue of visa liberalization to Russia’s acceptance of the decision on the protection of journalists. Russia was particularly disappointed with this because it believes that “the “Schengen barriers” are not in keeping with the commitments of the Helsinki Final Act on simplifying visa regimes”.⁴⁰

37 OSCE, Ministerial Council, Kyiv 2013, Decision No. 3/13, Freedom of Thought, Conscience, Religion or Belief, MC.DEC/3/13, 6 December 2013.

38 OSCE, Ministerial Council, Kyiv 2013, Decision No. 4/13, Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a particular Focus on Roma and Sinti Women, Youth and Children, MC.DEC/4/13, 6 December 2013.

39 United States Mission to the OSCE, Ministerial Closing Statement, MC.DEL/52/13, 6 December 2013.

40 MC.DEL/10/13, 5 December 2013.

Cross-dimensional decisions

One of the major successes in Kyiv was the adoption by the PC of an ‘Initial Set of OSCE Confidence-Building Measures to Reduce the Risks of Conflict Stemming from the Use of Information and Communication Technologies’.⁴¹ The MC endorsed this PC decision in a broader ‘Ministerial Declaration on Strengthening the OSCE’s Efforts to Address Transnational Threats’.⁴² The set of information and communication technology (ICT) confidence-building measures (CBMs) is the first such decision by a regional organization and can therefore be considered as pioneering work by the OSCE. The ICT CBMs are a comprehensive set of voluntary actions by participating States that should help “to enhance interstate co-operation, transparency, predictability, and stability, and to reduce the risks of misperception, escalation, and conflict that may stem from the use of ICTs”.⁴³

Furthermore, foreign ministers endorsed⁴⁴ the adoption by the PC of the ‘Addendum to the Action Plan to Combat Trafficking in Human Beings’.⁴⁵ The Addendum complements the existing commitments in the area “one decade later” and updates the toolkit in the areas of law enforcement and prosecution, prevention and protection and assistance. In addition, it includes new forms of trafficking that involve sexual exploitation, including the exploitation of children, and trafficking in human beings for the purpose of obtaining organs.

Missed opportunities

As mentioned before, the failure to adopt a decision on the safety of journalists can be seen as one of the main missed opportunities of this MC meeting. Additional missed opportunities relate to the OSCE Partnership for Co-operation and to the inability of the MC to decide on the deployment of a field operation to Mongolia.

After a complicated accession process, Mongolia (previously an OSCE Partner for Cooperation) was welcomed as the OSCE’s 57th participating State at the 2012 Dublin MC. This gave a further boost to the Eurasian profile of the Organization and demonstrated that the OSCE is still seen as an appealing model for co-operation. Yet, the Kyiv MC failed to adopt a decision on the establishment of an OSCE field presence in Mongolia, despite the clear expression of interest on the part of Mongolia. The Russian Federation, which had already been skeptical towards Mongolia becoming a fully-fledged participating State in 2012, continued to stress that Mongolia still had to prove itself as a responsible member of the OSCE community before a field operation could be established there.

The failure of the MC to welcome Libya as a Mediterranean Partner for Co-operation can be seen as another missed opportunity. Libya handed in its application in June 2013 and hopes were high that the Kyiv MC would officially welcome Libya as a Partner. However, because of the 2 October 2013 attack on the Russian embassy in Tripoli, the decision could not be adopted. The inclusion of Libya in the OSCE Partnership for Cooperation would be a positive development, especially in light of the recent Arab Spring and the support the OSCE can offer to countries in transition.

41 OSCE, Permanent Council, Decision No. 1106, Initial Set of OSCE Confidence-Building Measures to Reduce the Risks of Conflict Stemming from the Use of Information and Communication Technologies, PC.DEC/1106, 3 December 2013.

42 OSCE, Ministerial Council, Kyiv, Ministerial Declaration on Strengthening the OSCE’s Efforts to Address Transnational Threats, MC.DOC/2/13, 6 December 2013.

43 PC.DEC/1106, 3 December 2013.

44 OSCE, Ministerial Council, Kyiv 2013, Combating Trafficking in Human Beings, MC.DEC/7/13, 6 December 2013.

45 OSCE, Permanent Council, Decision No. 1107, Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later, PC.DEC/1107/Corr.1, 6 December 2013.

It also merits mentioning that ministers could not agree on a declaration on Afghanistan. This is a pity given the planned withdrawal of the International Security Assistance Force (ISAF) from Afghanistan in 2014 and the contribution that the OSCE can make in this process.⁴⁶ Nevertheless, the OSCE can continue working on the basis of the 2011 decision on ‘Strengthening OSCE Engagement with Afghanistan’⁴⁷ as well as on the 2013 decision by the PC to send an ODIHR Election Support Team to Afghanistan to assist government and international efforts with the presidential and provincial council elections in the country scheduled for 5 April 2014.⁴⁸

Conclusion

Despite the differences that persist between Western OSCE participating States, on the one hand, and the Russian Federation (supported by a number of other CIS states), on the other, the 2013 Kyiv MC meeting proved that there was still sufficient common ground for participating States to adopt a package of decisions in all three dimensions as well as declarations on the protracted conflicts and a declaration on furthering the Helsinki+40 process. Nevertheless, the discussions within the Helsinki+40 process in the course of the next two years will have to be given additional political impetus and fresh energy so that divisions among participating States can be overcome. There is a clear need to re-establish the foundations of co-operative security in the OSCE area. Participating States should aim to build on the success of the CSCE/OSCE in the 1980s and 1990s and to work together constructively. Bringing the Russian Federation back on board will be crucial in this process that will be guided by the consecutive Chairmanships of Switzerland and Serbia in 2014 and 2015, respectively.

46 Although the OSCE is not entitled to engage in “out of area” activities, it can contribute for example by training Afghan border officials at the Dushanbe-based Border Management Staff College.

47 OSCE, Ministerial Council, Vilnius 2011, Decision No. 4/11, Strengthening OSCE Engagement with Afghanistan, MC.DEC/4/11, 7 December 2011.

48 OSCE, Permanent Council, Decision No. 1094, Election Support Team to Afghanistan, PC.DEC/1094, 24 October 2013.



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