

Ukraine, Protracted Conflicts and the OSCE

Philip Remler

Non-resident program manager at the Carnegie Endowment for International
Peace

premler@ceip.org

DOI: [10.1163/18750230-02601003](https://doi.org/10.1163/18750230-02601003)

Abstract

Aspects of the Ukraine crisis present enormous problems for the future of OSCE and other international conflict mediation. Annexation, “hybrid” warfare, the proliferation of non-recognized separatist polities, the absence of a shared baseline of facts and, therefore, the sharp divergence of narratives, and perhaps most of all, the development of fortress mentalities – all of these have challenged the “Helsinki acquis” on which the OSCE is based. Developments in the protracted conflicts – greater Russian control over three of the separatist polities to the point of crypto-annexation and the spread of the idea that democracy and human rights are no more than tools of Western imperialist domination – affect the way in which the OSCE and its mediators are perceived. The cycle of Russian assertiveness and Western response has created a self-reinforcing spiral that consolidates alliances among those who share a fortress mentality, is used to justify past actions, discourages “weakness” in the face of pressure, and encourages ever more aggressive responses to it. In the face of this discouraging picture, OSCE mediators should build on the remaining areas of co-operation – especially on the Karabakh conflict – and emphasize OSCE impartiality. The OSCE has always been a “big tent,” a forum of diverse equals, none of whom has a perfect record on democracy and human rights. Criticizing and being criticized is not, therefore, a “double standard,” but a dialogue that enriches all participating States.

Keywords

protracted conflicts – Karabakh – Abkhazia – South Ossetia – Transnistria – Azerbaijan – Armenia – Georgia – Moldova – Ukraine – Russia

Introduction

This study analyzes the interaction between the conflict in Ukraine and the “protracted conflicts” (sometimes called “frozen conflicts”) in which the OSCE is involved as mediator. The term “protracted conflicts” has come to mean four of the ongoing separatist conflicts on the territory of the former Soviet Union in which the international community is playing a role in trying to resolve: Karabakh, Abkhazia, South Ossetia, and Transnistria. Though these conflicts are often lumped together, they differ significantly from one another. For example, there is no interaction between Karabakh Armenians and Azerbaijanis, the front line is heavily mined, depopulated, and impassable and, on average, about 50 people are killed each year near the line of contact even in the absence of wider hostilities. At the other end of the spectrum, Transnistrians and Moldovans interact in daily life, they travel through lands controlled by the other side, and there has been virtually no violence near the de facto boundary since 1992.

Resolving these conflicts represents a core function of the OSCE. Several of its bodies have been established with the conflicts at the heart of their mandates. The mandate of the OSCE Mission to Moldova focuses on settlement of the Transnistria conflict. The OSCE has been involved in the Karabakh conflict since 1992, the Minsk Group has been the main negotiating forum since 1994 and, since 1996, a personal representative of the Chairman-in-Office has been on the ground in the region. Though the OSCE Mission to Georgia (the most important focus of which was the South Ossetia conflict) was closed following the Russia-Georgia war in 2008, the OSCE has been involved in subsequent discussions on both Abkhazia and South Ossetia. It is fair to say that a significant part of the OSCE’s activity and resources is devoted to these conflicts. The OSCE is also one of the international community’s most important on-the-ground presences in the Ukraine crisis, through the OSCE Special Monitoring Mission, the OSCE Observer Mission at the Russian Checkpoints, Gukovo and Donetsk, and the Trilateral Contact Group.

The shock waves from the crisis in Ukraine have been profound, and raise three sets of questions bearing on

the future of Europe, the protracted conflicts and the OSCE:

Is the Helsinki acquis – the consensus forged during the Cold War on goals for the conduct of nations and their interaction with one another – still valid? Or has the Ukraine conflict irrevocably unleashed nationalist demons which, after two world wars, Europe had hoped the Helsinki Final Act and other agreements would bring under control?

What aspects of the Ukraine crisis have affected the participants in the protracted conflicts, and what have the effects been? Have they affected the ability of the international community to continue its mediation roles?

An analysis of the effects of the Ukraine crisis must take into account the moves and counter-moves by Russia and the West, each seeking to penalize the other for what it sees as unacceptable behavior. How does this cycle affect the conflicts? How does it affect longer-term relations between Russia and the West?

I. Salient Aspects of the Ukraine Crisis

The crisis in Ukraine has a number of distinct aspects, each of which can have its own effect on the protracted conflicts:

1. Annexation of Crimea

The annexation of the Crimea creates the greatest threat yet seen to the consensus codified in the Helsinki Final Act. Helsinki grew out of two factors: the horrors of two world wars, sparked by ethnic conflict and nationalist territorial claims, and the dangers of a cold war centering on a bipolar Europe divided by an Iron Curtain. Helsinki encapsulated two grand compromises designed to prevent a third world war: first, it recognized the then-current boundaries in Europe (thereby denying historical claims) and the governments of all current states (without regard for alignment or alliance) in exchange for a recognition that human rights everywhere is a valid issue of international concern. Second, Helsinki recognized that European states are multi-ethnic, denying future territorial claims based on ethnic grounds. At the same time, ethnic discrimination within states would be illegitimate. In other words, states could not claim areas of other states just because co-ethnics happened to live there nor could states persecute or discriminate against the ethnic minorities living within their borders.

The separatist movements of the protracted conflicts reject that consensus. To the Karabakh Armenians, Abkhaz, South Ossetians, and Transdnistrians, the Helsinki consensus would doom them to live submerged inside states that they believe are incapable of treating them fairly and would inevitably persecute them. They maintain that recognizing their human rights means accepting their right not to live inside those states. They assert that the Soviet Union's Union Republics were artificial constructs nominally based on ethnicity, but often ignoring ethnic boundaries and that international recognition of those Union Republics following the Soviet collapse was a matter of convenience for the international community, but an injustice to certain ethnic groups. Both assertions are problematic: there never were clean boundaries that would, for example, have separated all Armenians from all Azerbaijanis and the post-Soviet successor republics themselves decided to recognize one another as independent within their 1991 borders.¹ The international community simply followed their lead.

1 Alma-Ata Declaration, 21 December 1991.

For nearly two decades, Russia publicly declared its adherence to the Helsinki consensus, including on the inviolability of borders, and publicly refused to support secession, even when it was the patron of the secessionists, since the multi-ethnic Russian Federation itself faced a bloody separatist conflict and the demands of dozens of ethnic groups immediately after the collapse of the Soviet Union. Even the 2008 Georgia war and the subsequent recognition of Abkhaz and South Ossetian independence did not, at first, change Russia's stated adherence to the Helsinki consensus. While initially justifying that war on grounds of protecting Russian nationals, Russia did not embrace a general rejection of the inviolability of borders. Rather, its rationale (echoing the West's on Kosovo) held that once a country has conducted a genocidal war on its own citizens (as Russia accused Georgia of doing) it is impossible to persuade those citizens to subject themselves again to that country's rule.

But the annexation of Crimea, which the Russian Federation justified on ethnic and historical grounds, was the first example in Europe of a state's reversion to pre-World War II nationalism to justify territorial acquisition. Whether or not Russia intended to abandon the fundamental principles of the Helsinki acquis, it has raised a legitimate fear that other states may follow Russia's precedent by committing aggression against their neighbors in pursuit of territorial aggrandizement and then trying to justify their actions with the ethnic/historical arguments Russia used. These arguments are relevant to the protracted conflicts. Yerevan, for example, likened the secession of Crimea to the nationalist struggle for Karabakh independence. Given Western reaction to the annexation of Crimea, it appears that Russia, too, recognizes the danger of unrestrained nationalist territorial claims and its supporters tend to promote the view that Crimea is a one-off exception, like Kosovo. Elsewhere, Russia may be seeking a "deniable" form of affiliation that affords the same degree of control as annexation but without triggering the same degree of Western response. One potential model of such an affiliation is embodied in the treaties it has signed with Abkhazia and South Ossetia (see below).

2. Hybrid War

The term "hybrid warfare" has been applied to the type of war Russia has been waging in Ukraine since the first "little green men" appeared in Crimea. There is no one definition of this term, but Russia's campaign in Ukraine is characterized inter alia by deniable (or at any rate denied) military support for pro-Russian forces of "activists," including the (denied) deployment of combat troops among the local "activists," all aimed at disguising invasive warfare as civil unrest and civil war. Much has been written about the applicability of this type of warfare to conflicts outside Ukraine, with emphasis on the Baltics. To be applicable to any of the conflicts we are discussing, a pool of locals in the target country to supply the "activists" would be required. It would require the target state's military/security weakness and/or lack of ruthlessness, since the arrest, death or other neutralization of the "activists" would strip the operation of its cover and there could be no more pretense that the little green men were local "activists."² These tactics require the target state to show restraint, based on the assumption that many of the "activists" are civilians – indeed, fellow-citizens – due basic human rights. As we saw in Odessa on 2 May 2014, these tactics can be checked when opposed by equally ruthless forces willing to treat all "activists," including civilians, as combatant invaders. At that point, the state backing the "activists" must decide whether to back off or to abandon covert tactics and switch to outright war.

These considerations would rule out Karabakh as a conflict in which such tactics could be used, and probably

² Russia's early attempt at this tactic, in Chechnya in 1994, backfired when the Chechen authorities captured several Russian soldiers and paraded them before television cameras.

also the conflicts in Georgia. The Georgians could try to wage this type of warfare in Abkhazia, for example, using as their Trojan Horse the ethnically Georgian population of the Gali region, but they would have to consider whether the Abkhaz would treat prospective Gali “activists” (and the rest of the Gali population) as civilians or combatants. In 1993, Russia backed Zviad Gamsakhurdia in an insurrection against the Georgian government of Eduard Shevardnadze as part of the ongoing Abkhaz conflict. Such an effort is less likely today.

That leaves Moldova, much of whose population bears more allegiance to the Soviet past than to the Moldovan present. The Party of Communists and Party of Socialists, which represent those who look to their Soviet heritage, together took over 40% of the total vote in the 30 November 2014 elections. This electorate could (without regard to ethnicity) serve as a pool of “activists.” Russian bloggers close to the Kremlin call the current Moldovan government illegal. As to turning the tactics in the other direction, successive Moldovan governments have tried – but never found – a sufficient pool of “activists” among the ethnic Moldovans who form a plurality of the Transdniestrian population. That is unlikely to change.

3. *New Unrecognized Entities (Luhansk, Donetsk)*

A widened community of separatist polities is emerging. This could have implications beyond those polities and the existing states from which they are trying to secede. On 12 November 2014, South Ossetia established diplomatic relations with the “People’s Republics” of Donetsk and Luhansk. On 28 January 2015, Luhansk recognized the independence of South Ossetia and on 12 May 2015, Donetsk recognized the independence of both Abkhazia and South Ossetia. The crisis in Ukraine has produced an enlarged group of unrecognized separatist polities in communion with one another.

The question is what kind of relationship Russia will pursue with the Donbass entities. Will it recognize them as independent? Will Russia annex them, as it did Crimea? So far, Russia appears not to want to do so, as its main objective appears not only to be keeping Ukraine out of NATO and the European Union, but also, under the code of “federalization,” keeping Ukraine subject to heavy Russian influence in its internal decision-making. This factor militates for keeping these areas unrecognized – to create, in effect, a string of Transdnestrrias – as a tool to pressure Ukraine, including by offering and retracting hope of recovering the lost territories. This would also split Ukrainian society between those who would prefer to let the East and Crimea go in order to pursue a European calling and those who would choose to drop European ambitions in order to concentrate on regaining the lost territories. However, it is possible that Russia will, at a later date, consider recognizing Luhansk and Donetsk as a tit for some Western tat. Either choice will have implications for the protracted conflicts.

4. *Alternative Narratives/Informational Warfare*

A striking factor of the Ukraine crisis is the absence of – as one Russian expert put it – a common “baseline of facts” for interpreting events. Narratives diverge in unprecedented ways – resulting in Chancellor Merkel’s observation to President Obama in March 2014 that Putin is living “in another world.”

For example, our section above on the annexation of Crimea is what might be termed the “Western” narrative. Russia’s narrative is diametrically opposed to this: that the Helsinki Final Act recognized the borders of Eastern and Western spheres of influence, that the West violated the “Helsinki consensus” after the dissolution of the Soviet Union by extending its sphere of influence through NATO and EU expansion, and that the United States and EU engineered a coup to wrest Ukraine out of Russia’s rightful sphere of interest. To Westerners, the explicit wording of Article i of the Final Act would deny any right to spheres of interest, let alone that the

Soviet “right” should be inherited by Russia. But in the Russian view, the West, by rejecting Russia’s argument, is cherry-picking those parts of Helsinki that serve its interests and rejecting those which do not. Russia feels aggrieved, and considers the West’s refusal to accept Russia’s narrative as the latest in a centuries-old history (in Russia’s eyes) of “Western double standards.”

To counter the Western narrative and promote its own, Russia has launched a vast information effort, with one emphasis on social media and another on strident reiteration of the Russian narrative in the mainstream media, especially the Russian state television channels that are the primary news source not only for the Russian population, but also for the populations of the separatist parties to the conflicts under discussion and, often, for the states parties to those conflicts as well. Russian news is watched widely in Moldova and all three South Caucasus countries, as well as in Nagorny Karabakh, Abkhazia, South Ossetia and Transnistria. The changes in media message caused by the Ukraine crisis and the constant exposure to those media channels have had an effect on the mindset of the parties to the conflicts. That change, aside from reinforcing the target audience’s inclination to accept the Russian “baseline of facts,” which diverges significantly from the Western baseline, is the reemergence and reinforcement of a fortress mentality that is increasingly building a new wall – so far mental – between East and West.

5. Russia and the West: The Reemergence of the Fortress Mentality

To understand how Russia’s actions and Western responses to them are perceived in Russia and in the regions under discussion, we need to start with the “Putin Narrative” that pervades Russian thinking. Briefly, it is this: “In the 1990s, the Russian people’s ‘faces were in the mud,’ kicked around and humiliated by the West, shamed by an incapacitated and corrupt leadership. Then Putin came, and now Russia stands tall once again among the nations of the world.” Annexing Crimea fit well into this narrative, and the response of the Russian people was, in general, pride that Russia was standing tall and was not allowing the West to humiliate it any more.

The Western responses to Russia’s annexation of Crimea and support of “Novorossiya” – condemnation and sanctions – led to a ramified and enhanced version of that narrative. Since the first Putin administration, senior Russian officials and pro-Kremlin media figures have increasingly exhibited a fortress mentality, claiming that the West has always tried to destroy Russia.³ This argument pervaded the Kremlin-sponsored “Nashi” movement earlier in this century, which equated opposition to Putin with nefarious plans of Western powers. The Ukraine crisis has inflamed this sentiment, bringing forth claims that the West seeks to destroy the “Russian World” because its alternative civilization – Orthodox as opposed to Western Christian – has alternative values. This argument harkens back to the 19th century Slavophiles, who held that the Russians are, in Dostoyevsky’s phrase, a “God-bearing people” with a messianic mission for the world. In this moral universe, Russia’s very existence is a threat to the West, which must destroy Russia to survive. The West becomes an alien and eternally hostile “other.”

The separatist polities have had a fortress mentality for their entire existence. The “other” for them has been the state from which each is trying to secede. The West has generally allied itself with those states and opposed secessionist aspirations. The separatists may not feel themselves to be part of the “Russian World” – after all, they are seceding to assert their own non-Russian identity – but they do feel that the West is treating both them and Russia unfairly. As in Russia, lip service is paid to conservative “Orthodox” values in the face of

3 “Take a look at our millennium-long history. As soon as we rise, some other nations immediately feel the urge to push Russia aside, to put it ‘where it belongs,’ to slow it down. How old is the theory of containment? We tend to think it dates back to the Soviet era but, however, it is centuries-old.” V.V. Putin, TASS interview, 23 November 2014.

Western tolerance, and dutiful reverence is paid to Soviet achievements. Roughly, this amounts to, “We gave you Yuri Gagarin; they want to give you gay marriage.”⁴ The apocalyptic pronouncements of Russian officials find resonance in the separatist polities. The political arguments conflate with the cultural arguments to engender a feeling that, at least with regard to the West, the separatists are in the same fortress as Russia.

The retreat into a fortress has a major consequence: the cycle of Russian assertiveness and Western response has (so far) had the net effect in the “Russian World” of preserving a self-reinforcing spiral that consolidates alliances among those who share the fortress mentality. It is used to justify past actions, discourages “weakness” in the face of Western pressure, and encourages ever more aggressive Russian responses to it.

II. Common Themes in the Protracted Conflicts

Over the last three years, Russia has asserted greater control over three of the separatist polities (Abkhazia, South Ossetia and Transdniestria) by forcing changes in their leaderships. This change pre-dated the Ukraine crisis. As Putin resumed Russia’s presidency, he installed his new team (two of the three new leaders, like Putin, served in the KGB). This left the polities with little room for maneuver when Putin ordered his ranks to deal with the Ukraine crisis. The South Ossetians, for example, acted with autonomy when Eduard Kokoity was leader, as they had patrons not only in Moscow but also, independently, in North Ossetia, whose strategic value for Moscow’s North Caucasus policy gave it great freedom of movement. The Ukraine crisis led elites to close ranks in Russia and the dependent separatist polities alike. The increased Russian influence/control over Transdniestria, Abkhazia and South Ossetia allows them to be fine-tuned as mechanisms to raise and lower the temperature as needed, with no ramp-up or braking time. Creating and quelling incidents in one conflict after another is now an option.

Turning to the states involved in the conflicts, Moldova, Georgia, Armenia and Azerbaijan are small states, conscious that they are less capable than Ukraine of resisting Russian pressure. Armenia and Azerbaijan are anxious to preserve their “multi-vectoral” policies in the face of a sharp divergence between those vectors. Georgia, once eagerly pursuing NATO membership, now has a government that has vowed to retain a European calling while improving relations with Russia – in essence, following a multi-vectoral policy. The current situation is potentially more dangerous for Georgia than for Azerbaijan or Armenia, since the emotions surrounding each “vector” and the external pressures are so much higher. Moldova’s current government is staunchly pro-Western, but is also ineffective, corrupt and scandal-ridden. Even before the recent banking scandal, over 40% of the vote in parliamentary elections went to the Communists and the Socialists (whose campaign slogan was “Together With Russia”).

Two more factors affect all the conflicts we are analyzing. First, they suffer from “protracted conflict syndrome.” All parties involved have come to expect that there will be no solution to the conflicts in the foreseeable future, and they have adapted to that expectation. In the political field, this means that negotiations are almost never seen as investments in a solution. More often than not, they are an opportunity to score cheap political points, appear strong and nationalist to the audience at home, and appeal to foreign patrons and supporters.

Second, while discussing the challenges faced by the Helsinki consensus, and the various narratives of what that consensus comprises, we should not forget that some – in Russia and elsewhere – believe that

4 The actual theme of a poster disseminated on social media during the Ukraine crisis.

the consensus ceased to exist even before the start of the Ukraine crisis. Voices are increasingly heard that the democratic values embodied in documents, such as the Universal Declaration of Human Rights and the Helsinki Final Act, are not, in fact, universal, but are part of a system that imposes Western values on the rest of the world in order to subjugate it or otherwise stack the international deck in favor of Western powers.⁵ Thus “Western” values are conflated with the era of Western colonial dominance. In the context of the protracted conflicts, this worldview fits neatly into two themes we have discussed: first, the “Putin narrative” that portrays the West as an eternally hostile “other” and second, the feeling among the separatist polities that the Helsinki consensus is antithetical to their national aspirations.

III. The Protracted Conflicts and Ukraine

1. Transnistria

It is not possible to insulate Moldova and the Transnistria conflict from Ukraine. The separatist “Transnistrian Moldavian Republic” borders Ukraine. It inhabits roughly the territory carved out of Ukraine by the Soviets in 1924 to form the Moldavian ASSR. About 30% of the population is ethnic Ukrainian and another 30% ethnic Russian. Moldovans (Romanian-speakers, self-identified as Moldovan) are a plurality with nearly all the rest. Just over 100 km separates Tiraspol, Transnistria’s capital, from Odessa, Ukraine’s principal port. The longtime “Minister of National Security” of Transnistria, Vladimir Antyufeyev, turned up in Donetsk in July 2014 as “Deputy Prime Minister” of the “Donetsk People’s Republic” in charge of state security. He was one of several Russians with Transnistria experience to play a role in the separatist regimes in eastern Ukraine. There is a psychological similarity, too. The same dichotomy splits both Ukraine and Moldova: ethnic nationalism versus Soviet historical affiliation are spurred by horrific memories of World War II oppression by both sides.

Russia is Transnistria’s principal patron, but it has always been an economy-of-force commitment. The 1200 “Russian” troops stationed there are, in fact, almost entirely locals. Aside from serving as a tripwire threatening Russian intervention in case of Moldovan attack, their military significance is negligible. More important are their paychecks. On the Transnistrian scale of magnitude, the Russian military ranks as a large employer and provider of benefits. Transnistria has never had the strategic value of, say, Abkhazia. The Transnistrians had long since come to terms with the dimness of prospects that Russia would recognize their independence. But in the spring of 2014, Russia appeared to be creeping towards Transnistria, with the takeover by hybrid warfare tactics of a string of strategic towns leading towards Crimea and, it seemed, to Odessa. Odessa is Ukraine’s principal port, and its loss, after that of Crimea, would render Ukraine landlocked. For a while, it seemed to Transnistrians that they could prove themselves useful to Russia by further encircling Ukraine and hemming it in through provision of their own “activists” to put pressure on Odessa. Even the suspicion that Transnistria could open up a second front against Ukraine was worrisome enough to provoke a string of warnings from NATO’s Supreme Allied Commander. But the bloody failure of the hybrid warfare campaign in Odessa on 2 May 2014 and the Ukrainian army counter-offensive over the summer of 2014 halted – at least momentarily – the expansion of Russian-controlled territory towards Crimea, Odessa and eventually Transnistria. Nonetheless, Transnistria’s proximity to the conflict zone gives room for revived hopes of Russian support for secession from Moldova – assuming that Moldova continues to defy Russia and continues down its path of integration with the EU. And those hopes, however remote, affect Transnistria’s willingness to negotiate in good faith on status issues and to co-exist without provocative incidents.

5 See, for example, a recent article by R. Mehdiyev, “Миропорядок двойных стандартов и современный Азербайджан” url: <http://www.1news.az/chronicle/20141203110515850.html>.

At the same time, Russia has secured more direct control over Transdniestria's decision-making. As in Abkhazia and South Ossetia, Russian intervention played a big role in ousting old leaders and installing new ones who had less of an independent power base and owed their positions to Moscow. Transdniestria's leader from its inception in 1992, Igor Smirnov, had developed ties to clans and institutions in Russia and was adept at playing them off against one another. Unfortunately for Smirnov, the Transdniestrian "presidential" elections of 2011 took place only a couple of months after the Russian announcement that Medvedev would step down in favor of Putin, ending the "tandem" that had ruled Russia since 2008. The factions Smirnov once juggled were now scrambling to line up behind Putin. Russian state television – the main and most trusted source of news in Transdniestria – launched a campaign against Smirnov who, as a result, did not even make the run-off. The new leader, Evgeniy Shevchuk, was not originally tied to Moscow – he and his political party were protégés of the ubiquitous Sheriff Company – but he now owed his position to Moscow and was less able than Smirnov to strike an independent course.

Against that backdrop, the official "5+2" negotiations over Transdniestria can only suffer from the crisis in Ukraine. The structure of the negotiations guarantees this: the "five" are Moldova and Transdniestria ("the sides"), Russia and Ukraine ("the guarantors") and the OSCE ("mediator"). The "two" are the U.S. and EU ("the observers"). Co-operation between Russia and Ukraine – which would jointly "guarantee" the implementation of any agreement – is unlikely at present. In the past, Russia has occasionally offered the parties an alternative negotiating format: a "1+2," in which Russia would be the sole mediator. The Kozak Memorandum of 2003 – which left a bitter taste on all sides – was only one of such occasions. The most recent was in the summer of 2011, under a government composed of the same ruling coalition as today. It might be tempting to Russia to try another such offer, cutting out the U.S., EU and Ukraine.

Is there a possibility that the crisis will lead Russia to recognize Transdniestria's independence as one move in the Ukraine game? The answer depends on two issues: first, Russia's "answer" to Moldova's signing of an association agreement with the EU over Russian objections and second, Russia's future course with Luhansk and Donetsk. If Russia recognizes the Donbass polities, recognizing Transdniestria might prove attractive, though Russia would have to consider the probable reaction of the EU, pushed by a vehement Romania. Already facing Russian willingness to create military incidents in or over EU territory, the EU might choose a more confrontational course, escalating its responses in a way that Putin could not mitigate.

2. *Abkhazia and South Ossetia*

Negotiations over Abkhazia and South Ossetia were already limited before the 2008 war. They have been practically non-existent since then. At no time in the last 20 years have there been systematic, meaningful discussions among the parties on a resolution to the Abkhazia and/or South Ossetia conflict. International discussions – under UN auspices in the case of Abkhazia and with OSCE participation for South Ossetia – at best worked on day-to-day problems, such as on-the-ground security, delivery of water or access to roads. At their worst, the "discussions" involved no actual interaction between the sides, as in the UN-hosted Geneva talks on Abkhazia in the years before the 2008 war. The current Geneva International Discussions are limited to avoidance of security incidents (including the establishment of the Ergneti Incident Prevention and Response Mechanism) and certain humanitarian issues. Talks have not addressed a political resolution, nor have they prevented the continued establishment of facts on the ground, such as the forward creep of South Ossetian boundary posts. Indeed, following the Ukraine conflict, at least some Western participants now believe that the Georgia negotiations can have little significance other than to provide a cover for Russian consolidation on the ground.

One development on the ground indeed strongly appears to bear the fingerprints of the Ukraine crisis: “crypto-annexation.” The Russian annexation of Crimea on 18 March 2014 led to the first wave of Western sanctions. In May, violent clashes began in Abkhazia between “President” Ankvab’s forces and those of Raul Khajimba, a former presidential candidate seen as Moscow-backed. Kremlin officials Vladislav Surkov and Rashid Nurgaliyev were dispatched to Abkhazia. After their intervention, on 1 June, the Abkhaz parliament deposed Ankvab in favor of Khajimba.

On 27 August 2014, after several waves of Western sanctions against Russia over Ukraine, Khajimba met Putin, and the two leaders announced that a new treaty was necessary between Abkhazia and Russia. On 13 October, Russia presented Abkhazia with a draft “Treaty of Alliance, Integration and Partnership.” While some saw the Treaty as a response to Georgia’s signing an association agreement with the EU, the Russian draft would essentially have made Abkhazia a subsidiary of the Russian Federation in foreign affairs, security, customs, health and social welfare, and education. Abkhazia would have been bound to adopt Russian law and normative acts and follow “agreed” policies in these fields. The Abkhaz military and police would have been run by joint command structures, and Russian law and customs officials would have taken precedence in customs matters. The border between Russia and Abkhazia would have been disassembled and the infrastructure moved to the administrative boundary line between Abkhazia and Georgia. In essence, the draft outlined a form of annexation: Abkhazia would have had less control over its own affairs than other microstates, internationally recognized or not.

Khajimba initially commented⁶ that the treaty could not be signed “in its present form.” The Abkhaz counter-draft, sent back to the Russians on 3 November, also showed how unenthusiastic the Abkhaz were. All mention of “integration” with Russia was excised, and greater emphasis placed on previous (2008 and 2010) treaties. Military and security provisions were watered down. Abkhaz and Russian foreign policy would be “coordinated,” not “agreed.” Laws and regulations would be “analogous to” or “brought closer to” those of Russia and the Eurasian Customs Union. Russia backed down. A compromise draft that accepted many (though not all) of the Abkhaz comments was signed by Putin and Khajimba on 24 November 2014.

The South Ossetian trajectory is similar, and the result even more radical. As in Transnistria and Abkhazia, South Ossetia’s new leadership is more amenable to Russian influence. The previous leader, Eduard Kokoity, was forced out roughly when it became clear that Putin would resume the Russian presidency. He resigned on 10 December 2011 after weeks of demonstrations over some appointments perceived as too pro-Russian. The leadership that emerged after the 8 April 2012 runoffs did not reflect the concerns of the demonstrators against Kokoity, but rather brought to power Leonid Tibilov, a former KGB colleague of Putin’s. On 20 November 2014, the first announcement came that Russians and South Ossetians were working on a new agreement. On 18 March 2015, after four versions, Putin and Tibilov signed the “Treaty between the Russian Federation and the Republic of South Ossetia on Alliance and Integration.”⁷ As the name implies, the Treaty is closer to full, overt annexation than the Abkhaz case. Russia assumes all defense, security, border and customs functions, with the relevant Ossetian organs being integrated into their Russian analogues. Foreign policy is “agreed,” not merely “coordinated.”

The result of both treaties is clearly crypto-annexation to a greater or lesser extent. The personal ambitions of

6 22 October (Kavkazskiy Uzel).

7 “Договор между Российской Федерацией и Республикой Южная Осетия о союзничестве и интеграции.” Text on Kavkazskiy Uzel, 30 June 2015. url: <http://www.kavkaz-uzel.ru/articles/259096/>.

the separatist leaders (who like being big fish in little ponds, drawing on the financial opportunities provided by their “black hole” status) and the wishes of the populace (which generally pays lip service to Russian proposals of federalism, but balks at the idea of living under the type of “federalism” currently practiced in Russia) mean less and less. Whether or not Russia winds up formally annexing separatist polities, they are steadily losing even the pretense of self-determination.

3. Karabakh

Karabakh is the conflict least affected by the current crisis in Ukraine. It is the conflict in which both Russia and the West play the smallest direct role. Here, the protagonists – the Armenians (of both Karabakh and Armenia), and Azerbaijanis – play the decisive roles. Whereas the incessant repetition of the mantra that “the key lies in Moscow” may have some validity in the other three conflicts, this has long ceased to be true for Karabakh. The “keys” to the Karabakh conflict lie most of all in Baku and Yerevan themselves (ironically, no longer in Stepanakert, whose leaders long ago took over the Armenian government). In recent years, Russian involvement in the Karabakh peace process has recognized that Russia does not have the decisive say. After Dmitri Medvedev became President, he began a strong personal push to achieve a peace agreement on the basis of the internationally agreed Madrid Principles. Given that neither the U.S. nor France could deploy their presidents as Russia did, the effort gave Russia the lead role in the process. But the failure to reach a breakthrough in Kazan in 2011 led to a hiatus in talks, after which the leaders of Azerbaijan and Armenia themselves began to pick up the pieces.

While the Ukraine crisis may have convinced both Azerbaijan and Armenia that they needed to steer a careful course – since both are dependent on Russia for arms acquisitions, and Armenia for much more – the Karabakh conflict and efforts to resolve it are proceeding according to their own rhythms, which owe more to the internal dynamics of the two countries (and Nagornyy Karabakh) than to external factors. Azerbaijani President Ilham Aliyev and Armenian President Serzh Sargsyan know the issues and are extremely sensitive to how any actions affect their political survival. Since both populaces have been conditioned by a generation of their leaders’ rhetoric to expect absolute victory without compromise, both current leaders will act on the basis of self-preservation. Neither is likely to be moved by outside blandishments or threats.

As to the possibility that either Baku or Yerevan might copy Russian (or Ukrainian) actions in the current conflict, we must recognize that in an atmosphere of war, decision-makers are more likely to take warlike actions. Some in either capital might reason that with Europe preoccupied with Ukraine, a more remote conflict might have fewer negative consequences or, perhaps, some in Moscow might reason that fomenting conflict elsewhere might relieve the Western pressure against Russia. However, at this point such atmospheric are pure speculation.

Russia takes every opportunity to ensure that Armenia and Azerbaijan reject Western policies on Russia’s actions in Ukraine. But as Thomas de Waal points out,⁸ Azerbaijan and Armenia do not feel themselves faced with any such fork in the road. Each practices a “multi-vectoral” foreign policy, maintaining relations with both East and West, extracting what they can from each and, where necessary, playing one off against the other. Armenia is past master at this. Its historical closeness to Russia and its highly organized diaspora in the West give it a firm footing in both camps. For example, Armenian aviation authorities reportedly announced in November 2014 that no direct flights would operate between Armenia and Crimea. At the same time, a flight in

8 “Azerbaijan Doesn’t Want to be Western,” *Foreign Affairs.com*, 26 September 2014.

fact arrived in Yerevan from Simferopol – and was listed on the flight board as originating elsewhere.⁹ Armenia may have strained its credibility with the West by rejecting EU Association and welcoming Russia’s annexation of Crimea, but Sargsyan’s supporters undoubtedly believe this can be reversed by a patient lobbying effort by the diaspora. Azerbaijan is newer at the game, but its oil and gas reserves and revenues give it enormous room for maneuver.

IV. Policy Implications for the OSCE

Let us review in the light of the previous discussion and from the point of view of the OSCE, the three sets of questions we posed at the outset:

1. How Damaged is the Helsinki Acquis?

Despite the divergent universes of the Russian and Western narratives, both agree that Helsinki has been severely damaged. That issue ranges much wider than the conflicts under discussion. We can only note that those conflicts are based on nationalism and that the damage to Helsinki leaves Europe subject to the nationalist demons of previous centuries. The origins of the OSCE lie in the attempt to ensure that those demons are reined in. One way the OSCE has gone about this has been to be a “big tent.” Since its origins in the CSCE, some of its participating States have demonstrated more commitment than others to the democracy and human rights parts of the Helsinki acquis. That was by design. States are not sanctioned or expelled for a deficit of democracy or human rights. On the contrary, all are welcomed as equals into the tent, and find there the resources and encouragement to improve. Participating States are acutely aware that none of them has a perfect record and that they must expect both to offer criticism of the shortfalls of others and receive criticism for their own, this give-and-take being part of a dialogue that enriches all. The danger of the current crisis is the fortress mentality that sees all criticism as double standards designed to cement in place a fundamentally unfair world order. Some may conclude – and we have seen evidence that some have – that to be authoritarian, to suppress democratic expression and human rights, is justified resistance against that unfair world order. Under such circumstances, the OSCE and its institutions can only work to preserve the Helsinki acquis and the commitments to which all OSCE participating States agreed when they acceded.

2. Can International Mediation of these Conflicts Survive the Ukraine Crisis?

Russia now exerts greater control over three of the separatist polities and prospects for Western-Russian co-operation are bleak. As a study of OSCE field operations notes, “The 2014 Ukrainian war has made clear that the situation has shifted from a basically co-operative environment with confrontational elements to a confrontational environment with residual elements of a co-operative culture.”¹⁰ As mediators approach their work, they will want to preserve those “residual elements of a co-operative culture” where 1) that can have a positive impact on a particular conflict – this caveat being necessary, as co-operation for its own sake is politically unsustainable in the current political atmosphere and 2) they are not prejudicing their positions on the Ukraine conflict (likewise politically unsustainable).

First and foremost, that means continued co-operation on resolving the Karabakh conflict, where co-operation has been best. As we have seen, a number of factors have insulated the Karabakh conflict from the current crisis. The negotiations carried out by the Armenian and Azerbaijani presidents will, of necessity, need to be kept between the two of them, as past experience has shown that once details of a settlement leak out,

9 Kavkazskiy Uzel, 16 November 2014.

10 Zellner, Evans et al., *The Future of OSCE Field Operations (Options)*, OSCE Network of Think Tanks and Academic Institutions, p. 8.

powerful (and often deadly) forces seek to block it. If the two presidents manage to achieve agreement on anything, even a small fragment of a solution, they will need significant help from the international community – in the first instance, the Minsk Group co-chairs – to secure acceptance by their populaces, who have never been prepared for any compromise. Since the Karabakh Armenians, especially, are suspicious of the international community, one way for the Western co-chairs to work with the Russians is to co-operate on designing an information program to prepare the populaces for compromise.

Moldova's picture is mixed. Its government is unpopular and scandal-ridden. On the bright side, the current government has appointed Victor Osipov as its chief negotiator. He served in that capacity in 2009-11 and was, by far, the most effective Moldovan to work on the conflict, at least in this millennium. And Transdniestrian negotiator, Nina Shtansky, who has shunned all opportunities for progress, is stepping down to marry Transdniestria's leader, Evgeniy Shevchuk. But Shevchuk has little room for maneuver. OSCE mediators – the Chairmanship and Mission – should work to set Moldova on the high road, to adopt a generous position that offers real incentives to the Transdniestrians, enough to get real negotiations going. The Moldovans have yet to articulate a vision that goes beyond the “all or nothing” approach of their 2005 law.

Most difficult is the decision on whether and how to co-operate on the Abkhazia and South Ossetia conflicts. The treaties the two polities signed with Russia left them without autonomy. Other participants in the peace processes are left with a bad choice: whether to agree to continue talks that are increasingly limited to incident prevention and humanitarian questions or to declare that the treaties irrevocably change the dynamic, making further talks meaningless. The participants could test the waters by approaching the Russians and asking what, in view of the new treaties, the Russians consider to be fruitful topics of discussion that they believe might be acceptable to the other participants.

3. *What is the Effect of the New East-West Dynamic on the Protracted Conflicts and International Mediation? Where is the New Dynamic Leading?*

The international tensions will undoubtedly remind mediators that the added value the OSCE brings to any issue is its inclusiveness. Both Russia and the leading Western democracies are participating States. The OSCE's inclusiveness and impartiality can be a valuable tool in defusing the crisis – something the OSCE has already proven by setting up monitoring missions in regard to the Ukraine crisis and by the OSCE's role in the Trilateral Contact Group.


To be sure, the OSCE is not perfectly neutral. A child of the Helsinki process, it has no choice but to represent the Helsinki consensus on the relationship between ethnic rights and territorial integrity laid out above (in the section on the annexation of Crimea). As a child of Helsinki committed to the “third basket,” the OSCE must also represent the type of tolerance of minority rights that sometimes offends non-Western (and some Western) sensibilities. That said, however, the OSCE is the closest we will get to a level platform for the exchange of views with equal respect for all participating States. The OSCE should avoid being instrumentalized by any of its participating States, and should endeavor to preserve that forum. That will be difficult in the current environment of tensions. For now, the logic of the Russian and Western moves and counter-moves is an ever-mounting spiral. While the West generally speaks with many diverging voices, on occasion the magnitude of new Russian actions in Ukraine has forced a unified response. The logic of the Russian fortress mentality demands that Russia respond and escalate with each Western response. Can this cycle be broken? In the past, when the logic of a situation headed towards ever narrower room for maneuver,

Putin has taken a tactical step back to give himself more options. It is unclear whether that will happen in the Ukraine crisis. In that respect, our third question, including the implications for OSCE's mediation role, which remains hostage to relations between Russia and the West, remains unanswered for now. The OSCE can only seek to immunize itself by playing the role it plays best: the honest, disinterested, impartial mediator.

V. Lessons for the German Chairmanship-in-Office

Long ago, when “light bulb” jokes were making the rounds in the U.S. (“How many does it take to change a light bulb?”), one went as follows: Q. “How many psychoanalysts does it take to change a light bulb?” A. “Only one – but the light bulb must want to change.” In many respects, that describes the plight of the mediator in protracted conflicts. No matter how many, how clever, or how powerful the mediators may be, they must receive buy-in from the sides between whom they are trying to mediate. “Buy-in” is not to be mistaken for political will, a cliché that is often invoked but rarely defined. Rather, the sides must have reached a point that allows them to agree to let a mediator mediate. Where that point falls differs for each conflict – it depends on a complex set of conjunctures – but a major common component is trust in the mediator. That demands consistency, impartiality and a personal relationship with both sides.

We have said that the Karabakh conflict is the one least affected by the Ukraine crisis. It is also the hottest of the “frozen” conflicts (dozens of people killed on the line of contact each year) and international mediation, though unable to end the war, has perhaps provided an escape valve that has prevented the outbreak of full armed hostilities. Armenian and Azerbaijani presidents have agreed on the outlines of two peace agreements, one in 1997 and the other in 1999. The first was scuttled by the overthrow of the Armenian President, the second by an act of terror in the Armenian Parliament. Since 2001, there has been no discussion of a comprehensive peace plan, only of “principles” of a settlement and the longest sustained mediation effort, by Russian President Medvedev, was unable to get the sides to sign an agreement on even a few of those principles. If the German Chairmanship decides to place emphasis on this conflict, it should do so with realistic expectations: that the leaders of both sides are constrained by decades of maximalist rhetoric, that progress will be slow or non-existent, and that the mere prevention of a wider conflict will take – and is worth – a great deal of effort.



This article was first published with Brill | Nijhoff publishers, and was featured on the Security and Human Rights Monitor (SHRM) website.

Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

Netherlands Helsinki Committee
Het Nutshuis
Riviermarkt 4
2513 AM The Hague
The Netherlands

© Netherlands Helsinki Committee. All rights reserved.

www.nhc.nl