



The 2016 German OSCE Chairmanship:

Urgent Need for Reform under Conditions of Russian Veto Power

Dustin Dehez | Christian E. Rieck

Key Points

- A successful OSCE Chairmanship must not only strengthen trust in the organisation in Russia, but in all Eastern European states. Their concerns pertain to all three OSCE dimensions and require greater attention. The OSCE is not simply a platform for communication between the West and Russia alone.
- Russia primarily uses the OSCE as a fig leaf to suggest engagement in international cooperation without actually cooperating. It is for this reason that Berlin must strengthen all three OSCE dimensions from the outset, especially the third, the so-called human dimension, which focuses on the promotion of human rights.
- Just like the CSCE, the OSCE cannot develop to its full potential until it functions as a stronger yet more complementary pillar to the systems for collective security and defence, NATO in particular.
- It is to be expected that Moscow will refuse to consent to the continuation of at least one of the OSCE missions in Ukraine in 2016 – as was previously the case with Georgia in 2008. The German federal government must demand clear commitments from Moscow.

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Summary

In 2016, the Federal Republic of Germany will take over the Chairmanship of the Organization for Security and Co-operation in Europe (OSCE). The Federal Foreign Office has already announced its intention to use the Chairmanship as an opportunity to modernise and reform the OSCE. For this to succeed, it is important the OSCE be perceived not only as an institutional point of contact for the traditional security dialogue between the West and the government in the Kremlin, but that all OSCE partners and dimensions be enhanced as well – primarily the human rights dimension, which has been among the core issues for the Commission on Security and Cooperation in Europe (CSCE) and the OSCE since the Helsinki Final Act, and has played a significant role in the peaceful revolutions in Eastern Europe. In addition, the rather conciliatory Federal Foreign Office must now resist the temptation to try to establish the OSCE as the sole foundation for the pan-European security architecture by excluding the human dimension. The OSCE will realise its full potential once it is considered a pillar complementary to NATO's promise of collective security. It is only in this complementary role that any reappraisal and enhancement of the OSCE can be considered to be in Germany's interest. Furthermore, the purpose and value of the OSCE will be decided mainly based upon the success of the two observer missions in Ukraine proper and along the Ukrainian-Russian border. It is here where the need for action is greatest.

1. Background

The Federal Republic of Germany will take over the Chairmanship of the Organization for Security and Co-operation in Europe (OSCE) in a critical year. War still rages on in eastern Ukraine and two OSCE missions are currently tasked with monitoring compliance with the Minsk Protocol. However, Minsk II has repeatedly been on the verge of falling apart because the agreed ceasefire is not being adhered to and the border between Ukraine and Russia remains highly penetrable. In addition, Minsk II is at risk of being used only to keep the territorial gains made by Russia and its allies within Ukraine – thus representing a first step in the freezing, but not in the solution of the conflict. The OSCE would then be reduced to a mere tool for Russian great power politics, only serving to further damage confidence in this organisation.

Nevertheless, the German government has set itself the ambitious goal of using its Chairmanship to modernise and reform the organisation. In addition, the Federal Foreign Office under Minister Frank-Walter Steinmeier already displays a strong interest in upgrading the OSCE¹, as it provides one of the few institutional formats that still allow for structured talks with Moscow. The Federal Foreign Office itself has repeatedly stated how important it considers these lines of communication to be. The OSCE Troika has already assembled a group of high-level experts to draw up specific proposals on how the OSCE's principles can be strengthened to a degree that will see participating states actually return to respecting them.

Because of its comprehensive view of security, the OSCE remains a valuable pan-European forum for dialogue. In addition to political and military aspects (Dimension I), its concept of security also includes economic cooperation (Dimension II), and human rights, democracy and the rule of law (Dimension III). These three dimensions are the result of a geopolitical settlement struck during the negotiations of the Helsinki Final Act in 1975.

Pan-European security requires compromise – but this cannot be unilateral.

In order to establish a reliable pan-European security architecture, East and West were forced to compromise: The Eastern bloc, led by the Soviet Union, gained access to Western trade goods, but had to agree to the human and civil rights provisions in the Final Act. The West accepted the Soviet-controlled status quo in Central and Eastern Europe only under the proviso that there be shared oversight of the human rights situation in the Warsaw Pact countries. Although contemporary critics found fault with the accord as they saw the acceptance of a Soviet sphere of influence in Europe as too high a price to pay (primarily due to the non-binding nature of the Helsinki Final Act), the commitment to civil and human rights has proved to be corrosive to Soviet rule in Central and Eastern Europe in the long term. Time and again the Final Act moved the civil societies behind the Iron Curtain to demand that their governments uphold these human and civil rights standards.

The decision-making structures of the OSCE complicate reform efforts.

Modernising the OSCE and adapting its instruments to the new geo-political state of affairs in Europe are urgently needed, especially now that the euphoria surrounding the end of the Cold War has long since dissipated. However, the OSCE's ability to reform is very limited. Since all decisions are made unanimously, individual disruptors have the potential to paralyse the organisation in case of conflict. The country that benefits the most from this structure today is Russia, which has considerable blocking power. Any reform aimed at increasing the effectiveness of the OSCE that will simultaneously strengthen its core function as a catalyst for freedom in European societies is therefore extremely difficult. However, the scope of the OSCE's understanding of security still provides opportunities for negotiating package deals that might reduce the Russian tendency to logjam efforts – while, unlike in Helsinki, the OSCE must not be misconstrued as a guarantor of a Russian sphere of influence.

2. Problems Caused by a Determined Disruptor: Russia

The key challenge currently facing the OSCE and thus the German Chairmanship lies in Russian foreign policy, which on the one hand purports to engage in efforts to strengthen the OSCE, but then proceeds to undermine every principle laid down within the OSCE. The Russian government has repeatedly expressed an interest in enhancing the OSCE in the past, yet this interest is ambivalent: The OSCE dimensions that have replaced the basket model from the CSCE process are not at all attractive to Russia's current leadership, despite the non-binding nature of the Helsinki Final Act. For years, the areas that make up the Third Dimension in particular – human rights, the rule of law, democracy and humanitarian issues – have been deteriorating in Russia. Moreover, Russia understands quite well the corrosive effects the Third Dimension has on the attractiveness of its governance model in its own country as well as in the post-Soviet space more broadly.

Yet, were this dimension to receive greater attention, "colour revolutions" would become even more likely. This is why Russia under President Putin has repeatedly criticised the OSCE of being abused by the West to enforce its "ideology".² Still, the Third Dimension merits greater attention not only in the West, but also in the eyes of liberal and democratic-minded forces in Eastern Europe (and beyond). The Kremlin, however, has emphasised time and again that it considers such revolutions to be the greatest threat to Russia's national security. Indeed, the Rose Revolution in Georgia in 2003 and the Orange Revolution in 2004 in Ukraine were each a prelude to efforts in both countries to build stronger relations with the West.

From Moscow's perspective, these colour revolutions represent a threat in two respects: On the one hand, the Kremlin probably fears such a revolution in Russia

The OSCE is an important instrument for pan-European human rights protection.

itself. At the same time, it sees the strategic shifts that follow the colour revolutions as a frontal assault on its own foreign policy. In this respect, the OSCE is able to develop a much more corrosive potential than NATO with its security guarantee – not least through Russian commitments and Russia’s agreement to international oversight of human rights issues in the post-Soviet space. This raises the suspicion that the Kremlin is using its continued participation in the OSCE to simulate international cooperation without actually needing to adhere to the principles of the Final Act. In this sense, undermining and obstructing the OSCE is politically less costly than outright withdrawal.

In addition, the OSCE has primarily taken its strength from agreements whose implementation it supports. Its own Final Act is not legally binding under international law because the flexibility its process character implies was politically desired. In this area in particular, however, the OSCE has become less important because the treaties that previously served as a pillar of the European security architecture are increasingly being called into question: this was evidenced when Russia ultimately withdrew from the Treaty on Conventional Armed Forces in Europe (CFE Treaty) in mid-March 2015.³ The CFE Treaty establishes limits on the number of heavy weapons systems that may be deployed in an area.⁴ However, Russia never liked the CFE Treaty, specifically the Flank Agreement that lays out troop ceilings for specific areas. Russia has repeatedly exceeded these ceilings, especially in the Caucasus. As part of the 1999 OSCE summit in Istanbul, the ceilings were renegotiated and significantly increased in those pre-defined flanks. In return, the Russian government promised to withdraw Russian troops from Moldova (Transnistria) and Georgia (South Ossetia and Abkhazia) by the end of 2004. However, upon Vladimir Putin taking office in 2000, such efforts were quickly abandoned. When the hope of troop withdrawals from Georgia and Moldova went unrealised, the Western states no longer pursued the ratification of the new treaty.

Russia is capable of putting an end to the existing OSCE missions at any time.

The case of Georgia is also relevant with respect to the war in Ukraine. An OSCE mission was active in Georgia even before the August War; its aim was to monitor the respective ceasefires that had been in place before the war. Following the August War an EU mission was put in place to implement the six-point plan for the settlement of the war. However, Moscow’s recognition of South Ossetia and Abkhazia as independent states stifled the EU monitoring mission from the outset and violated the six-point peace plan negotiated by then-EU Council President Nicolas Sarkozy. At the same time, Moscow blocked both an extension of the OSCE mission in 2008 and an extension of the UN mission to Georgia in 2009. In the case of Ukraine, such a scenario may well be repeated. The Western partners cannot prevent Moscow from suppressing a continuation of the OSCE mission in Ukraine at a time of its choosing. Past experience would agree with the lack of optimism here.

3. OSCE Missions in Ukraine and Russia

3.1. Special Monitoring Mission for Ukraine (SMM): Russian Escalation Capability Despite OSCE Involvement

Even the deployment of the OSCE mission represented a political compromise. While the Ukrainian government wanted a European Union mission to monitor the first Minsk ceasefire under the Common Security and Defence Policy, Russia was at most willing to accept an OSCE mission. Although the German government was particularly quick to join the Russian position, structural problems were bound to arise in an OSCE mission. Since Russia itself is a member of the OSCE, it can co-determine the

parameters of the mission and attach its own observers to the mission; as a result, Russia deploys the third-largest contingent of observers behind those of the United States and Britain. The problem here is obvious: Russian military observers are meant to monitor Russian soldiers' compliance with the Minsk Protocol in Ukraine. Furthermore, within the OSCE the Russian government has repeatedly prevented the SMM from being adequately equipped to fulfil its mandate. The request for drones to monitor the long ceasefire lines was rejected, and access to the areas under the control of the separatists and the Russian army has repeatedly been denied to the observers.

The Russian government undermines the implementation of Minsk II.

Despite these difficulties, the SMM reports paint a clear picture: the OSCE confirms cooperative behaviour from Ukraine, whilst at the same time bemoaning the lack of cooperation on the part of the separatists. Moreover, the OSCE has as yet been unable to assert the implementation of Minsk II – not only due to the fact that the ceasefire continues to be violated on a regular basis, but also because the mission lacks the means and information to be able to determine compliance once the guns have fallen silent. This is particularly true for the withdrawal of heavy weapons from the agreed lines.⁵ In order to be able to determine compliance with this withdrawal, the OSCE must first know how many heavy weapons were stationed on the front in the first place. Since the Russian government is eager to conceal the extent of its support for the separatists, however, such information is not available. This also makes it impossible to ensure that, once withdrawn, these weapon systems will not be returned to the front elsewhere. This makes it clear that the SMM can do nothing to change the basic battlefield dynamics: Despite the mission, the Russian side remains capable of exacerbating or calming the situation in Ukraine at will. Against this backdrop the fact that the OSCE is able to deliver any meaningful reports at all must already be considered a success.

3.2. Observer Mission in Gukovo and Donetsk (OM): Heavily Obstructed Observer Mission along the Segment of the Border Dividing Ukraine and Russia

This second OSCE mission is occasionally relegated to the background, yet it nevertheless fulfils an equally important role to that of the SMM: the OM is tasked with monitoring cross-border traffic at the Russian-Ukrainian border in those regions where separatists and Russian troops are stationed on the Ukrainian side. However, in reality the mission is limited to two single border crossings, meaning that the border area as a whole is not currently being monitored. The mission is too small to effectively carry out its mandate and is not adequately equipped from a technical standpoint. Despite efforts by European governments and the German government in particular, expanding the mission to include the entire border area has so far been stymied by the Russian veto.

This is surprising because the infiltration of Russian forces into Ukraine blatantly continues, even at the two border crossings under observation. On the contrary, the OSCE regularly reports movements of uniformed personnel in both directions, suggesting a successful deployment of Russian troops even through the border crossings presently under observation. Here, too, Russia holds the trump cards, both on the ground and in Vienna: the inadequacy of the OM in terms of human resources, technical equipment and media coverage remains the result of Russian political will. Ironically, Russia is making a calculated attempt within the OSCE to distract from its hard-line stance when it comes to the OM by deepening its involvement in the SMM – where it even speaks out for further personnel increases. All this indicates that Moscow will attempt to completely end the OM in 2016 in return for offering to extend the SMM. This would represent a defeat for the OSCE.

4. Recommendations

The German Minister of Foreign Affairs, Frank-Walter Steinmeier, has already made it known that the principles contained in the Final Act are non-negotiable.⁶ But then the German OSCE Chairmanship will only be successful if approaches on the basis of all three dimensions of the OSCE mandate can be developed to regain confidence in this meritorious yet largely ineffectual organisation – particularly in the countries of the post-Soviet space, which are all equal partners of Germany and Russia in the OSCE.

4.1. Dealing with Russia

Moscow has repeatedly provoked a competition between integration schemes in recent years: at times it has offered the states of Central Europe the choice to either join the Moscow-led Eurasian Union, or be forced to accept penalties should states favour a connection to the European Union. At other times the Kremlin attempts to enhance the OSCE at the expense of NATO. In order to stand firm against the potential divisiveness threatened by this alleged competition between NATO and the OSCE, Germany should make clear from the outset that it remains committed to both: strengthening the transatlantic alliance as well as enhancing an effective OSCE. After all, the CSCE was at its most influential and powerful when it expanded upon NATO's promise of freedom by its own broad, human and civil rights-driven concept of security, defying attempts to replace the existing collective security institutions. In light of an acute threat to peace in Europe, the OSCE can only be an effective tool for democracy and human rights to the degree that NATO is capable and strong.

4.2. Enhance the Third Dimension: Human Rights and the Rule of Law

Precisely because this confidence can only thrive on the basis of a broad security concept, which is the real achievement to have come out of the CSCE process, the Third Dimension must play a central role in any reform process. Even before taking over the OSCE Chairmanship, as part of the Troika, Berlin should make clear that it wishes to put particular emphasis on the Third Dimension. The necessity for this is two-fold: On the one hand, because there is currently no rule of law in Russia, and democracy and human rights are increasingly being violated. On the other hand, there is a need to demonstrate to Russia that a reevaluation of the OSCE only becomes an option if this leads to greater trust not only in Russia itself, but in all Eastern European states.

Protecting European societies through human and civil rights, democracy and the rule of law is a task for all of Europe, not just for the major powers. Germany in particular has witnessed the power of human rights during its peaceful revolution. This should make it particularly beholden to the Third Dimension.

4.3. Strengthen the Second Dimension: Economic Cooperation

Access to Western goods, knowledge and technology remains of paramount interest to Russia. Moscow needs Western support to diversify and modernise its economy – not least to avoid being relegated even further down in global power relations. The German government should take advantage of this and clearly indicate to Moscow that there are strong incentives for Russia to abide by the rules of the OSCE. Particular potential for cooperation lies in the fields of energy security and environmental technologies. As in Helsinki, the planned package deal may again imply “trade for human rights and peace”.

Strengthening NATO will promote appreciation of the OSCE.

The ultimate ambition must be to re-establish the principle of inviolable borders in Europe.

4.4. Make the First Dimension More Robust: Border Regime

As part of the First Dimension, all OSCE members have committed to respect the territorial integrity of all European states. The annexation of Crimea by Russia and its invasion of eastern Ukraine therefore contravene international law on several levels: Russia has not only violated the prohibition on the use of force under the United Nations Charter and the commitments made by Russia as part of the Budapest Memorandum, but also a fundamental principle of the OSCE. If Germany wishes to strengthen the OSCE in a sustainable manner, Berlin must first insist that respect for the borders in Europe becomes absolute again – and it should not only vigorously reject any kind of recognition of newly created borders, but also react to such a breach of principle by imposing severe sanctions. Since it will be all but impossible to revive the CFE Treaty in the long run, implying continued uncertainty about actual troop movements especially by Russia, Berlin should set about establishing instruments both inside and outside of the OSCE to ensure greater security along other borders in Europe. Apart from strengthening the pan-European border regime (e.g. through bilateral and multilateral declarations with automatic sanctions, such as in the form of observer missions), this should also include more robust measures (e.g. providing infrastructure support for border security institutions and monitoring state borders, even outside of the EU). Here, too, the complementary nature of NATO and OSCE is evident.

4.5. Secure and Better Equip Observer Missions

In addition to the medium-term reforms at the level of policy instruments, the OSCE missions in Ukraine require immediate protection from Russian instrumentalisation. The OSCE is in fact dependent upon Russia's cooperation in the monitoring of the ceasefires in Ukraine. However, Russia set a precedent in Georgia in 2008, when it first changed the situation on the ground and then prevented the continuation of the OSCE observer mission there. The danger is just as great in Ukraine that, once the situation has stabilised, the continuation of any or both missions will be blocked by Russia, thus freezing the conflict. It is for this reason that especially the observer mission in Gukovo and Donetsk is at constant risk of failing its objectives. Russia may also seek to phase out this mission in 2016.

Germany should provide more observers for the OSCE missions..

To counter this threat, Germany must continue to work vigorously to expand and stabilise the missions. In order for their mission to succeed, it is imperative the observers be provided with technical reconnaissance equipment. Germany should also dispatch observers at a significantly larger scale and expand its staff pool accordingly.

- 1] See Foreign Minister Steinmeier's speech on 4 December 2014 at the 21st OSCE Ministerial Council meeting in Basel (http://www.auswaertiges.amt.de/DE/Infoservice/Presse/Reden/2014/141204_BM_Ministerrat_OSZE.html).
- 2] Then-Foreign Minister Igor Ivanov had already referred to the OSCE as a tool used by the West for "forced democratisation" on 19 November 1999, cf. Ivanov, Igor S. (2002): *The New Russian Diplomacy*, Nixon Center and Brookings Institution Press, pp. 97-98.
- 3] Although Russia had already ceased reporting on its troop concentrations in December 2007, thereby de facto withdrawing from the Treaty, Russian representatives still participated in the Joint Consultative Group in Vienna. NATO followed suit in 2010, but continued to use the JCG to pressure Russia to resume its reporting.
- 4] This includes battle tanks, armoured vehicles, artillery, combat helicopters and airplanes. However, the quotas set for Russia are so high that it would barely be able to exhaust them.
- 5] In this context, heavy weapons are defined as all weapon systems with a calibre of 100 mm or more. Although this includes all battle tanks, it does not include mechanised infantry fighting vehicles and other armoured vehicles, and only some artillery and mortars are below this threshold.

6| *Foreign Minister Steinmeier on 4 December 2014 at the 21st OSCE Ministerial Council meeting in Basel (http://www.auswaertiges.amt.de/DE/Infoservice/Presse/Reden/2014/141204_BM_Minister-rat_OSZE.html).*

The Authors

Dustin Dehez is Managing Partner at Manatee Global Advisors, an international strategy consultancy and policy think-tank.

Christian E. Rieck is Desk officer for Development Policy and Human Rights at the Konrad-Adenauer-Stiftung in Berlin.

Both authors are members of the Konrad-Adenauer-Stiftung's Working Group of Young Foreign Policy Experts.

Konrad-Adenauer-Stiftung e.V.

Contact:

Dr Patrick Keller

Coordinator Foreign and Security Policy

Department of European and International Cooperation

Phone: +49(0)30/26996-3510

E-Mail: patrick.keller@kas.de

Postal address: Konrad-Adenauer-Stiftung, 10907 Berlin, Germany

Contact concerning publications:

publikationen@kas.de

www.kas.de

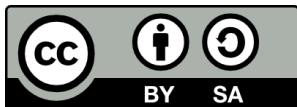
Translation:

RedKeyTranslations

Marie Liedtke

Podbielskistraße 290

D-30655 Hannover



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