

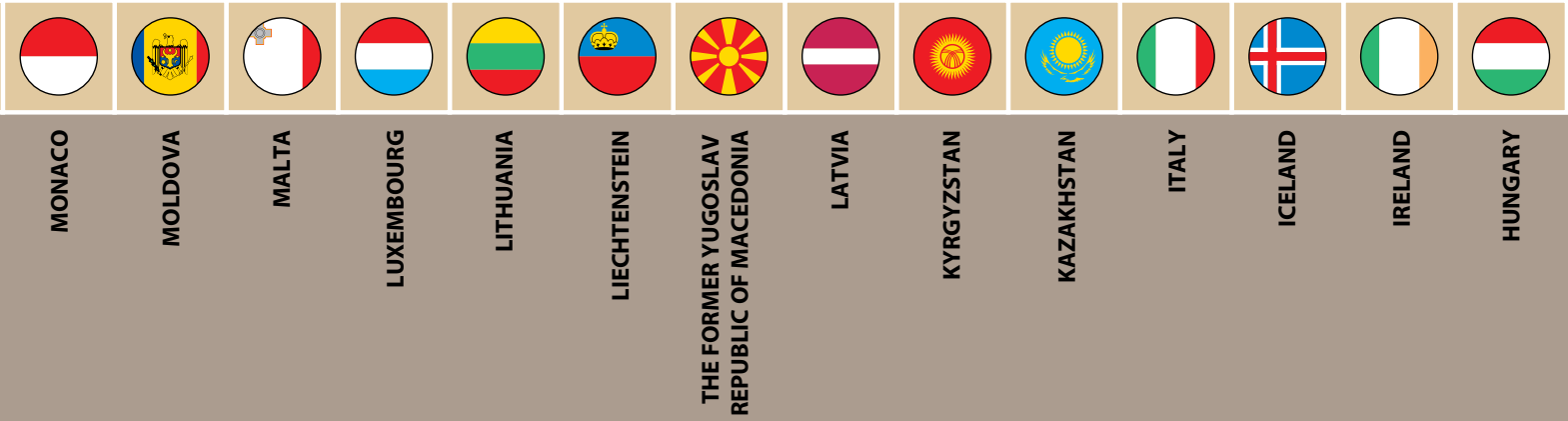


2009 Chairmanship: Greece will act as "honest broker"

Helsinki: Sixteenth Meeting of the OSCE Ministerial Council

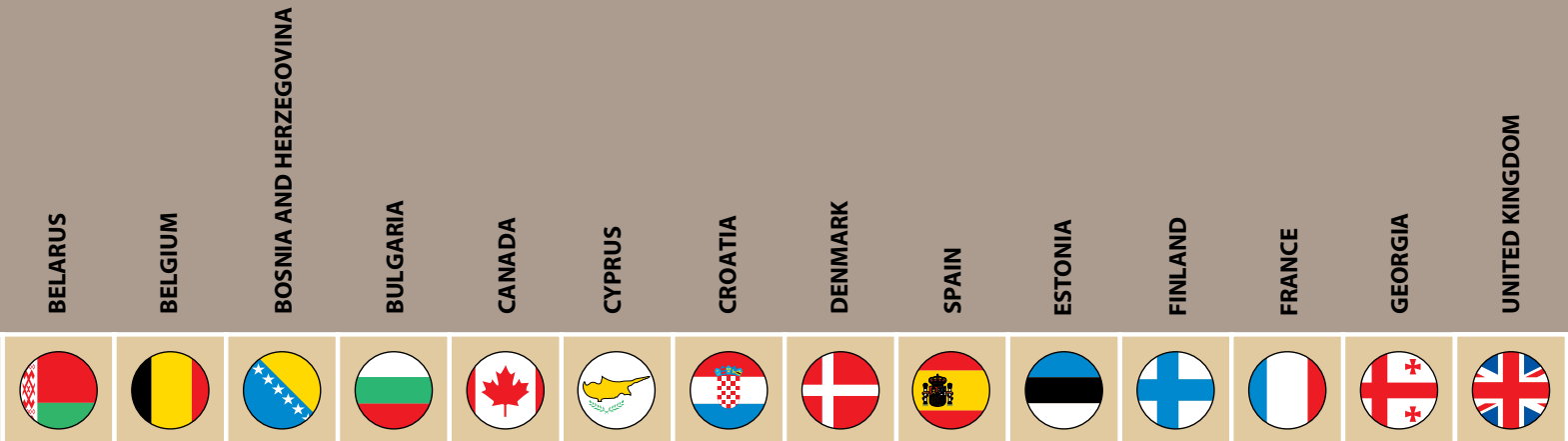
Ukraine and the OSCE: Productive partnership in projects

Legal personality for the OSCE: Making a credible case



Secretary General

Secretariat





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The Organization for Security and Co-operation in Europe works for stability, prosperity and democracy in 56 States through political dialogue about shared values and through practical work that makes a lasting difference.

## OSCE Chairmanship 2009: Greece

### OSCE Structures and Institutions

- Permanent Council (Vienna)
- Forum for Security Co-operation (Vienna)
- Secretariat (Vienna)
- OSCE Representative on Freedom of the Media (Vienna)
- Office for Democratic Institutions and Human Rights (Warsaw)
- High Commissioner on National Minorities (The Hague)
- OSCE Parliamentary Assembly (Copenhagen)

### Field Operations

#### South Caucasus

- OSCE Office in Baku
- OSCE Mission to Georgia
- OSCE Office in Yerevan
- The Personal Representative of the Chairman-in-Office on the Conflict Dealt with by the OSCE Minsk Conference

#### Central Asia

- OSCE Centre in Ashgabad
- OSCE Centre in Astana
- OSCE Centre in Bishkek
- OSCE Office in Tajikistan
- OSCE Project Co-ordinator in Uzbekistan

#### Eastern Europe

- OSCE Office in Minsk
- OSCE Mission to Moldova
- OSCE Project Co-ordinator in Ukraine

#### South-eastern Europe

- OSCE Presence in Albania
- OSCE Mission to Bosnia and Herzegovina
- OSCE Mission in Kosovo
- OSCE Mission to Montenegro
- OSCE Mission to Serbia
- OSCE Spillover Monitor Mission to Skopje
- OSCE Office in Zagreb

## Message from the Chairperson of the Permanent Council

Greece is assuming the Chairmanship at a challenging time for the OSCE. From the outset, we have sought to translate our pledge to act as an honest broker into action, and thanks to the goodwill and co-operation of our fellow participating States, I believe we have made a promising start, as the lead piece in this issue of the *OSCE Magazine* describes.



OSCE/MIKHAIL ELISTAYEV

Just as the *Magazine* was about to go to press, the participating States agreed to extend until 30 June the presence of the Organization's unarmed military monitoring officers in Georgia. Although this latest development did not affect the mandate of the OSCE Mission to Georgia, which ended on 31 December 2008, the Chairperson-in-Office, Greek Foreign Minister Dora Bakoyannis, was encouraged by the news.

"This decision shows that all the States agree that the Organization is a critical part of international efforts to secure lasting stability in the region," she said. "I am confident that we can build on this consensus to ensure that the OSCE will be able to continue its important work for all the peoples in the region and help to address urgent humanitarian challenges."

This is just the beginning, and there is still much to be done. We are committed to intensifying the discussion on the future of security in Europe that showed so much promise at the Ministerial Council Meeting in Helsinki. The Greek Chairmanship looks forward to exploring the possibilities of the OSCE as the proper forum for such a dialogue.

Our efforts in all the OSCE's dimensions are guided by "three Ss": the search for synergy, the pursuit of strategy and the concern for a symmetry of efforts in dealing with new threats and old challenges. Work is already proceeding at a brisk pace.

The first part of the Seventeenth Economic and Environmental Forum, focusing on the Greek Chairmanship's priority area of effective migration management, opened up a lively and constructive discussion on a cross-dimensional issue that affects us all. We will continue this results-driven approach in Athens in May.

In Helsinki, the foreign ministers also tasked the Greek Chairmanship with pursuing a dialogue on strengthening the legal framework of the OSCE, an interesting subject that the *OSCE Magazine* examines in great detail.

I do not expect 2009 to be easy. These are sobering times, but they have proved that we need the OSCE, and each other, more than ever. I look forward to working with my colleagues in the Permanent Council in a spirit of openness and with an eye to building consensus.

Ambassador Mara Marinaki  
 Vienna, February 2009

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The **front and back covers** show the current seating arrangement of the OSCE Permanent Council at its meetings in the Hofburg's *Neuer Saal*. The counterclockwise sequence, which follows the French alphabetical order of the names of the participating States, starts with Greece (the Chairmanship) followed by Hungary to the right. The original version of this illustration appeared in the Finnish daily, *Helsingin Sanomat*, during the Ministerial Council Meeting in December 2008 and has been adapted for the *OSCE Magazine* with the kind permission of the newspaper's graphics team.

# Dora Bakoyannis: Greece will act as an “honest broker”



Munich Security Conference, 7 February. OSCE Chairperson-in-Office Dora Bakoyannis (left) chairs a panel discussion on the future of European security. To her left are: US Congresswoman Jane Harman, Estonian President Toomas Hendrik Ilves, Ukrainian Prime Minister Yulia V. Tymoshenko and British Foreign Secretary David Miliband.

Taking over the symbolic torch from Finland in January, the Greek Chairmanship wasted no time in tackling a number of sensitive issues, such as renewal of the mandate of the OSCE Mission to Georgia, pursuing dialogue on the future of European security and strengthening the Organization's legal framework.

“We are committed to acting as an ‘honest broker’ in addressing some of the divisions that have opened up among the Organization's 56 participating States in recent years,” said the new Chairperson-in-Office, Foreign Minister Dora Bakoyannis, in her first address to the Permanent Council in Vienna on 15 January.

Not quite a week later, she flew to Moscow for talks with her Russian counterpart, Foreign Minister Sergei Lavrov, on proposals to continue the presence of the OSCE in the region. “The situation in some regions of Georgia remains volatile. Incidents are occurring frequently. I firmly believe that the current situation requires *more*, not less, OSCE presence,” she said.

“Greece is striving for a consensus solution to strengthen security in the region, to offer the Organization's unique experience on the ground, including through its 28 military monitoring officers, and to make a significant contribution to the lives of all the people, irrespective of their ethnic origin.”

The Minister swiftly demonstrated her plans to engage in shuttle diplomacy, appointing a Special Representative, Greek diplomat Charalampos Christopoulos, who visited Tbilisi and Tskhinvali on 12 and 13 January. Ambassador Christopoulos discussed the resumption of natural gas supplies to South Ossetia, which had been disrupted since 8 August last year. The gas supply resumed on 25 January due to the efforts of the OSCE.

Another humanitarian problem in the region was the supply of water. Minister Bakoyannis said that the Greek Chairmanship planned to assess the water supply infrastructure as soon as weather conditions permitted.

Minister Bakoyannis' hectic pace of travel did not slacken in February. In the first week alone, she paid a visit to Belgrade and Pristina, and then went on to the Security Conference in Munich, where she chaired a panel discussion on “NATO, Russia, Oil, Gas and the Middle East: The Future of European Security”.

At the start of the panel discussion, the Chairperson-in-Office said that the crisis in Georgia demonstrated the need to intensify efforts to deal with the region's outstanding conflicts.

“We must not waste any time and move forward with the toolbox that we have in our hands,” she said. “We have two tools here: the EU, as proven by the intervention of the French Presidency last August, and the OSCE, which finds itself in the unique position of being the only European security organization that can rely on the political will and the resources of all the major stakeholders.”

On 9 February, Minister Bakoyannis visited Tirana, where she encouraged the Albanian Government to continue with reforms and with its progress towards Euro-Atlantic integration, and reaffirmed the OSCE's support for these goals. “Our 2009 OSCE Chairmanship will benefit the Western Balkans as a whole, as well as Albania specifically,” she said. “For Greece, it would be a great success if by the end of the year — the end of our Chairmanship — our neighbourhood were a more prosperous and more stable European region.”

— **Virginie Coulloudon, Deputy Spokesperson in the OSCE Secretariat**



Vienna, 15 January 2009.  
The OSCE Chairperson-in-Office, Greek Foreign Minister Dora Bakoyannis (centre) with the 56 Heads of Delegation to the OSCE and Secretary General Marc Perrin de Brichambaut (far right).



*The following are excerpts from the first address of the OSCE Chairperson-in-Office, Greek Foreign Minister Dora Bakoyannis, to the Permanent Council of the OSCE.*

### COMMITMENT

Greece assumes the OSCE Chairmanship at a time when the quest for security in our region has become ever more complex, and when rapid, unpredictable change seems to be the only constant in international relations. In these circumstances, I believe the OSCE remains a vital point of reference within the UN framework. The OSCE is the only regional forum that encompasses the wider Euro-Atlantic and Eurasian regions. It is also rooted in a unique, ambitious concept of security based upon shared values, agreed commitments and the fundamental dignity of the individual.

In 2009, Greece is committed to act as an “honest broker” in addressing some of the divisions that have opened up among our participating States in recent years. Openness, transparency, and the will to build consensus will guide our efforts.

In an evolving international environment, we will seek to make a difference by upholding the values, principles and rules of the OSCE. Together, these constitute the driving force of this Organization and the basis for our co-operative security.

### GEORGIA

...Let me say that I see in the crisis in Georgia both a challenge and an opportunity. This crisis has shaken us out of our complacency, and reminded us that our job is not done. It therefore provides us with the opportunity to look afresh at the mechanisms we have created, to re-dedicate ourselves to the full implementation of our agreed commitments, and to consider new ways to build indivisible security. A priority of the Greek Chairmanship will be to undertake all necessary actions to promote the prevention and peaceful settlement of conflicts... In all cases, Greece is committed to working with all sides in a spirit of openness and driven by the desire for dialogue aiming at practical results.

The future of the OSCE presence in Georgia requires our special attention. As of 1 January, the Mission finds itself in a phase of technical closure. However, it is evident that the situation on the ground and throughout the region requires *more* OSCE presence, not less. The Greek Chairmanship is committed to maintaining a meaningful OSCE presence in the region. We are striving for a consensus solution, based on OSCE principles and commitments. The OSCE has a long tradition of imaginative and flexible solutions, but these can only work if there is good will and political courage on all sides.

### PRIORITIES

The OSCE security dialogue remains a vital tool for early warning and crisis management... Greece is concerned by the continuing lack of clarity over the future of the CFE Treaty. This Treaty must remain a cornerstone of European security, and Greece will do all it can to retain and improve this most important foundation of military transparency and predictability...

The OSCE has a key role to play in the fight against terrorism. I am pleased to underline our intention to promote the implementation of OSCE counter-terrorism commitments, with full respect to the rule of law and human rights. We will also work hard to support the implementation and further development of OSCE commitments in border security and policing. We believe that deepening OSCE engagement with Afghanistan should remain a priority in 2009 and beyond.

Our States and societies face difficult challenges in the economic and environmental spheres. This year's Seventeenth Economic and Environmental Forum will examine the cross-dimensional aspects of the migration phenomenon. Uncontrolled migratory movements represent a significant challenge to participating States, and I look forward to a results-driven dialogue as we proceed to the meeting in Athens in May.

In the human dimension, the Greek Chairmanship will seek to strengthen the broad thematic area of the rule of law, guided by a more sober and structured approach. Greece will also give priority attention to gender equality and mainstreaming. It is my belief that the empowerment of women and a stronger emphasis on the need to respect their rights can trigger positive developments within participating States, and positively affect their capacity to fulfil their commitments.

In the area of tolerance and non-discrimination, the Greek Chairmanship will devote particular attention to the situation of the Roma and Sinti as well as the fight against hate crimes. Freedom of religion and human rights education will also be given prominence.

Greece is dedicated to maintaining the highest standards for OSCE election observation activities. This year will see important elections in the OSCE region, and it is essential that election observation remains a flagship activity of the Organization. Co-operation between the Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly remains a key to success.



FINNISH FOREIGN MINISTRY/PETRI KRÖCK

2008 OSCE CHAIRMANSHIP: FINLAND

# The year that was

## Was it all worth it?

*This is not a report of Finland's Chairmanship of the OSCE in 2008. These are my impressions of the efforts from the point of view of the Chairmanship Task Force in Helsinki. They can be challenged by colleagues who have certainly made their own assessments of the rather rough ride of the OSCE boat as it navigated towards Helsinki.*

**BY AMBASSADOR ALEKSI HÄRKÖNEN**

What is a Chairmanship Task Force? It is a group of people responsible for advising and assisting the Foreign Minister, who is the Chairman-in-Office of the OSCE. It must help the Foreign Ministry to focus on the demands that the Chairmanship will place on the order of priorities, resources and the Minister's calendar. It has to make sure in advance that the lines of communication between the Minister and the Task Force are kept open 24/7. Equally important, the Task Force and the Finnish Delegation in Vienna needed to make up one seamless team and agree on a sensible division of labour. That's how it worked between us and Ambassador Antti Turunen and his crew.

I was able to recruit a team of 12 people to take care of these various aspects, including conference preparations. They did a very good job right from the outset. There were moments when their work load grew enormously, but they all stood their

ground. Two veteran diplomats and a member of parliament joined the team as special envoys. The youngest among us were twenty-somethings and the oldest were sixty-somethings. I think we all enjoyed the excitement of international politics and, yes, we were able to see unintended humour in people's behaviour in the middle of all the turmoil. This helped us a lot.

The worst time in every Chairmanship is before it all begins. It gets much easier once the Chairmanship's programme is presented and ready to be implemented. In fact, the early part of 2008 was the only rather calm period in our Chairmanship. Foreign Minister Ilkka Kanerva, the Chairman-in-Office, went on his first official trips. The Secretariat and the field operations offered their much-appreciated contribution towards making these visits successful.

The OSCE Mission in Kosovo survived the declaration of independence in February. The non-observation of the presidential elections in Russia in March was *déjà vu*; it neither caused any particular shock waves nor did it lead to other countries' following suit. Turkmenistan hosted its first-ever OSCE event on economic and environmental issues, and did it on a grand scale.

With the change of Foreign Minister in April, we got a chance to explain our priorities again. Alexander Stubb, the new Chairman-in-Office, carried out his share of visits and consultations in the spring and early summer. The budget and the scales of contribution were finally approved. This annually repeated farcical procedure bothered us less than it did some other Chairmanships. The mandate of the Office in Tajikistan was successfully

Helsinki, Sixteenth Ministerial Council Meeting, 5 December 2008. Ambassador Antti Turunen, Foreign Minister Alexander Stubb and Ambassador Aleksi Härkönen (front row, third, fourth and fifth from the left, respectively) and their team take a bow after the last speech is delivered and the last press conference is over. Also shown in the group picture is Special Envoy Heikki Talvitie (middle row, right) and Head of the OSCE Mission to Georgia, Ambassador Terhi Hakala (front row, fourth from the right).



negotiated, and activities important for the region were able to proceed.

At the same time, dark clouds started gathering over Georgia. Russia established official relations with the breakaway republics of Abkhazia and South Ossetia. Incidents on the ground became more serious, involving heavy weapons. Earlier, conflict prevention had switched into high gear, led by Special Envoy Heikki Talvitie. The OSCE Mission to Georgia, headed by Ambassador Terhi Hakala, lent invaluable support.

Then it all exploded in August. A war between two participating States was a nightmare, made worse by the uninhibited propaganda that found its way even into reputable media outlets. We drafted statements with the great co-operation of the OSCE press people, who never seemed to be caught off guard in any situation. We got the feeling that, for once, the OSCE was being listened to. The Chairman-in-Office rushed to Tbilisi and Moscow to start ceasefire negotiations, which were successfully completed by the French EU Presidency. Additional military monitoring officers were quickly deployed by the OSCE, and the Chairman-in-Office visited Georgia again to kick off their work.

A second blow came when Russia decided to recognize Abkhazia and South Ossetia as independent countries. Although no other OSCE participating State followed suit, we knew that the conflict between Russia and Georgia would set the tone of the Chairmanship for the rest of the year.

The idea of the EU, the UN and the OSCE co-operating closely in Georgia had been floated by the Finnish Chairmanship even before the war. Now such a platform was much in demand, and the three organizations decided to co-chair the Geneva talks, which had been proposed by France and Russia. The Chairman-in-Office presented his ideas on Georgia and other OSCE issues to the UN Security Council in September. The following month, the Geneva talks were initiated and, by the end of the year, had made some progress.

While humanitarian organizations were able to operate in the region, new obstacles were placed in the path of the OSCE. Military monitoring officers were not allowed to do their work in South Ossetia. All OSCE representatives had to enter through the famous Roki Tunnel from the north, which was not the most direct route from Tbilisi and Gori in the south. It was, therefore, to be expected that no consensus would be reached for the 2009 mandate of the OSCE Mission, covering the whole territory of Georgia.

We were asked: “What is the situation in South Ossetia now, after the war?” “Is ethnic cleansing taking place?” “Why can’t the situation be monitored by international organizations such as the OSCE?” We asked Janez Lenarčič, Director of the Office for Democratic Institutions and Human Rights (ODIHR), and Knut Vollebaek, High Commissioner on National Minorities, to find out about the situation regarding human rights and minorities. They did a great job under difficult circumstances. Please read the ODIHR report, to which the HCNM contributed.

As the Helsinki Ministerial Council Meeting drew near, the number of foreign ministers attending grew by the day. We had decided to arrange a working lunch for the ministers on a topical issue. “The Future of Security in Europe” was the obvious choice, since the Russian and French Presidents had introduced the subject in a visible way and had also mentioned the OSCE as a potential forum for such a debate. It turned out to be a fascinating discussion, undoubtedly reminding us all of the OSCE’s



FINNISH FOREIGN MINISTRY/PETRI KROOK

Helsinki, 4 December 2008. Ambassador Aleksii Härkönen is flanked by outgoing Chairman-in-Office Alexander Stubb and British Foreign Secretary David Miliband at the ministerial talks.

potential to facilitate a high-level dialogue on relevant security issues.

We were pleasantly surprised by the approval of quite a number of decisions in Helsinki. The lack of consensus on a political declaration became clear right from the first day. However, it also became clear that our proposal for a new kind of text was receiving a great deal of support, with only a handful of delegations digging their heels. We were left with the nagging feeling that finding compromises may not be on the list of priorities in international politics at the moment.

The arrangements for the ministerial meeting had kept many of us busy day and night, so we were pleased with the way the 1,500 guests — delegates as well as press people — interacted with our liaison officers and conference assistants. The ministerial meeting was quite an experience for all of us, especially for the first-timers.

It is early February as I’m writing this — time to wish the Greek Chairmanship well. Almost everyone in the Finnish Task Force has gone or will soon be going. They’re off to New York or Georgia, or other departments of the Foreign Ministry, or to prepare for Finland’s participation in the Shanghai World Expo in 2010. I am happy for them and will soon have a new assignment myself.

Politics is about people. It was great to have co-operated with the office of the OSCE Secretary General and the Secretariat, the institutions, the field operations, the delegations and the Parliamentary Assembly — but, above all else, with the great people in these places. We may not always have found agreement on everything, but we always trusted each other when confronting difficult situations.

Yes, indeed, it was definitely well worth it.

**Ambassador Aleksii Härkönen, Head of the Finnish OSCE Chairmanship Task Force from 2007 to early 2009, has been appointed Foreign Policy Adviser to the President of the Republic of Finland, effective 1 March. He was his country’s Permanent Representative to the OSCE from 2002 to 2007. Earlier, he held a number of senior positions in the Finnish Foreign Ministry, specializing in security policy and arms control. Other diplomatic assignments took him to Caracas, Bonn and Washington, D.C. Ambassador Härkönen holds a master’s degree in political science from the University of Helsinki.**

## Sixteenth Meeting of the OSCE Ministerial Council

The OSCE Ministerial Council in Helsinki adopted 13 decisions focusing on the politico-military, economic and environmental, and human dimensions of security. The 56 participating States issued a Ministerial Statement on Nagorno-Karabakh encouraging the parties to the conflict to intensify their efforts in the negotiations process. On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, the participating States reaffirmed their strong commitment to its principles in a joint Ministerial Declaration.

### *Decisions concerning the human dimension*

**MC.Dec/5/08** Enhancing criminal justice responses to trafficking in human beings through a comprehensive approach

**MC.Dec/6/08** Enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area

**MC.Dec/7/08** Further strengthening the rule of law in the OSCE area

**MC.Dec/8/08** OSCE Contribution to the implementation phase of the Alliance of Civilizations initiative

### *Decision concerning the economic and environmental dimension*

**MC.Dec/9/08** Follow-up to the Sixteenth Economic and Environmental Forum on maritime and inland waterways co-operation

### *Decisions concerning the politico-military dimension*

**MC.Dec/10/08** Further promoting the OSCE's action in countering terrorism

**MC.Dec/11/08** Small arms and light weapons and stockpiles of conventional ammunition

**MC.Dec/13/08** Issues relevant to the Forum for Security Co-operation

### *Decisions concerning administrative matters*

**MC.Dec/1/08** Appointment of the Director of the Office for Democratic Institutions and Human Rights (ODIHR) Decides to appoint Mr. Janez Lenarčič as Director of the ODIHR for a period of three years with effect from 1 July 2008.

**MC.Dec/2/08** Reappointment of the OSCE Secretary General Decides to reappoint Mr. Marc Perrin de Brichambaut as Secretary General of the OSCE for a period of three years with effect from 1 July 2008.

**MC.Dec/3/08** Periods of service of the OSCE Secretary General Decides that the OSCE Secretary General shall be appointed for a term of three years, which may be extended for a second and final term of three years.

**MC.Dec/4/08** Strengthening the legal framework of the OSCE Tasks the Chairman-in-Office, in consultation with the participating States, to pursue a dialogue on strengthening the legal framework of the OSCE and to report to the Ministerial Council meeting in Athens in 2009.

**MC.Dec/12/08** Time and place of the next meeting of the OSCE Ministerial Council Decides that the Seventeenth Meeting of the OSCE Ministerial Council will be convened in Athens on 1 and 2 December 2009.

The full decisions are available on the Ministerial Council website under "Documents": [www.osce.org/conferences/mc\\_2008.html](http://www.osce.org/conferences/mc_2008.html)



Helsinki, 5 December 2008. The outgoing and incoming OSCE Chairpersons-in-Office, Finnish Foreign Minister Alexander Stubb and Greek Foreign Minister Dora Bakoyannis at the media centre. Helsinki hosted about 1,200 delegates and 300 media representatives.

M.JOJOLA/LEHTIKUVAPICTUREBESK.COM

## “The Future of Security in Europe”

In the past several years, Ministerial Council gatherings have followed a set pattern of plenary speech-giving, long “PrepCom” meetings and behind-the-scenes negotiations. This pattern has produced some important decisions and provided useful impetus to the Organization’s work. But over lunch in Helsinki on 4 December, something that held significant promise took place which we had not seen for some time: a free-flowing discussion among foreign ministers on “The Future of Security in Europe”.

The invitation to all OSCE foreign ministers and heads of delegation for a working lunch on the first day of the meeting had come from the Chairman-in-Office, Finnish Foreign Minister Alexander Stubb. Fifty foreign ministers took part in what was to become the first multilateral high-level debate on the proposal for a renewed look at pan-European security, an initiative that had been put forward by Russian President Dmitry Medvedev on a visit to Germany on 5 June.

The lunch opened with brief remarks by the Chairman-in-Office, followed by Sergei Lavrov of the Russian Federation, Bernard Kouchner of France, EU High Representative Javier Solana, Ali Babacan of Turkey and Carl Bildt of Sweden. Thirteen other foreign ministers also took turns making their views known.

Minister Lavrov responded to

questions posed directly to him. Representing the incoming OSCE Chairmanships for 2009 and 2010, Dora Bakoyannis of Greece and Marat Tazhin of Kazakhstan delivered the final remarks.

Sergei Lavrov reviewed the main points of President Medvedev’s proposal for a broad “pan-European” debate leading to a legally binding “European security treaty”. The ministers exchanged views on the content of possible high-level discussions and on the most appropriate form in which to take these forward. In the end, there were more questions than answers, but all agreed that the debate should be taken further and that the OSCE had demonstrated its potential as a forum for engaging in candid and constructive dialogue.

The event also illustrated that the Organization’s unparalleled geographical composition and concept of comprehensive security, the product of more than 30 years of hard work, remain foundations on which to build in the future.

Summing up the discussions, outgoing Chairman-in-Office Alexander Stubb said he felt that the ministerial lunch had been one of the high points of the meeting: “It was refreshing, it was frank, it was open, and it was analytical, and that in and of itself is, for me, part of the spirit of Helsinki.”

— **Dov Lynch, Senior Adviser in the Office of the OSCE Secretary General**





PROJECT CO-ORDINATOR IN UKRAINE

# Ukraine and the OSCE

## Productive partnership in projects

*The establishment of the Project Co-ordinator in Ukraine (PCU) in June 1999 ushered in a new form of co-operation between the OSCE and the Government of Ukraine. It came in the wake of the successful completion of the tasks of the OSCE Mission to Ukraine in Kyiv and its branch office in Simferopol (November 1994-April 1999). On the occasion of the tenth anniversary of the PCU, Ambassador Lubomir Kopaj sat down with Patricia N. Sutter, Editor of the OSCE Magazine, to provide an overview of the Organization's latest joint initiatives with Ukraine.*

**Kyiv, December 2008.**

Ambassador Lubomir Kopaj, OSCE Project Co-ordinator in Ukraine (middle row, centre) with some of his team of three international and 45 national staff. In 2008, the PCU had a portfolio of 24 projects funded by voluntary donor contributions. The proposed unified budget for 2009 is €2.8 million.

**Patricia N. Sutter: How is the office of the Project Co-ordinator in Ukraine different from most of the OSCE's operations in the field?**

**Ambassador Lubomir Kopaj:** Firstly, our mandate does not require us to carry out any political reporting. Of course, I still have to follow the political situation closely, at least to the extent that it has an impact on our work.

Secondly, our efforts are fully concentrated on projects — planning, implementing and monitoring them. This is the sole focus of the office, and we want to make sure the projects we undertake are well managed and effectively delivered. Even if we're exchanging ideas with potential partners all the time, the projects should always be initiated by Ukrainians, whether it's government ministries and agencies or NGOs.

Every single one of our projects is directed either towards helping the country fulfil its OSCE commitments or towards bringing its laws and institutions closer to what a modern democratic society needs to function well. Ukraine has clearly spelled out its intention to integrate itself into European structures. In this context, its implementation of OSCE commitments, also promoted through the projects and activities of the Project Co-ordinator, remains an important endeavour.

**What were your immediate priorities for the office upon arriving in Kyiv?**

The first few months were quite challenging. One of the first things we did was to restructure the management tree, which was too vertical. Now the Project Co-ordinator, the senior project manager and the chief of the Fund Administration Unit make up a first layer, and we have introduced a second layer of eight mid-level managers, all of whom are Ukrainians.

It's a very good team but we needed to improve the flow of information. We have started meeting more regularly, three times a week, to discuss strategy and exchange views.

Depending on the approval of the 2009 budget, I have also proposed that we set up a project

management cell — a small group of people who will be responsible for ensuring that our project managers comply with OSCE project management guidelines. Over four days last year, we were trained by the Programming and Evaluation Support Unit of the Secretariat's Conflict Prevention Centre in planning and managing projects relying on the methodology used throughout the OSCE.

Another priority was to increase the transparency of our operations *vis-à-vis* Vienna — the Secretariat as well as the participating States. The practice was to report twice a year to the Permanent Council, but some delegations felt that this was not frequent enough. We came up with a compromise solution: I now report four times a year — twice in Vienna and twice on the spot to bilateral embassies in Kyiv.

I also set out to co-operate more closely with our host country, especially with the Foreign Ministry, which, according to our Memorandum of Understanding, is *the* Ukrainian institution that approves all our projects. We now hold discussions with them at least every three weeks.

And then of course we're continuing our close interaction with our international partners, from the bottom up, especially with the Council of Europe and the European Commission. This way, we complement each other's efforts and avoid duplication.

#### **What tangible results are Ukrainians expecting from your long-term, three-pronged project to help strengthen the country's election process?**

This donor-funded project has a budget of more than €5 million, making it the OSCE's largest undertaking in the country, after the *mélange-disposal* project (see page 17), and one of the Organization's largest extra-budgetary projects.

We're co-operating with the Central Electoral Commission on the project's main component, which is the creation of a centralized electronic registry of voters. This is something that the Office for Democratic Institutions and Human Rights (ODIHR) has long been recommending.

We have recently completed the tendering process for the necessary IT equipment. Once it is delivered to Ukraine in the spring, work on the registry can start and it should be ready for use in the next regular presidential elections.

The second component is also in response to an ODIHR recommendation — drafting of a unified election code. We are co-operating with a parliamentary group on this task. Since the country's current electoral legislation is already largely in line with democratic standards, the aim is not so much to change it as to pull various strands together into one legal framework that addresses all kinds of polls.

After the election code is adopted and enforced, we'll proceed to the next component — training of about 82,000 election commissioners.

#### **How are you addressing the gender aspect in electoral reform?**

Unfortunately, the representation of women in the *Verkhovna Rada* (parliament) is only about 7 per cent. We're trying to make the Ukrainians more aware of the imbalance and helping them find ways of tackling it, but of course without imposing a particular system.

#### **How does your new anti-trafficking project fit into the overall scheme of activities in this area?**

In 2007 and 2008, we supported a study to find out how the Ukrainian authorities and the whole network of social and legal services could best improve their efforts to identify trafficked persons, protect their rights and enhance their access to assistance in the framework of a national referral mechanism. This led to a three-year project aimed at putting the mechanism in place in co-operation with NGO partners and the Ministry of the Interior.

This is a concept that's being actively promoted under the OSCE Action Plan to Combat Trafficking in Human Beings. It should also make possible a more realistic assessment of the scale of the problem, since the whole process — from identifying victims to helping them reintegrate into society — will be better co-ordinated.

The new project will also help improve legislation and the capacity of the Ukrainian authorities to identify and assist trafficking victims. Initially, in 2009 and 2010, the activities will cover two regions, and later on, we will apply this experience at the national level.

#### **How are you transferring expertise to Ukrainian institutions to ensure the sustainability of projects?**

The OSCE is not going to be in the country forever, so a gradual handing over of tasks to Ukrainian institutions and the NGO sector is always uppermost in our minds.

One example to illustrate this is our project aimed at the social adaptation of former military service personnel discharged as a result of the reform of the Ukrainian armed forces. Every year since 2004, we've been supporting the re-education of about 1,000 of the men and women who have been affected across the country. We target the training with a focus on certain skills and professions. For example, a group of former military pilots and engineers have been trained to be part of an airborne fire-fighting division qualified to handle emergencies.

Because of the small size of the groups and the well-focused and results-oriented approach, which targets sectors of the economy where there are employment opportunities, the success rate has been quite high. So far, about 85 per cent of the people trained have managed to find jobs or start a small business within three months after completing the courses.

The OSCE Project Co-ordinator used to finance all training costs, but Ukrainians are now gradually



**An ammunition depot near the village of Novobohdanivka, in Ukraine's Zaporizhzhya region, eastern Ukraine, 21 August 2008.** Officials from Ukraine's Ministry for Emergency Situations show Ambassador Lubomir Kopaj some of the equipment provided by the OSCE to help clear the area of unexploded ordnance (UXO).

**Background.** In September 2004, Ukraine asked the OSCE's Forum for Security Co-operation for assistance in carrying out an action plan to address the consequences of the fire that had broken out at the ammunition site on 6 May 2004, detonating some 56,000 tonnes of ammunition over several days.

This led to the "Novobohdanivka project", funded by Belgium, the Czech Republic, Lithuania, Luxembourg, Poland, Slovenia and the United States.

The project, completed in September 2007 in the framework of the OSCE Document on Stockpiles of Conventional Ammunition, has significantly strengthened the capacity of the Ukrainian Government to clean up the unexploded ordnance that was littering the ammunition site and its surroundings.



starting to "own" the project. I recently had the pleasure of taking part in the graduation ceremony of a group whose training was for the first time financed by the Ministry of Defence of Ukraine. This was a small but significant step towards self-sufficiency.

Just about a month ago, our NGO partner wasn't very happy when they found out that we could not support them forever, but suddenly they started becoming more resourceful and creative in finding ways of sustaining their activities.

**You're also supporting the capacity of the civil sector to take a more active part in building Ukrainian society. How are these activities making a difference?**

Ukraine's civil sector is relatively strong, but everyone feels it could be more self-sufficient and independent of government and business funding and foreign donations, enabling it to truly represent its own interests. So far, with the support of Denmark, we've been helping NGOs through micro-grants and training in fund-raising as part of a comprehensive three-year project in five regions.

But we would like to take this further by creating a better climate for self-sufficiency, and we've been brainstorming with representatives of NGOs and the Government. There are a lot of good models out there that can serve as an inspiration for Ukraine. As a Slovak citizen, for example, I have the option to direct 2 per cent of the taxes I pay the Government to any civil society organization of my choice.

**How does the country's domestic political situation affect the work of the Project Co-ordinator?**

Of course political developments in the host country can influence one's working environment. The fact that, for example, the *Verkhovna Rada* was not able to take decisions last year affected our work. Through different projects, we had assisted in the preparation of a couple of legislative drafts and if parliament doesn't work, then drafts are not adopted.

**Since many of your projects, especially the larger ones, depend on donor funding, how concerned are you about the impact of the global financial crisis on your work?**

So far, we have been in the position of having more willing donors than we have projects. I believe that aiming for good-quality results in our projects is the best way to avoid being the target of funding cuts, because donors see for themselves where their money is well invested.

**One can tell that you are finding this first field assignment with the OSCE fulfilling and challenging. What makes it special?**

The people! When I first came into contact with the OSCE by way of ODIHR election observation missions, I was impressed with the staff's high level of professionalism, combined with a strong human element. I was not disappointed when I came to Ukraine.

**How do you envisage the future of the office of the Project Co-ordinator in Ukraine?**

I don't have a crystal ball, but I can say that right now there is a big demand for our assistance from our partners, who continue to draw our attention to new project ideas, for example, to help prevent xenophobia and hate crimes, fight corruption and ensure the independence of the judiciary.

Our vision is to help the country confront these serious challenges as well as we can and then to hand over full responsibility to Ukrainians when they are ready to tackle them on their own.

Ukraine is a fascinating country and I feel very optimistic about its future. Its biggest potential may not be underground, it's "on the ground." — the millions of dedicated, well-educated, patriotic and hard-working Ukrainians who keep the momentum going.

**Lubomir Kopaj, from Slovakia, took up his post as Project Co-ordinator in Ukraine in April 2008. His engagement in OSCE issues started in 1984, when he was a member of the Czechoslovakian delegation to the Conference on Security and Co-operation in Stockholm. Through the years, he has led a number of ODIHR election observation missions. Ambassador Kopaj has held a number of senior posts in the Slovakian Foreign Ministry and served as Ambassador to the Netherlands from 1997 to 2000.**

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# Establishing administrative justice

Key to securing human rights



PRESS SERVICE OF THE HIGHER ADMINISTRATIVE COURT OF UKRAINE

Judge Oleksandr Pasenyuk (left), Head of the Higher Administrative Court of Ukraine, and Judge Mykhailo Smokovych at a court hearing. “If it were not for the important lobbying role of our international partners, including the OSCE, Ukraine would not have been able to establish its system of administrative justice,” says Judge Smokovych, who also conducts training for other judges.

*Transformation of a society’s deeply ingrained attitudes and practices does not come about overnight, even if the goal is clearly service of the greater good. A case in point is the attempt to cultivate a culture in which citizens can challenge the decisions of the State when they feel that their rights have been infringed by government rules, regulations, orders or decisions.*

**BY OKSANA POLYUGA**

Undaunted by the enormity of the task, the Ukrainian Government launched a system of administrative justice in 2005 enabling citizens to question decisions or omissions of State authorities — from local and national officials to the President — by filing a complaint in an administrative court.

“This concept is taken for granted in most parts of the world, but was a completely foreign concept in our country until recently,” says lawyer Oksana Syroyid, a National Project Manager in the Rule of Law Unit of the OSCE Project Co-ordinator in Ukraine.

“The judicial review of administrative decisions did not — and could not — exist in Soviet times,” says Ihor Koliushko, Chairman of the Board of the Centre for Political and Legal Reforms, a Ukrainian NGO. “At that time, decisions issued by official representatives were considered perfect in every way and were not to be contested or questioned by anyone.”

While the Government was setting up the courts — so far numbering 27 regional courts, 16 courts of appeal and the Higher Administrative Court — the OSCE Project Co-ordinator, represented by Oksana Syroyid, started assisting a working group to draft the Code of

Administrative Court Procedure. In July 2005, the Code entered into force, spelling out how individuals, organizations, businesses and other legal entities could go about appealing official decisions.

#### LANDMARK

“The introduction of the Code was a landmark development, but of course that was only the beginning,” says Ms. Syroyid. “Clearly, it entailed much more than a mechanical application of methods and techniques.”

In the first place, massive efforts were needed to reach out to hundreds of judges, many of whom had undergone academic training under the Soviet system or whose backgrounds were in civil and commercial law.

“Judges had to be convinced that it was within their power and authority to review government decisions,” Ms. Syroyid says. “They also had to be made aware of the national and international legal instruments at their — and the plaintiffs’ — disposal. And, of course, to underpin all this, judges had to understand the concept of human rights and have respect for it.”

“The greatest challenge facing newly appointed judges is not merely to grasp the whole notion of administrative justice, but also to put it into practice,” says Judge Olena Holovko of the Regional Administrative Court



of Dnipropetrovsk, in the country’s industrial south-eastern region.

Responding to this concern, the OSCE Project Co-ordinator called on the same national experts who had drawn up the country’s Code of Administrative Court Procedure to design a comprehensive training programme combining conceptual, theoretical and practical elements. Since 2005, about 570 judges, including those representing the Higher Administrative Court,

Judge Olena Holovko of the Regional Administrative Court of Dnipropetrovsk: “Promoting administrative justice is a vocation.”

The two unrelated cases described may seem mundane, but they vividly illustrate the changes wrought by the introduction of an administrative justice system in Ukraine. In both administrative court cases, the judges found the authorities of State bodies to have been in violation of basic human rights — an outcome that would have been unthinkable a few years ago, when the courts lacked the instruments and the authority to protect the rights of groups and individuals.

*Representatives of a local body of authority in Dnipropetrovsk, a large industrial city in south-eastern Ukraine, went to an administrative court to restrain an NGO from gathering at the city park on grounds that this would pose an inconvenience for vehicular and pedestrian traffic.*

The city’s Regional Administrative Court referred to the Convention for the Protection of Human Rights and Fundamental Freedoms and to the principle of reasonableness and the right to be heard.

The Court found the claim of the local authorities “unreasonable”, pointing out that the NGO had been in compliance with the requirements for peaceful assembly. The Court also accused the officials of not taking appropriate action “to ensure the

defendant’s right to participate in the decision-making process” by, for example, suggesting other alternative locations where NGOs could gather.

*An Afghan national filed an application for refugee status in Ukraine. Referring to the country’s legislation, the Migration Service rejected the application on grounds that the asylum seeker fell short of proving well-founded fears of being persecuted in his own country.*

The asylum-seeker contested the decision in the Regional Administrative Court of Kyiv. After considering the case, the Court obliged the migration authorities to reconsider the application and to interpret the Ukrainian legislation, taking into account international legal documents such

as the United Nations Convention relating to the Status of Refugees and similar cases heard by the European Court of Human Rights.

The Court noted that “the fear of being persecuted” was an assumption that had objective grounds, but that physically verifying it could put the person’s life at risk. Therefore, according to the principle of humanism, which was the basis of the United Nations Convention relating to the Status of Refugees, the case had to be reconsidered in favour of the asylum seeker. Moreover, the Court stressed that, in administrative cases, “the burden of proof of evidence rests with the defendant (in this case, the State authority)”.



OSCE/OKSANA POLYUGA

Kyiv, January 2009. Oksana Syroyid, National Project Manager in the office of the OSCE Project Co-ordinator in Ukraine, discusses the training programme for judges with Roman Kuibida (left) and Oleksandr Banchuk, experts from the Centre for Political and Legal Reforms.

have benefited from 20 training sessions.

“It was really this training that fostered the true spirit of administrative justice,” says a former participant, Judge Volodymyr Poplavskiy, Deputy Head of the Administrative Court of Appeal of Dnipropetrovsk.

#### **DIGGING DEEPER**

Being a trainer himself, Judge Poplavskiy starts all his seminars with the following message: “Forget the way you used to consider cases in the past and listen to the philosophy behind administrative justice. Dig deeper into the meaning of administrative justice and ask yourselves, ‘Why was it established? What values were the people who drafted the Code of Administrative Court Procedure trying to impart?’ ”

Since Ukraine’s administrative law is not yet fully developed, judges had to draw on the best experiences of countries with similar legal systems. So that they would be able to learn from some of the most experienced experts in Europe, the OSCE Project Co-ordinator tapped into a venerable institution — the *Conseil d’Etat*, which traces its roots to the thirteenth century and serves as the supreme court for administrative justice in France.

“There could not have been a more ideal partnership,” says Oksana Syroyid. “The French and Ukrainian legal systems share the same roots in civil law. France also has a well-established practice of interpreting and applying the principles of administrative law and court procedure which are the focus of interest of the Higher Administrative Court of Ukraine.”

Working with the French *Conseil d’Etat*, the staff of the OSCE Project Co-ordinator conducted a series of advanced seminars for judges in Kyiv from April to June 2007 on judicial control

over unilateral administrative acts, legal regulation of administrative contracts and the responsibilities of public administrators.

#### **TAKING ROOT**

It has only been less than four years since the introduction of an administrative justice system in Ukraine with the financial support of Germany, France, Belgium and Liechtenstein, so it is still a bit too early to fully assess the system’s performance, says Ms. Syroyid. However, the constraints that have yet to be tackled have clearly emerged.

“Not all administrative courts are operating the way they should and not all judges have been appointed,” she says. “State authorities do not always find it convenient for the administrative justice system to operate efficiently and, as already mentioned, changing the mindset of judges has turned out to be no easy matter.”

Judge Poplavskiy from Dnipropetrovsk acknowledges that the system will need time to take root. That is why he stands squarely behind the concerted efforts to promote it actively.

“Thanks to the Code of Administrative Court Procedure, Ukraine now has fulfilled the criteria for evaluating decisions, actions and omissions of State authorities in their interaction with the public,” he says. “The principles of legality, good faith, reasonableness, rationality, fairness, the right to be heard, proportionality, transparency, sanctions and reparations are being put to the test for the first time.”

This is bound to encourage officials to be more accountable and responsible in their decision-making, adds Judge Poplavskiy. “In addition, the principle of the burden of proof resting with the defendant is making public officials more disciplined and better prepared for court hearings.”

Despite the inevitable obstacles and delays along the way, one thing is certain: There is no turning back to the old way of doing things, says Oksana Syroyid.

“From now on, the tasks will be firstly, to ensure that the principles prescribed by the Code are properly implemented, and secondly, to cultivate a better understanding among public officials that, when they deliver services on behalf of the State, their decisions become the focus of administrative justice.”

**Oksana Polyuga is a National Project Officer in the office of the OSCE Project Co-ordinator in Ukraine.**





### *Ukraine: Cruising the information highway*

Population: 45.9 million  
 GDP: US\$141 billion  
 Computers per 100 inhabitants, 2006: 4.6  
 Internet users per 100 inhabitants: 21.7  
 Broadband Internet subscribers per 100 inhabitants: 1.7

SOURCE: INTERNATIONAL TELECOMMUNICATION UNION, 2007  
 GRAPHIC: OSCE/NONNA REUTER

# E-Governance 101

## Ukrainians are eager students of the Estonian experience

*Almost everyone who communicates electronically, does online banking and shops over the Internet knows what e-government is: A natural offshoot of the success of e-commerce in the 1990s, it is a way for government agencies and departments to pursue a client-oriented approach by delivering their services to the public more efficiently through information and communication technology (ICT). However, the concept of “e-governance” — which goes beyond mere speed and convenience — is still a vague concept to many.*

**BY YAROSLAV YURTSABA**

“**F**or me, the biggest draw of e-governance is that it is supposed to help deregulate and unleash economic activities, since it cuts through omnipresent red tape and stems corrupt practices. However, I knew very little about the nuts and bolts behind the concept,” says Olena Sayenko from the East Europe Foundation, a Kyiv-based NGO and a close OSCE partner in small and medium enterprise development.

Ms. Sayenko was among nine representatives of regional and city councils and civil society organizations from five different regions of Ukraine whose keen interest in the subject led them to the eGovernance Academy in Tallinn, Estonia.

The study tour was organized by the OSCE Project Co-ordinator in Ukraine in November 2008 as part of its Local Economic Development Project, an initiative that was launched in 2004 to unlock the economic potential of some of the less developed regions in Ukraine.

“E-governance is all about enabling and empowering the citizen to take part in and

influence the decision-making of government officials,” Arvo Ott, Executive Director of the eGovernance Academy, told the group. “Accountability, transparency, responsiveness and efficiency are catch-words in the democratic process. Because e-governance encourages participation, it increases the chance that the views of minorities and the most vulnerable segments in society are heard and taken into account.”

### **STEADY GROWTH**

The Ukrainians had come to the right place: Estonia ranks among the world’s leading countries in implementing e-government. Hardly any segment of its public sector — from health care and education to elections — is outside the online loop.

Although Ukraine’s Internet market has been enjoying steady growth and the country’s broadband penetration is among the fastest growing in the world, Mr. Ott reminded the group that technology and software were only part of the e-governance equation.

“E-Estonia came about mainly because of the Government’s determined political will to inject dynamism into the country’s development through an effective governance system,” he said. “We also knew it was important to win the support of the public by making them aware of how e-government could benefit them. The openness and readiness of both officials and their constituencies to change and adjust traditional bureaucratic practices are basic ingredients for the smooth transition to online services.”

Oksana Rozanova, deputy head of the Social Security Department in Konotop, a city in Ukraine’s northern Sumy region, was impressed with the “simple and user-friendly way” in which Estonia’s social security system was run, based on e-governance principles. “I admire how ordinary Estonians have been playing such an active role in making their country work,” she said. “They have long since moved beyond the phase of merely carrying out online transactions

to making their views known on online forums dedicated to specific subjects, such as forestry and the environment.”

Another useful lesson shared by the Estonians concerned the way the authorities had succeeded in encouraging the private sector to build a solid ICT infrastructure throughout the country. “It was these multiple public-private partnerships that made the Internet accessible to almost everyone,” said Mr. Ott. “ICT firms and the banking sector recognized the clear linkage between a new mode of governance and the economic opportunities that would inevitably emerge from a digital society.”

Not surprisingly, the challenges of security and privacy in an era of e-government were the subject of great concern among the Ukrainian visitors. Everyone was aware that, in 2007, Estonia had been the target of a series of cyber-attacks of unprecedented scale.

“Indeed, any incident resulting in the leaking of sensitive information or any technical breakdown would ruin the whole idea of e-governance and would play into the hands of its opponents,” said Mr. Ott.

At a special session, Estonian experts demonstrated the multilayered security measures that the Estonians continue to put into place to ward off potential risks and unauthorized intrusions and to reduce the vulnerability of the country’s cyberspace — measures that the Ukrainians felt they could easily introduce.

The experts also urged the Ukrainians to adopt an appropriate legal framework and launch a broad public awareness campaign on the importance of information security, the protection of personal data and the use of anti-virus software. They recalled that the concept of digital signatures — a feature that had now become routine practice — had sparked a heated public debate in Estonia.

#### **TAKE-OFF POINT**

The eGovernance Academy agreed to provide the participants with advice on how to establish a geographic information system (GIS), a powerful means of gathering, displaying, analysing and sharing data concerning a specific physical location. Decision-makers and citizens can tap into this information for a variety of reasons — to look for a good site for a store, to determine environmental damage, to examine the criminal pattern in a certain area, and so on.

“This technology will make local authorities more efficient and more transparent,” says Ivan Romanov, who heads the Information



Department in the City Council of Slavutych, in the Kyiv region. “We plan to use it as a take-off point for delivering high-quality services to entrepreneurs and the general public.”

Meanwhile, the representatives of the city of Konotop wanted to learn as much as they could about the broad spectrum of information that they could potentially provide to citizens through the touch-screen kiosks that the city plans to set up in public buildings. They looked forward to the day when information on decisions of local government, tenders and bids, and city development plans would be at everyone’s fingertips.

Vasyl Melnyk, who heads the Secretariat of the City Council of Zastavna, in the western Khmelnytsky region, says he was thrilled to experience the “Estonian e-governance miracle” and to hear first-hand about the major milestones of the e-government process as it had unfolded, such as the adoption of “e-citizen charters”.

“It’s hard to imagine that Estonia managed to become a fully fledged, inclusive information society in just slightly more than a decade,” he says. “The participants all agreed that, if we in Ukraine could only muster sufficient political will, there is no reason why we could not go the way of Estonia. In fact, Ukraine already has an information strategy in place which just needs activating. We hope that our pilot initiatives at the level of local municipalities will snowball and generate excitement, enthusiasm and interest and help spur economic growth and social development.”

**Yaroslav Yurtsaba is a National Project Manager and the Head of the Economic Development Unit in the office of the OSCE Project Co-ordinator in Ukraine.**

November 2008. Toomas Sepp, Head of the City Council of Tallinn, explains the intricacies of “e-Tallinn” to the Ukrainian delegation.

eGovernance Academy:  
[www.ega.ee](http://www.ega.ee)

# Ukraine gears up for largest ever OSCE mélange-disposal project

*Rust stains show the age of dozens of huge metal containers, scattered over six locations across Ukraine, most of them exposed to the elements. Deteriorating by the day, akin to ticking bombs, they pose a threat to human life and the environment in the immediate surroundings and beyond: The vats hold thousands of tonnes of mélange, a toxic and highly polluting component once used by the Soviet army to propel short- and medium-range rockets.*

**BY SUSANNA LÖÖF**

Since 2005, the OSCE and Ukraine have been developing a joint project to tackle this looming menace. The Organization is well placed to fulfil this role. Since 2002, it has accumulated solid experience and expertise, helping four other participating States to dispose of their stocks of mélange using safe, environmentally sound and cost-effective methods.

This year, practical work will start on the joint OSCE-Ukrainian project. In total, it aims to rid the country of a staggering 16,000 metric tonnes of mélange in what is set to be the OSCE's largest donor-funded project ever. In Albania, Armenia, Georgia and Montenegro, a total of 1,484 tonnes of mélange were either neutralized and recycled into mineral dressing or cautiously transported for disposal abroad, with amounts in each country ranging from 34 to 872 tonnes. The Ukrainian project addresses more than ten times the total amount of all these earlier projects combined.

Ukraine has long been seeking a way out of its mélange dilemma: Among all the former Soviet republics, it had the second highest volume of the noxious substance left on its territory.

Addressing the OSCE Permanent Council in April 2007, the then-Foreign Minister of Ukraine, Arseniy Yatsenyuk, described the matter as a "huge problem" for the country.

"This Organization should be praised for its practical assistance to participating States in



OSCE/PAINIER RADLOFF

A storage site in western Ukraine, July 2005. OSCE expert Anton Martynyuk and Ukrainian Lt. Gen. Oleksandr Fomenko peer into an empty mélange container to inspect rust damage. Other storage vats at the same site still hold 2,200 tonnes of the hazardous material, set to be disposed of under a joint OSCE-Ukrainian project.

eliminating risks posed by environmentally hazardous military and industrial legacies," he said.

OSCE Secretary General Marc Perrin de Brichambaut has noted that the project's unprecedented scale illustrates the capacity and relevance of the OSCE more than 30 years after its founding. "The ageing mélange containers in Ukraine pose grave risks not only for the hundreds of thousands of people who live nearby, but also in areas far beyond," he said.

A single major leak or accident can have a severe impact on biological life within a 2-kilometre radius and turn a 25-km area into a contaminated, high-risk zone. If the nitrogen-based oxidizer comes into contact with water or anything organic, it causes spontaneous combustion. A film about the OSCE's mélange projects shows a haunting image of a leather shoe bursting into flames as the hazardous chemical is poured on it.

"By helping a participating State to deal with a serious human and environmental threat, the OSCE is making a positive difference once again in the security of the whole region," the Secretary General said.

The project's initial phase will focus on two storage sites that are especially worrisome: The first is in western Ukraine, where 2,200 tonnes of mélange are stored near the city of Ivano-Frankivsk, home to more than 200,000 people, and just 1 kilometre from the village of Tsenzshiv. The second is centrally located, near Vinnytsya, a city with more than 350,000 inhabitants, where 950 tonnes of mélange are stored. Compounding the danger is the site's proximity to a large ammunition depot and the bustling Salnytska railway station.

The international tender process for these pilot activities was launched in mid-December 2008, with the winning bidder expected to initiate the operation this summer. The disposal itself is envisaged to be completed 12 months later.

If things go according to plan, including the provision of support by donor countries, the same project is set to tackle the four other storage sites between 2010 and 2013. Fund-raising for the disposal continues, with Sweden, Denmark, Norway, Spain, Germany, Finland, the Czech Republic, Poland and Ukraine itself being among the donors so far.

**Susanna Lööf is a Press Officer in the Secretariat's Press and Public Information Section.**





# Making a credible case for a legal personality for the OSCE

*Discussions on a convention setting out the OSCE's legal status and privileges and immunities began long before I joined the Legal Services section of the Office of the Secretary General in 2004. In 2001, a working group had prepared a draft on the Organization's legal capacity but had not managed to reach a consensus. The crucial question: Was there something broken that required fixing? Some participating States saw no need for repair and were concerned that a Convention would impair the flexibility of the OSCE, an organization noted for its rapid response to conflict.*

**BY SONYA BRANDER**

I had actually been made aware of the absence of legal personality during my interview for the post of Senior Legal Adviser, and I quickly realized the daily practical legal implications of the Organization's lack of an internationally recognized legal personality, privileges and immunities.

Within my first few weeks on the job, I was asked to provide advice on the following:



OSCE/MIKHAIL LEVSTAFEV

The co-chairpersons of the informal Working Group that drew up a draft convention for the OSCE, Ambassador Ida van Veldhuizen-Rothenbücher, Head of the Delegation of the Netherlands to the OSCE (third from left) and Ambassador Helmut Tichy, Deputy Legal Adviser in the Austrian Foreign Ministry, with some of the Organization's Legal Services staff: Former Senior Legal Adviser Sonya Brander (left), Legal Officer María Amor Martín Estébanez and Legal Adviser Laura Noriega Martín (far right).

- A bank refuses to open an account for the OSCE unless it is presented with proof that the Organization is a legal entity that can be held liable for withdrawals and deposits.

- An OSCE official has responded to a subpoena to be a witness in a civil trial. The host country says he does not enjoy any immunity and he is being threatened with arrest. The trial is about to begin. Could I act as legal counsel on his behalf?

- A staff member has been shot at while on the job. The supervisor is concerned that he could be sued as a result. If so, will the OSCE indemnify him? Should he obtain insurance?

- A field project has been delayed. Who could be sued for damages? The OSCE official who signed the contract? The OSCE? Participating States? Would the OSCE insure the official? Perhaps, given the risks, another organization should implement the project instead?

I had been used to giving advice about responsibility and liability in treaty-based organizations where international legal personality and a regime of privileges and immunities were quite established. In contrast, here at the OSCE, the legal framework is not as certain. Lawyers have to be creative about looking for solutions to fill the gaps and managers have to be vigilant about assessing risks. Although we appear to be a house with a roof and some windows, we have no foundation. With the OSCE's expanding activities, cracks are beginning to show. When will the roof fall in? Fortunately for us, it hasn't so far.

But as the OSCE takes on increasingly complex activities — destroying surplus ammunition or setting up a computerized electoral system across a whole country or carrying out a project in a dangerous zone — a foundation would go a long way towards providing certainty in legal terms and a firm operational framework.

Some participating States, however, were concerned that a foundation would threaten the flexibility of the OSCE: Wouldn't carving rules in stone interfere with its rapid response system? Wouldn't rules be limiting, giving rise to constant warning signals such as: "You can't do that because..." or, "Isn't there a rule against that?"

Many recognize, however, that rules can offer certainty, consistency, clarity and a framework for activities. Those who work with you find it easier to cooperate with you. Those who want to work with you can rely on your status. And those who work for you understand their obligations towards you and your obligations towards them.

#### NEW IMPETUS

The issue of the consolidation of the OSCE's legal status was given new impetus when the Panel of Eminent Persons — which had been established by a Ministerial Decision in Sofia in 2004 — issued its report, *Common Purpose: Towards a More Effective OSCE*, in June 2005.

The seven-member panel recommended that participating States "devise a concise statute or charter of the OSCE containing its basic goals, principles and commitments, as well as the structure of its main decision-making bodies." The panel also recommended that participating States "agree on a convention recognizing the OSCE's legal capacity and granting privileges and immunities to the OSCE and its officials."

This led to the establishment of the Working Group on Strengthening the Effectiveness of the OSCE, led by Axel Berg, Head of the German Delegation to the OSCE. Its goal was to examine the possibility of providing the OSCE with legal status and granting privileges and immunities.

In May 2006, Ambassador Berg issued a paper identifying some of the problems faced by the OSCE and proposing terms of reference for a small group of legal experts which would be chaired by Helmut Tichy, Deputy Legal Adviser in the Austrian Foreign Ministry. The

Axel Berg was the Head of the German Delegation to the OSCE from August 2005 to July 2008. He is now the German Ambassador to Switzerland and Liechtenstein.



AXEL BERG





FRANCO HENONEN

Päivi Kaukoranta, Director of the Unit for EU and Treaty Law, Legal Services, Finnish Foreign Ministry

legal experts presented a report to the Belgian Chairman-in-Office in September 2006, which became the focus of discussions among participating States within the Working Group on Strengthening the Effectiveness of the OSCE.

This led to the adoption in 2006 of the Brussels Ministerial Decision on the Legal Status and Privileges and Immunities of the OSCE, stating that work on a draft convention would be continued on the basis of the text drafted in 2001. The Decision also established, under the Permanent Council, an informal Working Group at expert level. Its task would be to draw up a draft convention which would be submitted through the Permanent Council

for adoption by the Ministerial Council, “if possible, in 2007”.

The new Spanish Chairmanship then invited Ambassador Ida van Veldhuizen-Rothenbücher, Head of the Delegation of the Netherlands to the OSCE, to chair the informal Working Group, Ambassador Helmut Tichy becoming the Co-Chairperson. After difficult and lengthy negotiations at seven meetings between March and October 2007, an agreed text finally emerged.

## SOME CONCERNS

Several participating States, however, maintained their view that the OSCE needed a statutory document setting out the main goals and principles of the Organization, its structure and the relationships within the OSCE in the form of a charter or statute. They argued that adoption of a convention in the absence of a charter did not help to solve the main issue of providing the OSCE with legal personality and legal capacity.

They based their view on legal practice of other international organizations, such as the United Nations, the Council of Europe and NATO, which have statutory documents and thus enjoy a “real full-fledged international legal status”. This group of countries stated that without such a charter or a statute, it would be impossible for them to ratify a convention.

While this was not a new proposal, such a document had not been envisaged as part of the Working Group’s mandate. Other participating States felt that the specific concerns arising from the lack of a charter were already addressed by the draft convention’s provisions. They believed that a participating State’s signing up to the text would, in itself, serve as the State’s recognition of the OSCE.

At its final meeting in October 2007, the Working Group reached consensus on the text of a draft convention, although three footnotes



PHOTO: ROME MINISTERIAL COUNCIL/ANSA

Rome, 1 December 1993, Fourth Meeting of the Council of Ministers of the Conference on Security and Co-operation in Europe Left to right: Ambassador Nils G. Eliasson (Sweden), first Director of the CSCE Secretariat in Prague; Ambassador Wilhelm Hoeynck (Germany), first Secretary General of the CSCE/OSCE; Italian Foreign Minister Beniamino Andreatta (who died in 2007); and Ambassador Paolo Bruni, Head of the Italian delegation to the Committee of Senior Officials.

“The lack of a legal personality for the Conference on Security and Co-operation in Europe was a nightmare right from my first day in office as the first Secretary General of the CSCE/OSCE,” Ambassador Wilhelm Hoeynck told the *OSCE Magazine* recently. “As usual, the Austrians quickly and pragmatically helped out by promulgating a special law giving the CSCE a legal personality for activities within Austria. However, to illustrate the practical aspects of the problem, the Conflict Prevention Centre told me that, in 1992, when they were buying a car for the first long-term field missions to Kosovo, Sandjak and Vojvodina, the car dealer would not accept anything but cash.”

## Historical timeline Towards a legal personality

**Rome, 30 November-1 December 1993: Fourth Meeting of the Council of Ministers of the Conference on Security and Co-operation in Europe (CSCE).** The Ministers adopt a decision on legal capacity and privileges and immunities after considering the report of an ad hoc Group of Legal and Other Experts on the relevance of an agreement granting internationally recognized status to the CSCE institutions. (Over the years, however, the “Rome Decision” was implemented by only a quarter of the participating States.)

**Istanbul Summit, 18-19 November 1999.** The Heads of State or Government of OSCE participating States task the Permanent Council, through an informal open-ended working group, to draw up a report to the next Meeting of the Ministerial Council, including recommendations on how to improve the situation.

**Vienna, 2000-2001.** The informal Working Group, chaired by Helmut Tichy (Austria), meets and works on a document containing provisions on the legal personality, privileges and immunities of the OSCE. However, the Group does not reach a consensus on the document’s precise legal character.

**Vienna, 2002-2006.** Occasional consultations and presentations about the problem of the legal personality of the OSCE take place.

**Ljubljana, 27 June 2005.** The OSCE Panel of Eminent Persons presents the Slovenian Chairman-in-Office, Foreign Minister Dimitrij Rupel, with a 32-page report on strengthening the effectiveness of the Organization. Among the Panel’s recommendations: “a concise Statute or Charter of the OSCE” and “a convention recognizing the OSCE’s legal capacity and granting privileges and immunities to the OSCE and its officials”.



referring to an OSCE charter were attached. Unfortunately, despite intense negotiations and the efforts of the Chairperson of the Working Group, no consensus on a final text was reached at the Meeting of the OSCE Ministerial Council in Madrid in 2007.

This setback did not, however, dampen support for the text of the draft convention. Following discussions with delegations in Vienna, the Finnish Chairmanship organized an informal round-table meeting on the convention at the Hofburg on 22 October 2008. The discussions were chaired by Päivi Kaukoranta, Director of the Unit for EU and Treaty Law in the Finnish Foreign Ministry, and co-chaired by Ambassador van Veldhuizen.

The event served as a platform for an open dialogue on the convention, as presented by the informal Working Group. A large number of delegations took part and contributed to a constructive exchange of views.

Through the efforts of the Finnish Chairmanship and Ambassador van Veldhuizen, the torch has now been passed to the Greek Chairmanship, which will report to the Meeting of the Ministerial Council in Athens in 2009, as called for in a Ministerial Decision on strengthening the legal framework of the OSCE adopted in Helsinki this past December.

Would the text of the draft convention address the concerns of a legal nature that the OSCE faces

today? Much would depend on how each participating State implemented the convention upon ratification.

Politically, the convention would enhance the OSCE's international standing, placing it on the same institutional level with other international actors, such as the United Nations and NATO.

In practical terms, it will undoubtedly strengthen the security and legal protection of the OSCE personnel in the field, especially those working in "hard areas". It would help to limit risks connected with complicated technical projects involving the disposal of mélange or ammunition.

Implementation of the convention would remove the need to negotiate bilateral agreements with host States and the need to spell out privileges and immunities and legal personality. Since there is no agreed standard right now, these agreements are rarely the same and therefore do not provide the OSCE with the same status in each host State and with a uniform operating environment.

A convention would go a long way towards creating a more uniform system of rights and obligations among host countries, field operations, institutions and participating States.

Inequities in salaries, post-employment treatment and other benefits offered by the OSCE *vis-à-vis* other international organizations place the OSCE at a disadvantage in its ability to attract local staff. The OSCE's uneven tax status weakens its

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*The Legal Services section participates in the OSCE internship programme and accepts two interns every six months. Interested and qualified young people can apply to the Department of Human Resources by filling out a form, which can be accessed at [www.osce.org/employment/13111.html](http://www.osce.org/employment/13111.html).*

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**Vienna, 2006.** The issue of legal personality is placed on the reform agenda of the OSCE, under the responsibility of the Working Group on Strengthening the Effectiveness of the OSCE and under the leadership of Ambassador Axel Berg (Germany). As a result, a group of legal experts is established to review the implications of the OSCE's lack of international legal status and uniform privileges and immunities. With Helmut Tichy acting as chairperson, the group meets twice. It recommends that the work on a draft convention be continued on the basis of the text drafted in 2001 and that an open-ended working group finalize a draft convention and submit it, through the Permanent Council, to the Ministerial Council in 2007.

**Brussels, 4-5 December 2006: Fourteenth Meeting of the OSCE Ministerial Council.** A Decision by the Ministerial Council establishes an informal working group at expert level under the Permanent Council to draft a convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE.

**Vienna, March to October 2007.** Under the chairmanship of Ambassador Ida van Veldhuizen-Rothenbücher (Netherlands) and the co-chairmanship of Ambassador Helmut Tichy, the informal Working Group holds seven meetings, discussing in detail all the provisions of the 2001 draft convention and amending the text where necessary.

**Vienna, 18 September 2007.** Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan introduce a Draft Ministerial Council Decision on the Charter of the OSCE.

**Vienna, 11 and 12 October 2007.** The Working Group meets for the last time and reaches a consensus on a new text of the draft convention, but with three footnotes.

**Madrid, 29-30 November 2007: Fifteenth Meeting of the OSCE Ministerial Council.** Although no final consensus is reached on the text of a convention, the OSCE Chairman-in-Office, Spanish Foreign Minister Miguel Angel Moratinos, annexes the draft text by the Working Group to his closing statement "for practical purposes". He also refers to the possibility of drafting a charter or founding statute for the OSCE.

**Helsinki, 2 June 2008.** The "Quintet" of OSCE Chairmanships expresses support for a legal personality for the Organization.

**Vienna, 22 October 2008.** The Finnish Chairmanship organizes an informal round-table meeting on the convention, chaired by Päivi Kaukoranta, Director of the Unit for EU and Treaty Law in the Finnish Foreign Ministry and co-chaired by Dutch Ambassador van Veldhuizen. Reference is made to "universal agreement between delegations on the need to assign the OSCE with legal personality".

**Helsinki, 4-5 December 2008: Sixteenth Meeting of the OSCE Ministerial Council.** Ministerial Decision No.4/08 tasks the incoming Chairperson-in-Office to pursue a dialogue on strengthening the legal framework of the OSCE and to report to the Meeting of the Ministerial Council in Athens in December 2009.

**Vienna, 15 January 2009: Launching of the Greek Chairmanship of the OSCE.** The new Chairperson-in-Office, Greek Foreign Minister Dora Bakoyannis, recalls that the participating States have agreed on the need to enhance the legal status of the OSCE and expresses readiness to act on that without delay, stating Greece's commitment "to taking forward and finalizing the process".

— Ambassador Helmut Tichy, Deputy Legal Adviser in the Austrian Foreign Ministry

effectiveness, especially in areas where other international organizations enjoy exemption.

With a view to achieving consensus on the text of the draft convention, several articles provide States with flexibility regarding the taxation of national staff in the field. This is a recurring problem that is addressed by the Permanent Council's Advisory Committee on Management and Finance every quarter and is the subject of frequent complaints by heads of OSCE field operations.

Other concerns include the lack of exemption from national service obligations, which can impair the operation of missions in times of conflict, and taxes levied on miscellaneous goods and services, which divert participating States' contributions away from OSCE activities.

Although legal matters will inevitably remain part and parcel of any organizational agenda, there is no doubt that a convention granting the OSCE a legal personality, together with

privileges and immunities, would greatly benefit its operations.

We need to keep the draft text alive and remind participating States of the value that a convention would bring to the OSCE. The appointment of a Personal Representative on a Legal Status for the OSCE would help ensure that the dedicated efforts over the past decade finally *do* bear fruit.

**Sonya Brander is a Canadian lawyer and was the Senior Legal Adviser to the OSCE from 2004 to early 2009. During this period, the Legal Services section has grown from a team of three to eight, including two assistants. A graduate of Dalhousie University in Halifax, Nova Scotia, Ms. Brander has recently joined the Organization's Office of Internal Oversight as Deputy Director and Head of Evaluation.**

**OSCE Legal Officer María Amor Martín Estébanez, who holds a DPhil in law, provided advice and assistance in preparing this special focus of the OSCE Magazine.**

**2008** "The Ministerial Council, Guided by our common goal to strengthen the legal framework of the OSCE,

(...)  
Tasks the Chairman-in-Office, in consultation with the participating States, to pursue a dialogue on strengthening the legal framework of the OSCE and to report to the Ministerial Council Meeting in Athens in 2009."

**Helsinki Ministerial Council Decision No. 4/08: Strengthening the legal framework of the OSCE (excerpts)**

**2007** "There has been no agreement ... on how to solve one of the most relevant and practical problems confronting the OSCE, namely recognition of the Organization's legal personality in the international sphere. I believe that these failures should not discourage us — quite the contrary. We can give even greater impetus to debate in the Organization on questions related to its strengthening in the legal sphere, including the possibility of drafting a Charter or Founding Statute for the OSCE. This should not, in itself, be a matter for concern in any delegation. What is important would be the content, not the format. At the same time I want to recognize and congratulate the Working Group on its efforts, and I should like to see the text produced by this Working Group annexed to my Statement for practical purposes."

**Madrid, 30 November 2007, Statement by the Chairman-in-Office of the OSCE at the closing session of the Fifteenth Meeting of the Ministerial Council (excerpts), page 3**

**2006** "The Ministerial Council (...)  
Decides:  
1. That the work on a draft convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE will be continued on the basis of the text drafted by the legal experts in 2001 (redistributed as document CIO.GAL/188/06);  
2. To establish an informal Working Group at expert level under the

Permanent Council tasked with finalizing a draft convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE. The Working Group will submit this draft convention to the Ministerial Council through the Permanent Council for adoption by the Ministerial Council, if possible, in 2007."

**Brussels Ministerial Council Decision No. 16/06: Legal status and privileges and immunities of the OSCE (excerpts)**

**2005** "3. The Structural Response (...)

**3.1 Strengthening the OSCE's identity and profile (...)**

28. The OSCE's development from a conference to a full-fledged international organization must now be completed, finally making 'participating States' into 'member States'.

29. The OSCE's standing as an international organization is handicapped by its lack of a legal personality. The lack of a clear status also affects OSCE personnel when stationed in crisis areas without the protection that diplomatic recognition would give them.

30. The Panel therefore recommends that:

a) Participating States should devise a concise Statute or Charter of the OSCE containing its basic goals, principles and commitments, as well as the structure of its main decision-making

bodies. This would help the OSCE to become a full-scale regional organization;

b) Participating States agree on a convention recognizing the OSCE's legal capacity and granting privileges and immunities to the OSCE and its officials. Such a convention would not diminish in any way the politically binding character of OSCE commitments.  
c) The OSCE's profile among other international organizations would be raised by focusing more clearly on a limited range of priorities, giving a more public and long-term face to its leadership, and encouraging a stronger sense of ownership among its participants."

**"Common Purpose: Towards a More Effective OSCE", Final Report and Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, 27 June 2005, pages 19-20 (excerpts)**

# Legal personality of the OSCE: *Quo vadis?*

By Ambassador **Ida van Veldhuizen-Rothenbücher**

Ask this question in early 2009, and you will get the answer: “We don’t know”. After 15 years of reflection, presentations, consultations and negotiations, tangible progress has been made. But the goal — adoption of a “convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE” — has not yet been reached.

The year 2007 had marked a breakthrough in the process: The completion of the task of drafting the text of the convention, albeit with three footnotes referring to a (non-existent) OSCE charter.

How was this significant milestone reached? Between March and October 2007, and in a spirit of goodwill and transparency, legal experts from various capitals gathered in Vienna for a series of seven two-day informal Working Group sessions with representatives of Permanent Missions to the OSCE.

Through hard work and excellent co-operation, they demonstrated that, in the OSCE framework and within a short period, they could come up with a product that everyone could be proud of: a text of the convention comprising 25 articles, ready to be presented to the Spanish Chairman-in-Office in October 2007.

But, although many participating States were looking forward to adopting the text at the OSCE Ministerial Council Meeting in Madrid in December 2007, this did not occur.

The Finnish Chairmanship kept the issue of legal personality alive by organizing a round-table meeting in October 2008. It was clear during the discussions in and around the Hofburg, that the need for an international legal personality for the OSCE had the support of all the participating States.

It also became even more evident that the OSCE urgently needed to have a legal personality conferred

on it. This was for the sake of the Organization’s international standing, its status as an employer of more than 3,000 people, its legal relationship with the Secretariat’s host country and with countries hosting OSCE institutions and field operations, and its ability to deliver on its wide-ranging project commitments effectively and efficiently.

So how should we proceed now, in light of the fact that some participating States believe that the Organization needs a charter while some do not?

In December 2008, at the Ministerial Council Meeting in Helsinki, the incoming Greek Chairmanship was given the task of pursuing a dialogue on strengthening the legal framework of the OSCE in consultation with participating States, with a report to be presented to the Ministerial Council Meeting in Athens in 2009. I look forward to the proposals of the Greek Chairman-in-Office that will show the way ahead.

In the meantime let us hope that the lack of a legal personality will not cause the Organization any harm.

*Ida van Veldhuizen served as the Chairperson of the informal Working Group tasked with finalizing a draft convention for the OSCE. She has been the Permanent Representative of the Netherlands to the OSCE since 2006. Earlier, she served as bilateral Ambassador of the Netherlands to Croatia, and then to the Czech Republic. In the 1990s, she served as Political Adviser in her country’s Permanent Mission to NATO. Ambassador van Veldhuizen studied international law and notarial law at Leiden University.*



Because of the OSCE’s lack of legal personality, the Netherlands had to adopt a national law in 2002 to extend the necessary status, privileges and immunities to the High Commissioner on National Minorities, an important OSCE institution.



**Helsinki Ministerial Council Meeting, 5 December 2008.**

The foreign ministers of the OSCE participating States tasked the incoming Greek Chairmanship with pursuing a dialogue on strengthening the Organization’s legal framework and with reporting to the Meeting of the Ministerial Council in Athens in 2009.





Geneva, 21 January 2008. Victor-Yves Ghebali's favourite walking path was along Lake Geneva, a few steps away from the Graduate Institute of International and Development Studies. Photo: Patrick Martin

APPRECIATION

## Victor-Yves Ghebali, “Mr. OSCE” 1942-2009

Victor-Yves Ghebali was an eminent scholar of the United Nations system, the OSCE and international politics in general. He was an outstanding pedagogue and teacher who made his views known through the media.

Born in Alexandria, Egypt, Victor-Yves came to the Graduate Institute of International and Development Studies in Geneva (HEI) in the early 1960s to complete his studies, working with Professors Jean Siotis and Georges Abi-Saab and completing his thesis at the University of Grenoble. He worked for the European Centre of the Carnegie Foundation in Geneva for several years. In the 1970s, he started teaching at the Graduate Institute and was nominated to the Chair of International Organizations in 1990.

**Daniel Warner, Director, Centre for International Governance, Graduate Institute of International and Development Studies in Geneva (HEI)**

Although much of his scholarly work focused on the League of Nations and the United Nations system, he was one of the first scholars interested in the Helsinki Process, which became the Conference on Security and Co-operation in Europe (CSCE) and, eventually, the OSCE.

An indefatigable worker, Professor Ghebali was driven by his passion for knowledge, communication and justice. He leaves a huge volume of work testifying to his academic excellence and wide interests, a large public appreciative of his clear and concise explanations of current events, and — in addition to his loving family — friends throughout the world who will remember a most sensitive individual and a loyal and devoted friend.

*“The OSCE has lost a great friend, one whose eyes were always wide open and always among the most perceptive. We shall all be the poorer for no longer being able to rely on his insights.” Marc Perrin de Brichambaut, Secretary General of the OSCE, echoed the reaction of many in the OSCE community upon hearing of the death of Professor Victor-Yves Ghebali on 6 January, a month before he would have turned 67. “His sharp and always constructive intelligence, his passion for the details that count and his great sense of justice, quite apart from his academic excellence, testified to his strong commitment to the institutions for security co-operation in Europe,” said the Secretary General. The OSCE Magazine invited some of Professor Ghebali’s friends and former associates to reflect on his contribution.*

Professor Ghebali was Mr. OSCE. His unparalleled memory, understanding and analysis of the Organization’s evolution, mechanisms, institutions and decisions made him a walking encyclopaedia of knowledge that was tapped by officials and researchers alike.

He did not hoard this knowledge, he shared it — with his students and through publications and Swiss-funded initiatives such as the “OSCE Cluster of Competence” that met every year on the shores of Lake Geneva to discuss current issues (and eat well at *La Perle du Lac*).

He was, by turns, one of the OSCE’s harshest critics and one of its biggest fans. With his passing, the Organization has lost its conscience and a significant piece of its memory.

**Walter Kemp, OSCE staff member from 1996 to 2006**

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In French-speaking Switzerland, anyone with an interest in international politics has benefited, at one time or another, from Professor Ghebali's enlightening analytical views. "He was a born teacher," recalled his former colleague and friend, Daniel Warner.

He did not confine his lectures to the many students and diplomats who had been signing up for his courses since the 1970s. He considered it his duty as a "public intellectual" to reach out to as many people as possible, particularly through the media. Professor Ghebali was one of the first to understand that the Conference on Security and Co-operation in Europe, which had been building bridges between East and West since 1973, portended a new era in the Old World.

He was to follow this entire process, which would contribute to the collapse of the Soviet bloc, and would witness the transformation of the CSCE into the Organization for Security and Co-operation in Europe. He owed his title "Mr. OSCE" to his unparalleled knowledge of the Organization. It was this knowledge that was to lead Federal Councillor Flavio Cotti to appoint him as an adviser in 1996, when Switzerland assumed the chairmanship of the OSCE.

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**Anne Kauffmann, a Swiss journalist, is the editor-in-chief of the website [www.hommages.ch](http://www.hommages.ch).**

**(Portions of this tribute appeared on the website of the Center for European Integration Strategies, a think tank dedicated to EU integration processes and the Western Balkans.)**

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## A Ghebali sampler

*La diplomatie de la détente. La CSCE, d'Helsinki à Vienne (1973-1989)*, Bruylant (ed.), Bruxelles, 1989

*L'OSCE dans l'Europe post-communiste 1990-1996: Vers une identité paneuropéenne de sécurité*, Bruylant (ed.), Bruxelles, 1996

*The OSCE Code of Conduct on Politico-Military Aspects of Security: Anatomy and Implementation*, with Alexandre Lambert, Martinus Nijhoff Publishers, Leiden, 2005

*Democratic Governance of the Security Sector beyond the OSCE Area: Regional Approaches in Africa and the Americas*, co-edited with Alexandre Lambert, DCAF (LIT), Geneva/Zurich/Vienna, 2007



To mark the retirement of Prof. Victor-Yves Ghebali, the Graduate Institute of International Studies published a bibliography of his writings, which lists 244 entries:

*Conflicts, sécurité et coopération; Conflicts, security and co-operation, Liber amicorum, Victor-Yves Ghebali*; Chetail, Vincent (ed.), Bruylant, Brussels, 2007, pp. 569-588

On several occasions, both before and after the fall of the Berlin Wall, I had the pleasure and the privilege of interviewing Professor Ghebali. He was a political journalist's dream — always welcoming and willing to share his knowledge. The OSCE was, for him, more than just another international organization.

He had the rare capacity to explain clearly the profound and irresistible movement towards a European "re-union", a subject that was hidden under so many committees and "baskets", making it sound rather technical and boring even to those who were interested in foreign policy (and who were used to showier summits).

"An interview about the OSCE? I'm not sure this will interest our readers," newspaper editors would tell me. But, in the end, Victor-Yves Ghebali's enthusiasm would win them over.

Professor Ghebali retired in June 2007. On that occasion, the Graduate Institute published a bibliography of his works and organized a special day in his honour, to which specialists and politicians from around the world were invited. Despite his deteriorating health, he continued to write, give lectures and struggle valiantly against his illness.

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Except for a few brief periods in the 1970s and 1990s when the CSCE and the OSCE caught the world's attention, there has been little scholarly interest in the Organization — either to the East or to the West of Vienna. Victor-Yves Ghebali made up for that unfortunate neglect.

He was one of the few serious researchers who set out to study and observe the OSCE and record its evolution. His long-standing research on multilateral organizations and the United Nations, and his interest in East-West relations, led him to look more closely at the CSCE in the 1980s.

From the outset, his approach was marked by comprehensiveness: Starting with studies on the military aspects of security in relation to the CSCE, he soon published a voluminous book on the CSCE covering the period from 1973 to 1989. Prolific and indefatigable, he based his studies and judgment on evidence that he gathered from numerous sources — from Vancouver to Vladivostok.

He followed the transformative years when the Conference evolved into an Organization, writing the definitive book on the subject, *L'OSCE dans l'Europe post-communiste 1990-1996*.

With his profound insight into OSCE developments, Professor Ghebali carried out research and published on matters covering all the dimensions of the OSCE. His students were not the only ones who appreciated his experience and expertise. In spite of a busy schedule, he also made himself available to governments, international organizations and the media, which sought his friendly, sober, solid and balanced advice, and also his co-operation.

During particularly challenging times for the OSCE, Switzerland, which had played a key role among the "neutral and non-aligned" countries during the period of East-West confrontation, encouraged and supported his OSCE research within the Graduate Institute of International Studies. This made it possible for Professor Ghebali to contribute to making Geneva a place for continuing, vivid and constructive discussions on the OSCE.

The OSCE has lost a source of knowledge and reliable advice. But many more will miss him as a friend.

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**William Hoeynck, first Secretary General of the CSCE/OSCE (1993 to 1996)**

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OSCE/MIKHAIL EVSTAFIEV

**Jose-Luis Herrero** from Spain took office on 12 January as the new **Head of the OSCE Spillover Monitor Mission to Skopje**. He succeeded Ambassador Giorgio Radicati from Italy.

**Gary D. Robbins**, a senior United States diplomat, took up his duties as **Head of the OSCE Mission to Bosnia and Herzegovina** in October 2008.

He was previously Director for European Security and Political Affairs in the US State Department, a position he had held since early 2006. Earlier diplomatic postings had taken him to several countries in Europe, Africa and Latin America. He also served in the State Department's Operations Centre, which is responsible for communications and crisis management.



OSCE

Ambassador Robbins holds a doctorate of law from the University of California at Berkeley, a master's degree in strategic studies from the National Defense University, and a bachelor of arts degree in philosophy from Whitman College. He also studied at the University of Strasbourg, the University of Stockholm and the University of Washington.

Before joining the Foreign Service, he practiced law with the firm of Graham and Dunn, in Seattle, Washington.

Ambassador Robbins succeeded Douglas Davidson, also of the United States.

"The OSCE has been playing a significant role in the region and in this country by building confidence among people of different ethnicities through reforms in policing, the judiciary and public administration," said Ambassador Herrero. "I look forward to being part of the Organization's continuing efforts in the region."

From February 2007 to the time of his new appointment, Ambassador Herrero was the Head of the OSCE Office in Baku, Azerbaijan.

Prior to joining the OSCE, he was Director General of FRIDE, an independent Madrid-based research institute. Between 1992 and 2003, he was with the United Nations in Kosovo, Geneva, Rwanda and Haiti, specializing in political and civil affairs and issues concerning human rights and the media. Earlier, he had also worked with the Secretariat of Amnesty International in London.

Ambassador Herrero holds a masters in public administration from Harvard University and a master of arts in political science and sociology from the Universidad Complutense de Madrid.

Austrian diplomat **Werner Almhofer** assumed the post of Head of the **OSCE Mission in Kosovo** on 1 October 2008, succeeding Tim Guldemann of Switzerland.

Ambassador Almhofer has devoted much of his career to Balkan affairs since joining the Austrian Foreign Ministry in 1992. Prior to his OSCE appointment, he had been serving as his country's Ambassador to Bosnia and Herzegovina since March 2005.



OSCE/HASANI SCIPA

As Deputy Head of Mission at the Austrian Embassy in Belgrade during Austria's EU Presidency in 1998, he co-operated closely with the EU Special Envoy for Kosovo, Wolfgang Petritsch. Later in 2000, during the Austrian Chairmanship of the OSCE, he was involved in preparations for the readmission of the then-Federal Republic of Yugoslavia into the Organization. (Yugoslavia had been suspended from the OSCE in July 1992.)

Ambassador Almhofer was head of the Unit for Common Foreign and Security Policy in the Austrian Foreign Ministry from 2002 to 2005. The relationship between the Western Balkans and Europe was a major focus of this area of responsibility.



**Arsim Zekolli**, of the former Yugoslav Republic of Macedonia, assumed the position of **Head of the OSCE Centre in Ashgabad** on 10 February 2009, succeeding Ambassador Ibrahim Djikic of Bosnia and Herzegovina.

At the time of his appointment, Ambassador Zekolli had been serving as Head of his country's Permanent Mission to the OSCE since March 2006. As Chairman of the OSCE Permanent Council's Economic and Environmental Committee in 2007, he launched the region-to-region co-operation between countries in south-eastern Europe and Central Asia.

"Being a national representative is different from being a representative on behalf of 56 participating States," he said, "but I strongly believe that we are all united in our aspiration to achieve common benefits stemming from common values. Guided by the motto of *E Pluribus Unum*, our work cannot be hampered by differences as long as it is guided by shared values and ideals."

Prior to joining his country's foreign service in 2005, he worked in various capacities at the United Nations Office in Skopje (2000-2005), the National Democratic Institute (1999), the European Commission Delegation to the former Yugoslav Republic of Macedonia (1998-1999) and the United Nations Preventive Deployment Force (1994-1998).

Earlier in his career, Ambassador Zekolli was the foreign policy editor of several print and electronic publications. He



was also active in a local NGO responsible for promoting international co-operation.

He joined the Foreign Ministry in 2005 after studies in international relations at the Skopje University of Ss. Cyril and Methodius. He had earlier graduated with a degree in the history of arts and archaeology from the same university.



**Goran Svilanović** of Serbia, a politician, public servant and human rights legal activist, was appointed **Co-ordinator of OSCE Economic and Environmental Activities** on 1 December 2008. He succeeded Bernard Snoy of Belgium.

Mr. Svilanović was president of the Civic Alliance of Serbia political party (1999-2004). He served as Minister for Foreign Affairs of the Federal Republic of Yugoslavia (2000-2004), which was renamed Serbia and Montenegro in 2003. He was also a member of parliament (2000-2006).

He served as Chairman of Working Table I (democratization and human rights) of the Stability Pact for South Eastern Europe (November 2004-2007). He was a member of the Senior Review Group (2005-2006), which proposed

the transformation of the Stability Pact into the Regional Co-operation Council.

Mr. Svilanović has played a key role in several groups and organizations, including the Centre for Antiwar Action, the International Commission on the Balkans and the Belgrade Centre for Human Rights. Most recently, he was a consultant on south-eastern Europe for the United Nations Economic Commission for Europe and taught law at the Union University in Belgrade.








































"After devoting many years to the countries in south-eastern Europe, which are now well on their way towards membership in the European Union, I am pleased to have joined the OSCE and to be working with a rich diversity of people," he said. "I look forward to helping strengthen confidence and co-operation among the participating States through the promotion of good governance and environmental security."

Mr. Svilanović added that, although the financial and economic crisis threatened to loom large in 2009, "we will stay focused on the OSCE priority issues within the mandate of the Office of the Co-ordinator of OSCE Economic and Environmental Activities, including long-term challenges such as climate change, energy efficiency and migration."

Born in Gnjilane, Mr. Svilanović holds a PhD degree from the Union University in Belgrade and masters and undergraduate degrees in law from the University of Belgrade. He also attended the International Institute of Human Rights in Strasbourg, Saarland University and the European University Center for Peace Studies in Stadtschlaining, Austria. He is the author of a number of books, articles and other publications.

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