

OSCE Aims and Instruments

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Resumo

Na perspectiva do autor, a CSCE/OSCE, durante a Guerra Fria, excedeu as expectativas aquando da sua criação em 1975. Confrontada com o novo contexto internacional, a organização ou se adapta às novas realidades ou estará condenada ao desaparecimento. Por essa razão, a OSCE tem-se concentrado bastante nos problemas do combate ao terrorismo e ao problema da imigração clandestina tendo como fim a defesa da liberdade civil e a segurança colectiva. Contudo, tal não invalida que a organização esteja em crise e precise de ser reformada. A OSCE precisa de encontrar o seu papel específico tirando vantagens da sua natureza geograficamente alargada e por essa via melhor dotada para resolver assuntos de foro multicultural.

Abstract

According to the author, the OCSE/CSCE exceeded, during the Cold War, the expectations for which it was created in 1975. Confronted with the new international context the organisation will have to adjust itself or else it will be condemned to disappear. For that reason, the organisation is, nowadays, much concentrated on the fight against terrorism and illegal immigration in order to protect civil freedom and collective security. This does not invalidate the fact the organization is going through a period of crisis and that a reform will be needed, taking advantages from its geographic scope and therefore improving its capacity to deal with multicultural issues.

I would like to start by thanking the organizers of this Conference for inviting me to express my views on a personal behalf and on behalf of the OSCE – PA as well.

At the same time I want to commend the organizers for convening this so much needed international meeting on an important topic for the European security.

The OSCE has a glorious past. A lot of credit should go to that organization – the former CSCE – for the victory of peace and freedom in a reunified Europe at the end of the Cold War. The CSCE – today OSCE – was born in the e context of the bipolar system and was officially established in order to civilize the disputes between the two blocs of enemies ideologically opposed. It was also hoped that peace could be achieved through the economic cooperation of the opponents as well as through the recognition of the geo-political *status quo* established after the Second World War. It was proved that peace could not be anything else than the absence of the war if the freedoms and civil rights are not recognized. In fact the CSCE/OSCE achieved much more than it was expected. It animated the human rights movement in the totalitarian soviet camp and generated a real network of human rights activists across the European, Euro-Atlantic and Euro-Asiatic space. As a result, I believe the Cold War had no winner states and no defeated states; and it will be a mistake to think otherwise. The only winners were the principles of the pluralistic democracy, freedom, rule of law and of the human rights, as well as the idea of the free and open society of which they form the foundation. That is why the CSCE/OSCE brought not only the peace but also a victory without a loser; not only a victory but a socio-political revolution; not only a revolution but the re-unification of Europe.

Today, the post bi-polar world is different as compared with the Helsinki world or 1975. The OSCE should either adapt itself to the new realities or disappear.

In today's OSCE area, a group of states which looks as a family of commitments rather than a family of values is no more internally divided in ideological blocs but it is internally confronted with an unfocused external enemy. The Cold War was succeeded by the war on terror. The war between the totalitarian communism and the democratic freedom was literally inter-national and focussed. The war of the post communist modernity against terrorism is global and diffused.

The peace dividends from the collapse of the Soviet Union have not fully appeared, either. The confrontation with the "Empire of the Darkness" was replaced by the confrontation with the rogue states, the fallen states and the pseudo-states which reject any responsibility towards the international order and in many cases are not even subjects of the international law.

During the Cold War the world suffered the bad consequences of the state sponsored terrorism. After the Cold War the world finds itself under the threat of the terrorism-sponsored states.

The collapse of the Berlin Wall removed all those barriers which, to a large extent, used to keep apart nationalism and populism, the modern state system and the tribal societal order. Nowadays, the coexistence and the contact, on the OSCE territory, of the emerging global society, national culture and tribal social traditions, breed organized crime, corruption and terrorism. All these represent the main threats to the European security. Consequently the OSCE has to promote now a comprehensive and sophisticated inter-cultural and inter-religions dialogue thus adding another dimension to the concept of security: that of cultural security.

After the Cold War the culture of freedom replaced the culture of totalitarian slavery in the whole OSCE space. However, most of the emerging democracies are inefficient and most of the emerging markets are unfunctional. Many post communist states might be pluralistic but their pluralism is destructive (i.e. the democracy functions in an irrational and negative manner rather than in a rational and positive one); their markets might be free but in the absence of a true rule of law their citizens are poor; the rule of law is more a ritual than a permanent way of thinking and living.

Under these circumstances the negative migration has become a major undermining factor for the European stability and security. Within this context, one of the main roles of the OSCE is to assist each and every participating state in building compatible institutions throughout its area, using the bricks of the respective state's traditions. In so doing the OSCE must find and promote policies capable of transforming the European society into a meritocratic one and of transforming all European states into civic multicultural entities. At the same time the OSCE has to create in Europe the cultural, social, institutional and logistic structures, which can receive, absorb and integrate waves of migrants while preserving the respect for diversity. On the other hand, the OSCE should identify the appropriate cultural and economic ways of offering the peoples outside Europe a decent future in their own countries thus giving them good reasons to stay home.

The current European and global process, characterized by new dangers for which the consolidated democracies have not ready-made remedies, induces slowly but steadily an ideological dimension. Terrorism is becoming an ideological enemy, which replaces communism. If ideologically we exchange communism for terrorism we are back in the maccartism years with all the attacks on civil liberties for the sake of the national security. That is why the role of the OSCE today is to find a way for defending at the same time the

civil freedoms and the collective security. Otherwise the consolidated democracies could implode in the same way the Soviet bloc imploded not so long ago.

Finally, today's Europe is the one of the enlargement. The enlargement of NATO and the enlargement of the EU are now possible and necessary precisely because the post bi-polar emerging order is characterized by new opportunities, new challenges and new dangers which require more solidarity, more integration and more cooperation. However, at least within a predictable future, the "enlargement process" will not embrace all the OSCE area. What about the impact of the enlargement on the security pattern in Europe and the Euro-Atlantic region? What about the "post enlargement security"? The OSCE itself should find an answer to these questions and at the same time should act accordingly.

Due to its structure of membership and its field operation, the OSCE is a unique Organization very well placed in order to cope with the above issues and to transform those problems into challenges and those challenges into opportunities. In spite of that, the OSCE is still an Organization in crisis. However, this crisis does not reflect a lack of need for OSCE. It is a crisis of adaptation to the new international environment. That is why the OSCE must be reformed.

OSCE is relevant only if it is used by the participant states collectively for reaching the goal of their co-operative security. It would be a mistake to try to use it as a tool for the promotion of unilateral policies, which one cannot promote within the framework of bilateral international relations. Those who refuse to reform the OSCE simply because they can control it for the time being are acting against their own strategic interests. At the same time, the OSCE is useful only if it can make bold and comprehensive decisions in due time. A slow and reactive policy, diluted messages, vague undertakings, velvet phrases, endless Byzantine talks, a lot of energy consumed over petty issues, none of these can make OSCE relevant. Those who want to block the Organization because they cannot control it for the time being are also acting against their strategic interests. Finally, the OSCE is useful only if it retains its practice of being pragmatic and not dogmatic, which means if it does not try to impose ready-made solutions in the name of some abstract principles thus behaving like a teacher, a judge or even worse, like a proconsul; it should behave like an adviser, an architect and a builder who in close relation with each and every participant/interested state correctly defines the problems, identifies the resources (both local and foreign, traditional and modern), determines the opportunity and the feasibility of certain actions and prescribe the remedies, plans the security structures and erect the internationally compatible institutions. Neither the exacerbation of national distinctions nor the imposition

of foreign models can work. All those who mislead the Organization by accepting commitments in which they don't believe and they have no intention of fulfilling are also acting against their strategic goals. As long as this kind of short-sighted negative mentalities survives, the OSCE will continue to be in crisis and more and more of our citizens will ask themselves what this Organization is needed for and why do they have to pay taxes for the OSCE to exist.

Definitely the OSCE does not have at its disposal the military stick of NATO, no more than the financial and economic carrot of the EU or the moral prestige of the Council of Europe. NATO is supposed to develop the collective defence of the Euro-Atlantic countries against conventional and non-conventional threats. The EU is supposed to develop the collective welfare of its member states. The Council of Europe is supposed to develop all over the old continent the common normative basis and the collective judicial protection for the democratic values and the human rights, thus being a real guardian of the whole European conscience. Within such a context what is the niche of the OSCE?

The OSCE could and should undertake a political role as the general manager of "the collective security through cooperation" process (the cooperative security) across the Northern Hemisphere, from Bering to Bering or from San Francisco to Vladivostok and further to Tokyo. In terms of comparative advantage, the OSCE has a more diverse, more sophisticated and more balanced structure of membership which allow it to have, on the one hand, a better, deeper and more nuanced knowledge and understanding about the various realities, processes and developments in its area of jurisdiction, and, on the other hand, more contacts with and stronger influence over the decision-makers and public opinion agents in the same area. To this one should add the existence of its network of field missions, which confers a clear operational capability, superior to everything else other international organizations could display in peacetime. All these prove that the OSCE should be normally the best placed for: the early warning actions; confidence building measures; conflict prevention policies; fast political reaction to crisis of various nature; policy planning for crisis management and post-conflict rehabilitation; political, civil, economic and cultural environment building for conflicts' resolution; fast deployment of civilian forces for crisis prevention, conflict management and post conflict rehabilitation. Mention must be made that such unique and vast activities can be performed with full and automatic legitimacy over a territory, which is covered neither by NATO and EU nor by the Council of Europe.

At the same time, the OSCE is an organization which could work efficiently and effectively in order to build those civic and multicultural states which are needed as bricks

for the future European Federation of Nations' house. As we have already said, the Organization is also very much needed for the development of the post enlargement cooperative security. Within the context of the war against terror it is the one, which could best address the roots of the terrorism and which could offer the frame for the multicultural dialogue and the intercultural security.

The accomplishment of these tasks requires – one must not forget – better cooperation and less rivalry with the other international organizations which are active in more or less the same field. A division of labour with these organizations and a system of communication, consultation, co-ordination and cooperation should be negotiated in such a way as to increase each of them efficiency through synergy. However, big or small, the OSCE niche could be within the international context, this Organization should have its clear role – not only a subsidiary status – recognized. Accordingly the OSCE must keep its own field of jurisdiction, its capacity of initiative and its autonomy in action, thus avoiding to act just in order to enhance the others decisions or to intervene where and when the others have failed.

If the OSCE wants to be recognized by the others, it must be able first to define its targets, to define its identity and to provide itself with an efficient organization and with effective means of operation. In this respect one should stop thinking that the flexibility of the Organization could be only preserved by the lack of clear rules; that pragmatism means institutional incoherence; that prudence is equal to eternal vacillations; that the democratic spirit is the same thing as a consensus principle which is reduced to an abusive single country veto in each and every occurrence; that secret diplomacy could be introduced as discreet diplomacy; that the legal personality of the OSCE is an automatic condemnation to bureaucratic burden.

Based on this remarks, I shall try to briefly indicate the main topics which, I believe, should be taken into consideration when preparing a blueprint for reforming the OSCE.

1. **The hierarchy and the distribution of powers.** For the time being, the OSCE disposes, *inter alia*, of: a Chairman in Office appointed for one year and who is, in fact, the foreign minister of one of the participant states (he/she is asked to provide more chairmanship rather than leadership); a ministerial Troika which is supposed to assure the political continuity and the minimal collegial approach at the top level; a Permanent Council which is a kind of Ministerial Conference at the ambassadorial level and which, even if formed by diplomats normally dependent of the instructions coming from capitals, is considered to be and it is, in fact, the most important

political decision making body; a Secretariat led by a Secretary General entrusted with only technical and logistic competences. The Ministerial Conference, which is the highest political forum of the OSCE meeting regularly (once a year) and the OSCE Summit which meets only when it is considered to be necessary, provide, as such, a very general political guidance and a very inconsistent political oversight. The Parliamentary Assembly of the OSCE represents the second political branch of the Organization but its role in the decision making process is still to be defined. What does this hierarchic structure speak for? The political leadership is weak and slow. A Chairman in Office who has the perspective of a only one year mission, who bears, at the same time, the burden of his/her country's foreign policy and who is very much limited in his/her actions by the principle of consensus in respect of the political decisions, could not be but a soft coordinator and mostly a communicator. The political input, impetus and vision which are supposed to come from the capitals are either absent or hard to be coordinated.

The Permanent Council is paralysed by the need to wait for instructions and when the instructions come from far away, they impose a minimal denominator solution which unavoidable is placed at a very low level of consistency.

The Secretariat and the Secretary General have means but have no powers.

With their yearly meetings the Ministerial Conferences are more ritual events rather than substantial events.

Bearing all these in mind, some possible solutions might be: a) the powers of the CiO should be considerably increased, better defined and due to be exercised under a stricter supervision of the Troika; b) the Troika should meet at least every month and must be the main political structure when it is about the decision for operative actions; c) the Secretary General should get an important political role which he may exercise under the supervision of the Troika and the Permanent Council; d) the Permanent Council should have the power to adopt directives and decisions of a strategic nature which could provide with guidelines the CiO, the Secretary General and the Troika; e) the Secretariat must organize a special working group supposed to be the main staff of the CiO during his/her mandate (this group will have its headquarters in the capital of the CiO); e) the Ministerial Conference should take place twice a year; f) twice a year, between the Ministerial Conferences, should be organized for two or three days each Permanent Council meetings at the level of the political directors of the participant states' Ministries of Foreign Affairs.

2. **The decision-making system-transparency and accountability (no secret consensus).** The CSCE, in 1975, has adopted the consensus principle as a decision-making system able to defend each participant state's interest above the borders of the blocs to which they belonged. This principle was intimately linked, in order to reach its goals, to the principle of transparency:

The disappearance of the two opposed blocs put in question the need for an absolute and a permanent consensus as the only decision-making system in OSCE. I believe that as long as the OSCE is a family of commitments based on a set of shared values, in a world with diffused global threats and unfocused global enemies, the Organization is in need for bolder, more comprehensive and faster decisions rather than for decisions of low common denominators.

That should not mean to give up totally the rule of consensus. The consensus should be kept when it is about adopting the commitments, the main rules of procedure and the strategic programs as well as for the election of the Secretary General (if he has a political role). In all other cases - including the adoption of the budget and election of the officials who are civil servants - some other voting rule could be used according to the case (absolute majority, qualified majority etc.). One could also decide that, sometimes, the directly interested states have a veto right or, in some other times, those who have a vested interest are excluded from the vote.

However, whenever the consensus is used it should be transparent and non abusive. In this respect, the secret consensus should be forbidden. The public should always know who blocked a decision and on what grounds. This will make the decision-makers accountable and thus their actions more responsible.

3. **The institutional coherence.** The present situation is characterized by the almost complete independence of the OSCE's institutions as well as by the vague mandates each of them has. This leads to conflicting statements and divergent actions. Such an institutional lack of coherence provides the participant states with a forum shopping when it is about the implementation of their commitments. Some are also using the strategy of getting the control over one of the institutions they are afterwards using, in order to promote their priorities in disregard of the general policy of the Organization.

A large autonomy of the OSCE institutions should be further welcomed as long as this helps for more flexibility. However, the institutional coherence is also needed. This makes necessary the definition of a clearer mandate for each institution and

also the establishment of an appropriate mechanism for coordination of their initiatives and actions. Modalities concerning the accountability of the institutions towards the CiO, the Secretary General and /or the Permanent Council are also needed.

4. **The legal personality.** In order to have a clear status, to be able of enjoying certain rights, immunities and privileges, to formulate certain strategic interests and to delineate its *modus operandi*, the OSCE should become a legal person. This will provide predictability and certitude to both the participating states and the third interlocutors.

Some members consider that a clear status as a prerequisite and as a consequence of the acquiring of legal personality will diminish the flexibility of the Organization. One should respond that clear rules do not reduce the flexibility but only the unpredictability. The kind of the rules to be adopted and the substance of those rules will be decisive for preserving the very much-needed flexibility. From this prospective, one should find a solution which must respond to the global interest of the Organization.

5. **The field missions.** The field missions are the most important asset of the OSCE. Still, unfortunately, their presence in a certain country is associated with a bad certificate given to the respective country. That is why many states feel embarrassed by the mere presence of the field missions on their territories and are looking forward to getting rid of them. This dangerous trend must be stopped.

The reform of the field missions would require, among others: the definition of clear mandates for each mission based on the country and the sub regional strategies adopted at the appropriate political level of the Organization's leadership; the organization of the field missions as sub-regional networks; the right labelling of the field missions as local branches of the Organization meant to provide assistance to the states which are crucial for the promotion of the OSCE's global, sub-regional and local strategies as well as to the states which are in need of such an assistance and have asked for it.

6. **The rhetoric.** The OSCE is also in need of its rhetoric's reform. The old rhetoric of the cold war must be abandoned. No participant state is ready to accept today an OSCE which speaks as a super inspector or a prosecutor. The present challenge for the OSCE is not to impose the transfer of social and political models from one state to another but to build compatible institutions in all its participant states. The

main incentive for the enhancement of the states' commitments is and should be precisely the benefits of the cooperation from which the co-cooperative security emerges. If the Organization brings benefits to its members, then the latter have all the good reasons to fulfil the commitments which have conditioned their membership.

In order for this rhetoric to be convincing it should be complemented with a more balanced orientation of the OSCE's priorities and actions from the geographical and the topical point of view.

7. **The Parliamentary dimension of the OSCE.** There is no room here for a more elaborated presentation of this issue. I shall only say that, at present, the potential of the OSCE Parliamentary Assembly is not fully used.

I believe that the PA is a very useful means: for getting political inspiration; for testing political ideas and initiatives; for communicating with the public opinion, the policy makers and the parliaments in the participating states, both in order to get support for the OSCE needs and strategies and in order to implement those strategies; and, finally, for creating that kind of environment which is favourable to the identification and the enhancement of political solutions to the crisis and conflicts.

In this respect, one should find a place and a role for the PA within the decision making process of the OSCE. Basically this would only require the recognition of the PA's rights to be consulted, to warn and to encourage. To this end, one should place the relationship between the governmental and the parliamentary dimension of the Organization, between the OSCE and its Parliamentary Assembly on the foundations of the following five "C"'s policy/principles: Communication, Consultation, Co-ordination, Cooperation and Confidence.

Since the OSCE - PA is and should remain an autonomous structure at the political level, its relations with the rest of the Organization should be regulated either through the future general Status of the OSCE or through a special Memorandum of Understanding to be signed between the CiO and the President of the PA (or through both).

The last problem I would like to address would be the best procedure through which one might reach the best blueprint for the OSCE reform. In this respect, I do not think that the current format of discussions, which are taking place in Vienna, could lead to

some substantial results within a reasonable frame of time. It is impossible to think that fifty-five diplomatic representatives, inspired by a totally different opinion about the necessity of the reform and starting from a white paper – i.e. from a no concept –, with no clear mandate of negotiations and fully dependent of the instructions which should come from capitals vaguely aware of the character and the substance of the whole process, could be successful.

I believe I am truthful democrat. However, I have never found in the whole history a great vision which has been developed from the bottom up and a great project which has been achieved by consensus. That is why I think that a better approach would be the appointment by the CiO and the PA's President of a small "Wisemen Group" formed by well-known, experienced, respected personalities having not any present executive involvement who, in consultation with all those interested and concerned, will draft a blueprint for the OSCE's reform. This blueprint will be the starting concept, hopefully a visionary one, from which the proper negotiations for change at the political official level of the OSCE should start.

I am very well aware of the sensitive character of all these issues. I also know that some of the above ideas are very controversial. Even more, some of them go against the actual mainstream within the OSCE.

Nevertheless, I thought it worth formulating them since I think that the possibilities should be considered and that any divergence in today's opinions is and should not be a source of conflicts but a source of richness for the so much needed debates. Even if we cannot achieve the agreement today, this might happen tomorrow. The most important thing is that the alternatives are on the table and that we consider them all in good faith. Tomorrow is another day. Hopefully a better one!