



Institute for Peace Research and Security Policy at the University of Hamburg



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Germany and OSCE Reform

Working Paper 15



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Gernot Erler is Minister of State at the German Federal Foreign Office, a position he has occupied since November 2005.

Erler has been a member of Germany's Social Democratic Party (SPD) since 1970, and has made a name for himself as an expert in peace and security affairs. He has been a Member of the German Bundestag for Freiburg since 1987 and the directly elected representative of that constituency since 1998. From 1998 to 2005, he was the Deputy Chairman of the SPD Parliamentary Group with responsibility for International Affairs, exercising a major influence on his party's foreign and security policy. As co-ordinator of German-Russian intersocietal cooperation from 2003-2006, he helped to intensify civil-society dialogue between the two countries.

Gernot Erler's major political interest is development issues in relation to the states of Central and Eastern Europe and the former Soviet Union, as his many interviews and publications demonstrate. He is the author of both *Global Monopoly. Weltpolitik nach dem Ende der Sowjetunion* [Global Monopoly: Geopolitics following the Demise of the Soviet Union] and most recently *Russland Kommt: Putins Staat - Der Kampf um Macht und Modernisierung* [Russia is Coming: Putin's State – The Struggle for Power and Modernization], in which he critically analyses current developments in Russia.

Erler, who speaks fluent Russian, is also the President of the *Südosteuropa-Gesellschaft* [South-East European Association], member of the German steering committee of the "St. Petersburg Dialogue", Chairman of the German-Bulgarian Forum and the *West-Ost-Gesellschaft Südbaden* [West-East Society of South Baden], and a member of the Board of Trustees of the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH).

Executive Summary

The OSCE is at a crossroads. The consensus around its standards and commitments and the participating States' faith in them have started to erode. Central tasks and functions of the Organization are openly called into question. The OSCE participating States now face the challenge of reversing the current tendency towards the weakening of OSCE institutions and instruments, and collectively restoring the Organization's ability to reach agreement and to act.

At the Brussels Ministerial Council, therefore, we must act decisively to implement the mandate for reform contained in the Ljubljana Decision on "Strengthening the Effectiveness of the OSCE". Above all, this means, firstly, reaffirming fundamental and long-established OSCE principles and, secondly, securing and – where possible – strengthening the independence and key functions of the institutions, field presences, and election monitoring missions. However, it also means, thirdly, that we need to take seriously demands for more partnership-based approaches, for a better balance in terms of both geography and issues, and for more transparency and participation. Wherever the concrete implementation of these demands would contribute to strengthening the OSCE, Germany will support them. This is particularly true of our support for the Kazakh candidacy for the OSCE Chairmanship in 2009. It touches upon a central question of the reform discussion and hence also the basic understanding of the OSCE as a co-operative security organization: the identification of *all* OSCE participating States with the Organization and their equal participation therein.

In Brussels we have a choice: If we want an OSCE that makes an *effective* contribution to co-operative security, the rule of law, institutional reform, and conflict resolution, we must fight to ensure that the reform process has a *substantive* result. Given the wide variety of positions held by the participating States, this will require from each the highest degree of willingness to reach a consensus and to co-operate. Germany will push hard to achieve this.

If we fail to reach this central goal in Brussels, other, more effective international organizations will have to take over key security policy tasks that the OSCE is no longer capable of performing. It is therefore up to the OSCE participating States themselves to decide whether they wish to strengthen the OSCE as the only pan-European forum for security co-operation, or whether political problems in the OSCE area will henceforth be dealt with in bodies in which not all OSCE participating States have an equal right to participate and to vote.

Germany and OSCE Reform

Despite the naysayers and their prophecies of doom, there is life in the OSCE yet: During the Permanent Council discussion of the report of an OSCE Head of Mission in March 2006, the Permanent Representative of the Russian Federation expressed his “alarm” over the human rights situation in a participating State and appealed to the OSCE Mission to exercise its mandate to the fullest extent possible in this critical area. The Russian Permanent Representative called for the participating State in question to bring its internal situation in line with its OSCE commitments. This example shows that even Russia, the OSCE’s biggest and harshest critic, is willing to make use of the Organization and to appeal to its norms and standards – even if this is clearly not without contradiction. And the Russian intervention in the Permanent Council is just one arbitrary example of a participating State making active use of OSCE norms and instruments.

A further case in point: During the 2005 OSCE Human Dimension Implementation Meeting, the British Government answered criticism from the OSCE participating States with respect to its implementation of electoral commitments. The UK organized what is known as a “Side Event” to discuss the report made by a small mission of experts from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the British general election of 5 May 2005. Critical questions were raised there that focused on problems of implementation highlighted in the report. A prominent complaint concerned the lack of legislation to allow international and domestic election observers access to polling stations in line with the commitments contained in the Copenhagen Document. The Belarusian delegation showed particular interest in the British delegation’s explanation of how the UK would overcome these issues in the future.

The third and final example is the visit of the Personal Representative of the OSCE Chairman-in-Office on Combating Intolerance and Discrimination against Muslims, Ambassador Ömür Orhun, to Germany in the spring of 2006. The aim of this visit, which was arranged in response to an invitation from the German Government, was for the Personal Representative to gain an impression of the extent to which Germany was fulfilling its OSCE commitments on non-discrimination with regard to its Muslim population. Ambassador Orhun took issue, above all, with the catalogue of questions that Muslims applying for German citizenship in the State of Baden-Württemberg were being asked to answer. Ambassador Orhun stressed that by focusing on personal opinions and attitudes, this procedure constituted a violation of human rights. Opposing this practice, he supported a standardized procedure for the whole of Germany that would deal solely with the applicant’s knowledge of matters of fact.

All the above are arbitrarily selected cases. I am not interested right now in whether the criticism raised in each case was justified or whether it proved completely unfounded. What is important is that these cases illuminate in an exemplary manner the strengths and comparative advantages of the OSCE within the international security architecture. They show clearly that the OSCE participating States concern themselves – within a framework in which they are equals – with developments in other OSCE States in the areas of rule of law, democracy, and

human rights, i.e. with central aspects of their domestic affairs. This is based on a belief that the manifold challenges to security and stability are better met by constructive collective effort, dialogue, the sharing of experience, and co-operation than by national unilateralism. Unfortunately, an all too widespread and stubborn prejudice alleges that the real aims are to preach, censure, and humiliate. In fact, it is rather a matter of the OSCE States advising each other at an early stage of potential problematic developments and risks for security and co-operation in Europe. By providing this early warning function, the OSCE takes on a vital role in the concert of Euro-Atlantic security organizations. That applies equally – even particularly – in the age of globalization.

The OSCE is based upon a commitment to effective multilateralism, to an enlarged concept of security, and to an ambitious community of values with equal rights and duties for all participating States. To achieve this, the OSCE participating States have created an extensive *acquis* of highly detailed common norms, standards, and commitments in all three dimensions, whose ongoing development they actively pursue. These politically binding rules apply to all OSCE participating States. They may legitimately be appealed to in the course of the Organization's intensive dialogue and co-operative activities. In the 1991 Moscow Document, the participating States set out in particularly striking terms just how far this mutual trust and the will to co-operate could extend. They declared "categorically and irrevocably [...] that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned". This far-reaching avowal is an expression of the common goal agreed in the Paris Charter according to which: "Our States will co-operate and support each other with the aim of making democratic gains irreversible."

Unfortunately, this *ideal* depiction of an ambitious, co-operative security and value community in a Europe retaining all its heterogeneity reflects only one portion of reality. The OSCE *acquis* and the commitment to it are showing signs of fragility. This could be seen particularly clearly in the Uzbek city of Andijan, where security forces seeking to suppress unrest herded together and indiscriminately fired upon hundreds of peaceful protestors. In contravention of all OSCE rules, the Uzbek Government refused even to talk with the Organization, rejected all criticism as unacceptable interference in its internal affairs, and dismissed ODIHR's reports on the events and the trials that followed. What Tashkent could not avoid, however, were the legitimate claims made by those who sought to measure Uzbekistan against its politically binding OSCE commitments to uphold human rights and the rule of law.

Basic OSCE standards were also disregarded in the recent presidential elections in Belarus. According to the OSCE/ODIHR election observation mission, campaigning and voting were characterized by a climate of intimidation, large-scale obstruction of opponents' campaign efforts, partisan media reporting, a lack of independence on the part of the Election Commission, counting procedures that lacked transparency, and considerable interference in the work of OSCE/ODIHR election observers. The mission's conclusion that fundamental OSCE principles for free and fair elections as agreed by the governments of the OSCE participating States in the Copenhagen Document had thereby been breached was rejected by the Bela-

rusian Government as biased and partial. Openly flouting the OSCE *acquis*, the Belarusian Government intimated that the evaluation of the elections should be carried out primarily with reference to relevant national laws.

The consensus on the central tasks and functions of the OSCE is indeed showing signs of erosion, as the above examples suggest. Among the accusations made by individual participating States are: paternalism, political bias, interference in domestic affairs, and an imbalance in OSCE activities in terms of both geography and the issues focused on. The critics have their sights set on the OSCE's election observation missions and field presences, whose resources are said to be concentrated largely on states "East of Vienna" and on the human dimension. They say that the Organization requires fundamental reform as the security challenges it faces have undergone a complete transformation.

Although many of the accusations are groundless, the participating States have taken the criticism seriously. That the OSCE reacted to these calls at all is a sign of its vitality and a basic willingness to seek consensus that should not be underestimated. Its answer has also been substantive. We can thank the Bulgarian and Slovenian Chairmanships that systematic preparations for a reform debate were undertaken by the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, which was assembled to represent the diversity of participating States for this purpose (and to which Germany's Ambassador retired Wilhelm Höynck, the first Secretary General of the OSCE, belonged). By making specific, *collectively* agreed recommendations for reform, the Panel indicated a route to renewing the consensus over the OSCE. Building on this foundation, the Ministerial Council in Ljubljana was able to achieve unanimity on a key political document for the first time in years, and to formulate a comprehensive mandate for reform, thereby restoring the OSCE's common denominator.

The consensus over this mandate is a great opportunity that we must be brave enough to use. Our challenge is now to build upon this common denominator and, despite sometimes holding very different positions, to make the effort to achieve substantive results, namely consensus on the central aspects of reform. There is no doubt that this will be a difficult task. It will take constructive, creative approaches to fully explore how the OSCE participating States can improve their ability to *collectively* deal with the changing set of challenges they face. The Ministerial Decision of Ljubljana has given us a narrow window of opportunity: The reform package must be ready by December 2006. Each delay will detract from the momentum that the reform process currently has and will inevitably damage its substance.

The aim of reform – as spelled out in the title of the Decision adopted in Ljubljana – must be to strengthen the Organization. It cannot be to weaken it. The reform process must therefore ensure that fundamental, long-established OSCE principles and structures emerge strengthened from this debate. This applies to the OSCE's norms and standards, and to the independence and the key functions of its institutions and missions. We will therefore always support demands for more emphasis on partnership in the Organization, for better geographical and thematic balance, and for more transparency and participation if and when their concrete implementation would lead to improvements in the effectiveness of the OSCE.

With respect to the central topics in the reform discussion, this would mean the following:

The allegation that the OSCE/ODIHR election observation missions amount to instruments for “regime change” rests on a fundamental misunderstanding. Democratic changes of government are based on the results of elections, not on the observation of electoral processes. OSCE/ODIHR election *observation* missions do not themselves intervene in the electoral process, but restrict themselves to ascertaining, *via observation*, whether OSCE standards and norms for free and fair elections have been upheld and, hence, whether the fundamental preconditions for democratic decision-making have been fulfilled. This task is performed according to a methodology that has been developed and continually refined in over 150 election observation missions so far deployed in numerous OSCE States, from the USA to Kazakhstan. By professionally and responsibly evaluating the integrity of elections, the OSCE/ODIHR election observation missions have made a decisive contribution to the consolidation of democracy and the legitimacy of parliaments and governments throughout the OSCE area. Their credibility continues to rest critically upon the preservation of their operational independence and key functions. We *endanger* their operational independence if we interfere in key prerogatives of the ODIHR Director – whether these are decisions as to which elections should be observed, questions of methodology, or the appointments of heads of election observation missions. Giving the OSCE participating States a formal role in such processes would politicize these questions. This would damage both the credibility of the election observation missions and their operational value; in the last instance – where no consensus could be achieved – it could even paralyse the work of election observation itself.

We must also ensure that the integrity of elections continue to be evaluated promptly and publicly. The alternative, demanded by some participating States – that the missions act as partners in providing advice and support to help the host state eliminate proven difficulties (which, it should be noted, is already the case) – cannot replace assessing whether the electoral process has complied with OSCE criteria. In cases where government and opposition disagree as to the legitimacy of an election, an election observation mission can play a particularly vital peacekeeping role as a neutral, impartial agency.

A number of reform proposals that would bring us closer to the goal of strengthening the election observation missions focus above all on the question of raising acceptance levels. At present, too little is known of the missions’ professional, responsible methods. But even simple measures, such as increasing transparency by raising the frequency of ODIHR’s briefings to the Permanent Council, could help to remedy this.

However, what would carry greater political weight would be an improved willingness on the part of *all* OSCE participating States to provide observers for OSCE/ODIHR election observation missions. This is the only way we can achieve the crucial goal of a geographically balanced staffing of the missions. We can only create a situation where all partake equally of this central OSCE instrument if each OSCE participating State makes an appropriate contribution to this task and assumes its fair share of responsibility according to its means. By giving every state a greater role in shaping the missions’ activities, this would be likely to raise the mis-

sions' general acceptance. For this reason, we are willing to act – where necessary – as partners in providing OSCE participating States with support that will enable them to dispatch observers. We would be particularly willing to provide support to overcome financial and linguistic hurdles and to help with the training of observers. Standardized training in accordance with the norms and standards of the OSCE, in particular, is decisive for the quality and credibility of the missions. Observers that (deliberately) ignore the OSCE/ODHIR Observer Code of Conduct endanger this vital work. There is no room in the election observation missions for mavericks, activists, or crusaders with a personal agenda. What are required are level-headed, perceptive, and trustworthy experts. In the recent past, individual OSCE/ODIHR observers and even entire observation teams have made statements to the media that differed from their mission's overall evaluation. This is a cause of great concern, as it undermines both the mission's conclusions and its credibility. It is therefore important that the prerogative of speaking to the media be reserved exclusively for Heads of Mission, who, in addition – and in contrast to the individual observers – also possess the necessary broad perspective.

If the consensus over OSCE/ODIHR election monitoring nevertheless does finally collapse, and OSCE election monitoring thereby loses its independence and effectiveness, these tasks will sooner or later be taken over by other actors, such as the European Union within the scope of its neighbourhood policy. The EU showed that it was quite capable of performing election observation in the presidential and parliamentary elections in Afghanistan, an OSCE Partner for Co-operation.¹

The OSCE's field missions are another of its comparative strengths, and we should be careful that this advantage is not squandered during the reform discussions. They are a unique cooperative instrument for promoting the rule of law and institutional reform. From Sarajevo to Astana, 3,200 experts are currently involved in providing participating States with support and advice in their efforts to reform and implement the OSCE *acquis*, thereby ending the division of Europe once and for all. The OSCE is characterized by its presence in participating States in the form of field missions and field offices, its closeness to the problems and (state and civil-society) actors, its flexibility, and the range of its activities across all three dimensions. These include such diverse tasks as multiethnic police training in Kosovo, the conversion of toxic rocket fuel in Armenia, and the production of human-rights textbooks for schools in Kyrgyzstan.

The missions can only work effectively when host states do not perceive their presence as a stigma, but as an offer that has been made to them and an opportunity they may wish to grasp. Moreover, *both* sides must be willing to co-operate on the basis of openness, trust, and partnership. By retreating to extreme positions, such as insisting on the unlimited autonomy of the field missions, on the one hand, or refusing constructive co-operation with them, on the other, we achieve precisely the opposite. Acceptance cannot simply be demanded, but must be gained in a dialogue based on trust – and this asks questions of both sides. The yardstick for co-operation between the field missions and their host states' governments must, however,

¹ The OSCE has itself so far sent two "Election Support Teams" to Afghanistan: to the presidential elections in 2004 and to the 2005 National Assembly elections.

remain the OSCE's indivisible *acquis*. Restricting the activities of the field missions to parts of the *acquis* would therefore be illegitimate and artificial, it would also be inappropriate because not consistent with the OSCE's enlarged concept of security, whose dimensions are often intertwined in complex ways. For example, the police programme in Kyrgyzstan, which encompasses both equipment and training aid, may be considered primarily a politico-military matter but, because it also involves anti-corruption measures and human rights, equally touches upon the second and third dimensions.

Also questionable are simplistic demands for the establishment of geographical balance in the distribution of the field missions within the OSCE area. It is claimed, for instance, that the allegedly one-sided current concentration on the area "East of Vienna" needs to be balanced by the creation of missions in places such as Northern Ireland and the Basque Country. As long as the OSCE's resources remain limited, however, we would be well advised to apply the means at our disposal where the need for effective support with reform and transformation processes and conflict resolution is greatest. OSCE field missions are not established with the intention of creating a presence spread equally throughout the OSCE area, but rather in order to deploy the OSCE's limited resources where they are needed most. The same naturally applies to the decision as to which OSCE participating States should receive the bulk of OSCE/ODIHR election observation missions.

The proposals made within the reform debate on introducing what have become known as "thematic missions" are certainly capable of contributing to the strengthening of the OSCE. "Thematic missions" could deal with issues that cannot be contained within the OSCE's usual categories and which affect several participating States (such as intolerance or human trafficking). Nonetheless, it would be a fundamental mistake to believe that these kinds of missions, which devote themselves to a single limited topic on a project-like basis, could replace the classical field missions with their broad cross-dimensional approach. The two approaches are not alternatives, but distinct options that are perfectly capable of functioning together in a complementary manner.

One of the OSCE's classical security competencies, namely mediating in what have been dubbed "frozen conflicts", for which it has a clear mandate, has come under serious danger of being eroded in recent years. The OSCE's efforts in Georgia/South Ossetia, Moldova/Transnistria, and Nagorno-Karabakh have so far produced few tangible results. While OSCE diplomacy has had a positive effect in terms of conflict prevention and has at least managed to prevent the three conflicts from once again becoming "hot", in no case has any progress been made towards actually tackling the roots of the conflict. Here, the conflict parties have clearly lacked the necessary political will to make constructive use of the OSCE's mediation mechanisms. Even the enlargement of the negotiating format, as in the case of Moldova/Transnistria, where the EU and the USA have been included as observers, has so far not really moved us forwards. If the stagnation continues, the value and purpose of the OSCE's conflict resolution mandate will come under ever stronger criticism, and the search for alternative, more effective conflict resolution mechanisms will accelerate. It is therefore up to the OSCE participating States themselves to decide whether they will retain this central political instru-

ment, or lose it. We can by all means see the comparative advantage of pursuing conflict resolution in the OSCE context, where all conflict parties have an equal right to participate and to vote (“inclusiveness”). Nonetheless, if it continues to be impossible to muster the necessary political will, the OSCE will be supplanted in this area sooner or later. For reasons of security and stability, we simply cannot afford to accept the current stagnation in the resolution of the frozen conflicts. The EU also has a vital interest in seeing the conflicts in its immediate neighbourhood resolved, and, in the form of the European Security and Defence Policy, has created an instrument that is capable of taking on this task.

Ultimately, the central question in the reform discussion is that of participation: To what extent do the individual OSCE States identify with the Organization, its goals, and its instruments? To what degree do they consider the Organization to be theirs? In order to achieve a sustainable consensus on the OSCE, participation is absolutely essential. Without it, the Organization will not be able to comprehensively restore its ability to reach agreements and to take action. The institutional foundations for this are already in place: The OSCE participating States have equal political standing and rights and are equally able to guide and shape developments in the Organization. Often, however, they do not make sufficient use of this opportunity. We should encourage them to do so and support appropriate initiatives. Foremost among these is Kazakhstan’s application for the OSCE Chairmanship in 2009. Germany supports Kazakhstan’s candidacy. For, if we really mean what we say about the equality of participation of all OSCE States, the time is now ripe for the leadership of the OSCE to pass to a state that has been accompanied by the CSCE/OSCE since the start of its – still incomplete – journey of transformation. For Kazakhstan to be installed as the OSCE’s *primus inter pares* requires a high degree of credible identification on the part of that country with the Organization. By taking on the role, Kazakhstan would demonstrate a willingness to assume responsibility and to champion the OSCE *acquis* and instruments. A Kazakh OSCE Chairmanship would have considerable resonance within the region and would encourage the Central Asian states as a whole to conceive of themselves as active “co-owners” of the Organization, not merely as addressees of its policies.

Besides the Kazakh candidacy, there are many other means by which the participation of all OSCE States may be gradually improved. The success of many innovative approaches to new security threats that have recently grown in prominence within the OSCE, such as terrorism, trafficking in human beings, and intolerance, should be an inspiration and encouragement for each participating State to develop its own initiatives. There is also a need to make up lost ground by grasping the available opportunities with regard to the staffing of the Secretariat, the field presences, and the election observation missions. In the first instance, this requires the countries that have so far been underrepresented to take steps to increase the number of suitable applicants they can propose for these positions.

It is also important that the OSCE be helped to regain its role as a multi-dimensional security organization, in which politico-military questions will take on greater prominence alongside the human and economic and environmental dimensions. While the OSCE remains the anchor of conventional arms control and military transparency in Europe, its potential as a forum for

security co-operation is not being fully exploited. The role of the Forum for Security Co-operation – to help create an atmosphere of openness and trust in politico-military questions and to develop means of reducing the risk of armed conflict – remains unchanged and needs to be given concrete form. The 1999 Vienna Document and the Code of Conduct on Politico-Military Aspects of Security, efforts to combat the illicit spread of small arms and light weapons, including portable air defence systems (MANPADS) and ammunition, and the extensive project work carried out under the OSCE's auspices offer many opportunities for enhanced co-operation, and these are very far from being exhausted.

Germany supports, and will continue to commit considerable political, personnel, and financial resources to, an effective OSCE that makes a substantive contribution to co-operative security, rule of law, institutional reform, and conflict resolution. In 2005, we were once again one of the OSCE's largest contributors, allocating some four million euros for voluntary contributions and the secondment of personnel to OSCE missions in addition to our compulsory contribution. In the same year, around 80 German experts were seconded to the Secretariat, institutions, and missions, and some 350 German election monitors took part in OSCE/ODIHR election observation missions. We therefore have a great interest in efforts to reform and strengthen the OSCE. We are confronted with the major challenge of reversing the current tendency towards the erosion of the *acquis* and the weakening of OSCE institutions and instruments, and of collectively restoring the Organization's ability to reach agreement and to act. Given the wide variety of objectives among the participating States, this task will require the highest degree of willingness to reach a consensus and to co-operate – if we want to achieve substantive results.

For our part, we are ready to support all reform proposals that will help to strengthen the OSCE. However, if we fail to realize this central goal at the Ministerial Council in Brussels, we will be accelerating a process in which key tasks that the OSCE is no longer capable of performing will have to be taken over by other, more effective international actors. The EU, in particular, has a justified interest in this, especially within the scope of its neighbourhood policy. It also has a suitable instrument in the shape of the European Security and Defence Policy. It is up to the OSCE participating States to decide whether they remain at the helm. However, if the political will to strengthen the OSCE as the only pan-European forum for security co-operation should prove lacking, political problems will henceforth be dealt with in bodies in which not all OSCE participating States have an equal right to participate and to vote.

Centre for OSCE Research

Institute for Peace Research and Security Policy
at the University of Hamburg

Falkenstein 1, 22587 Hamburg

Tel.: +49 40 866077-0

Fax: +49 40 8663615

e-mail: core@ifsh.de

www.core-hamburg.de

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