

# THE UKRAINIAN CRISIS: THE OSCE'S SPECIAL MONITORING MISSION

*The article describes the case of the OSCE's Special Monitoring Mission to Ukraine (SMM) as a civilian mission operating in an environment of armed crisis. It describes its tasks, achievements, and main challenges, observing that this mission has been entrusted with functions that in the past have been performed by peacekeeping operations. At the same time, the authors highlight the fact that the SMM not only serves as an instrument of conflict management and resolution, but has an important preventative and deterrent role as well. The article then examines what lessons could be drawn from this example for other civilian peace operations.*

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**O**ver the past years, a greater focus on conflict prevention has developed in theory – as well as in practice – particularly in the UN. In this context, there is an ongoing debate about creative new peace operations that combine innovative crisis management and prevention. The Organization for Security and Co-Operation in Europe’s (OSCE) Special Monitoring Mission (SMM) to Ukraine can serve as a good example for both.



On 21 March 2014, against the backdrop of internal and regional tensions, the 57 participating States of the OSCE (including Ukraine and the Russian Federation), decided unanimously on the deployment of the SMM, with a mandate to contribute to reducing tensions and to help foster peace, stability, and security. The Mission was tasked to engage with authorities on all levels, including civil society, ethnic and religious groups, and local communities to facilitate dialogue on the ground. The broad yet innovative mandate stipulated that the Mission would gather information and report on the security situation and establish and report facts in response to specific incidents, including those concerning alleged violations of fundamental OSCE principles. There are several noteworthy aspects about this decision.



The mandate of the Mission – which remains unchanged to this day – was adopted in an environment of political crisis. The Mission was designed as a classic instrument of preventive diplomacy, whilst pursuing the OSCE’s approach to comprehensive and co-operative security. As Lund explains, it is an

action taken in vulnerable places and times to avoid the threat or use of armed force and related forms of coercion by states or groups to settle the political disputes that can arise from the destabilizing effects of economic, social, political, and international change.<sup>1</sup>

<sup>1</sup> Michael S. Lund, *Preventing Violent Conflict: A Strategy for Preventive Diplomacy*, (Washington DC, United States Institute of Peace Press: 1996).

Furthermore, the decision to entrust the OSCE with this task was much in line with contemporary international thinking with regards to peace operations, as stated by the UN High Level Independent Panel on Peace Operations. This panel concluded that “regional and sub-regional entities bring longstanding relationships, a depth of understanding and determination, and often a willingness to respond.”<sup>2</sup>

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Initially, the SMM began operations with up to 100 monitoring officers in 10 locations throughout Ukraine, and was present on the ground within 24 hours after the decision on its mandate.

### ***Military Escalation and the Minsk Agreements***

From May 2014 onwards, already shortly after the Mission’s deployment, a rapid and sharp military escalation occurred. Nevertheless, the civilian monitors of the SMM remained in place in the middle of the armed conflict in Donetsk and Luhansk regions, and continued to provide vital information about the military escalation and the situation on the ground.

This escalation came to a temporary halt with the conclusion of the Minsk Protocol on 5 September, and the Memorandum on 19 September 2014, but intensified again later in the run up to the conclusion of the Package of Measures for the Implementation of the Minsk Agreements on 12 February 2015. The finalization of the Package helped reduce the levels of armed violence in the following months, though never to zero. As a matter of fact, there has been ongoing violence ever since. Some periods of calm have so far never been followed up by measures that are crucial for the preservation of a ceasefire: agreements on a withdrawal of proscribed weapons; a comprehensive disengagement of forces and hardware; and confidence building measures. Progress towards an agreed settlement has been reached on these issues, but implementation remained incomplete.

The Minsk agreements, while leaving the Mission’s original mandate unchanged, defined some concrete functions for the SMM:

- To facilitate – with support from the Trilateral Contact Group (TCG) – the withdrawal of heavy weapons (Point 2);

<sup>2</sup> *Uniting Our Strengths for Peace – Politics, Partnerships, and People: Report of the High-Level Independent Panel on United Nations Peace Operations* (2015), para 55.

- To provide effective monitoring and verification of a ceasefire regime and pullout of heavy weapons (Point 3);
- To monitor the withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine (Point 10).

In February 2015, the Mission started to support and facilitate the implementation of the Minsk agreements in line with its mandate. The OSCE participating States, then under the Chairmanship of Serbia, also decided to enlarge the Mission significantly – the cap of the number of monitors was raised from 500 to a maximum of 1,000. The aims of the SMM, however, remained unchanged. The SMM was to contribute – throughout the country – to reducing tensions, fostering peace, stability, and security, and to monitoring and supporting the implementation of OSCE principles and commitments.

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It is notable that this decision meant that a civilian mission was asked to perform functions usually performed by peace-keeping missions, in an environment that was essentially a combat zone. To date, civilian monitors – both men and women from 44 OSCE participating States – have done an exceptional job performing these functions with dedication, and often under conditions of

hardship. It has been noted that “the deployment of the SMM – against the odds and under fire – has demonstrated that the OSCE can move quickly and deploy a sizeable mission of civilian monitors in a hostile environment.”<sup>3</sup>

To this day, despite the Minsk agreements and despite commitments made by both sides on numerous occasions, a full and comprehensive ceasefire has still not taken hold. The SMM records ceasefire violations on a daily basis, many of them committed with the use of weapons that should have long been withdrawn. At the end of January 2017, the Mission recorded the highest number of violations since the conclusion of the Minsk agreements, with intense fighting taking place not far from the city of Donetsk.

In addition, the military, political, and humanitarian aspects of the conflict are closely interrelated, and progress towards the implementation of non-security-related

<sup>3</sup> Walter Kemp, “OSCE Peace Operations: Soft Security in Hard Environments,” *International Peace Institute*, June 2016.

provisions of the Minsk agreements is extremely limited. It is clear that the conflict has not lost its potential for dangerous escalation and continues to imperil regional and global stability.

However, even during the active phase of the conflict, the SMM has a crucial role: to be present, monitor, report, and work with all sides – all amidst a kinetic environment along the line of contact. This aims at preventing further escalation or spillover of the conflict, and contributes to the process of stabilization in Ukraine. Essentially, the role the SMM plays in Ukraine has made it into an instrument of prevention. Since its deployment, it has become crucial for the SMM to adapt, innovate, and respond to crisis situations in a high-risk environment.

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### ***The SMM as an Instrument of Prevention***

OSCE Secretary General Lamberto Zannier has observed that “as the very nature of conflict becomes ever more complex, (there is) a need to move away from crisis management towards more effective early warning and conflict resolution.”<sup>4</sup>

The OSCE has always aspired to a leading role in crisis prevention within its region. The Budapest Summit meeting in 1994 cast the OSCE as a “primary instrument for early warning, conflict prevention and crisis management.”<sup>5</sup> The current Chairperson-in-Office, Austrian Foreign Minister Sebastian Kurz, has called for “strengthening the OSCE’s instruments for conflict prevention and resolution,”<sup>6</sup> as has the previous Chairperson-in-Office, German Foreign Minister Frank-Walter Steinmeier, who called the OSCE a “key instrument of conflict prevention in Europe.”<sup>7</sup> Foreign Minister Didier Burkhalter of Switzerland, who oversaw the foundation of the SMM as Chairperson-in-Office of the OSCE in 2014, underlined that “the OSCE can help. The OSCE is not a party to the conflict. It is neither East nor West.”<sup>8</sup>

<sup>4</sup> Lamberto Zannier, “High-Level Leaders’ Roundtable Political Leadership to Prevent and End Conflict,” speech given at World Humanitarian Summit, Istanbul, 23-24 May 2016.

<sup>5</sup> *OSCE Budapest Document*, paragraph 8, 1994.

<sup>6</sup> Interview with Sebastian Kurz, in *OSCE Magazine*, April 2016.

<sup>7</sup> Frank-Walter Steinmeier, “Address to the OSCE Permanent Council,” speech given on 2 July 2015.

<sup>8</sup> Didier Burkhalter, “A Roadmap for concrete steps forward: The OSCE as an inclusive platform and impartial actor for stability in Ukraine,” speech given on 12 May 2014, Brussels.

*“Careful consideration of the expectations and needs of the people on the ground are vital for both conflict management and prevention efforts.”*

participants from certain areas of Donetsk and Luhansk regions. On the ground, however, the SMM has become the essential tool for conflict management and resolution.

Furthermore, it is widely acknowledged that the continued and growing presence of the OSCE’s SMM in the conflict zone has also prevented further escalation.<sup>10</sup> The Mission’s presence casts light on the daily developments in the combat zone, with its reports indicating the extent of each sides’ compliance with the agreements they entered into.<sup>11</sup> While the fighting has not stopped, the deterrent effect of these monitoring, reporting, and verification activities has likely resulted in the containment of the conflict.

Objective reporting of compliance and non-compliance is a priority, and it enhances the deterrent and preventive effect of the Mission. Continued confirmation of compliance through constant patrolling, monitoring, and verification is an essential ingredient for building and maintaining confidence. The extensive presence of the SMM in the areas affected by the conflict and throughout Ukraine significantly contributes to the goals set in the mandate, and to the efforts to find sustainable solutions.

In this context, the Mission continues to implement its mandate throughout Ukraine. In cooperation with local institutions – as well as with an energetic civil society – the Mission works towards the implementation of the OSCE’s commitments, which is an important part of preventive diplomacy as well.<sup>12</sup> The Mission has facilitated dialogue to diffuse tensions, involving communities of internally displaced persons and the local population, as well as dialogue between church groups, to name just two examples. In pursuing the goals of the 2000 UN Security Council Resolution

<sup>9</sup> The Normandy Format comprises representatives of Germany, France, the Russian Federation and Ukraine.

<sup>10</sup> Stefan Lehne, “Reviving the OSCE: European Security and the Ukraine Crisis,” *Carnegie Europe*, September 2015.

<sup>11</sup> Currently, the SMM operates with more than 1,100 staff out of 22 locations in Ukraine, 14 of these locations in the conflict area.

<sup>12</sup> “Brahimi Report: Report of the Panel on United Nations Peace Operations,” *United Nations*, paragraph 29.

1325 on women, peace, and security, the SMM promotes the important role both women and men play in an environment of conflict. The Mission has also authored thematic reports on the respect for human rights and the rule of law, and plays a role in the protection of civilians. By performing these activities, the SMM serves as a forward platform for preventive diplomacy through analysis, reporting, early warning, and facilitation efforts, complementing its core functions in the security sphere as described in the Minsk agreements.

### *Challenges*

Ever since its inception, the Mission has faced grave challenges in carrying out its aforementioned functions, and in performing its tasks and operations. As its personnel and equipment have been subjected to both direct and indirect attacks in the volatile regions of Donetsk and Luhansk, security for its staff remains the Mission's primary concern. There is still insufficient compliance with the implementation of agreed decisions on the non-use of weapons, the withdrawal of weapons, disengagement of forces and hardware, and on demining. There have also been repeated – and sometimes violent – restrictions on the freedom of movement of SMM personnel and a high number of ceasefire violations.

The situation of civilians affected by the conflict also remains extremely difficult.<sup>13</sup> More than 10,000 people have been killed, and many more wounded. The number of internally displaced persons stands at over one million, and more than 1.4 million people have left the conflict – affected area for neighboring countries.<sup>14</sup> Access to shelter, water, heat, and medical care is limited in many areas due to the militarization of infrastructure, which aggravates human suffering.

The fact that restrictions and violations of the SMM's right of freedom of movement and access imposed by the sides have impacted the conflict prevention and conflict mitigation ability of the Mission is irrefutable. It needs to be underlined that such a restriction constitutes a violation of the mandate that the SMM has received unanimously from all 57 participating States of the OSCE, as well as of the Minsk agreements. The SMM has expanded and will further expand geographically on the contact line and towards border regions, as well as in numbers of monitors on the ground.<sup>15</sup> The Mission's monitoring through ground patrols is complemented

<sup>13</sup> See the regular reports of UN OCHA, for instance the most recent (6 February 2017), [https://www.humanitarianresponse.info/system/files/documents/files/ukraine\\_update\\_deterioration\\_of\\_the\\_humanitarian\\_situation\\_in\\_the\\_east\\_6\\_feb\\_2017.pdf](https://www.humanitarianresponse.info/system/files/documents/files/ukraine_update_deterioration_of_the_humanitarian_situation_in_the_east_6_feb_2017.pdf)

<sup>14</sup> For figures see the UNHCR Operational Update, December 2016, <http://www.refworld.org/country/COI.UN-HCR,,UKR,,5887592f4,0.html>

<sup>15</sup> The SMM is mandated to operate on the territory of Ukraine. For the specific task of border monitoring, the OSCE has deployed a separate mission, the "Observer Mission at Russian Checkpoints Gukovo and Donetsk"

by remote observation tools, such as UAVs, cameras, and satellite imagery – the Mission needs safe and secure access, freedom of movement, and operational flexibility for all of this.

It has been remarked that “the Mission has to walk a fine line between the sides’ demands for verification and security of its own staff.”<sup>16</sup> In short, it is not a classic interpositional peacekeeping operation, rather it is a monitoring mission that also seeks to de-escalate tensions.

### *Lessons Learned*

Through its permanent presence and impartial monitoring and reporting, the SMM has contributed to the containment of the conflict and continues to serve as an important instrument of prevention of conflict spillover. One author, who expressed concern over the Mission’s ability to implement its mandate due to widespread restrictions, ultimately concluded that “(the Mission) has managed to foster an atmosphere where dialogue is increasingly seen as the only solution to ending the armed conflict.”<sup>17</sup>

Some wider lessons and conclusions can also be drawn from the experience of the SMM. Firstly, a civilian peace operation can provide effective monitoring, verification, and reporting – even in a high-risk environment.

Secondly, political negotiations and continued political support are of central importance. The OSCE’s Panel of Eminent Persons made this point succinctly, stating that “an operation designed to build or keep peace should be backed by a political strategy. Reciprocally, political work should be informed by operational realities on the ground.”<sup>18</sup> The chief monitor of the SMM co-ordinates the TCG’s Working Group on Security Issues, and thus, through its involvement in the management of the conflict on all levels, strengthens this connectivity between the political and the ground levels.

Thirdly, sequencing often leads to a dilemma. In the Donbas region, a sustainable ceasefire has to be supported by a withdrawal of weapons in accordance with the Minsk agreements, and there needs to be progress on other security-related topics such as disengagement and demining. In fact, the implementation of all aspects of the Minsk agreements is important. This is how confidence and trust are built.

<sup>16</sup> Nikolaus von Twickel, “Mission Possible,” *Berlin Policy Journal*, March/April 2017, forthcoming.

<sup>17</sup> Erwan Fouéré, “The OSCE marks 40 years since the Helsinki Final Act: Its principles are more valid than ever,” *Center for European Policy Studies*, 24 July 2015, p.7, <https://www.ceps.eu/publications/osce-marks-40-years-helsinki-final-act-its-principles-are-more-valid-ever>

<sup>18</sup> “Lessons Learned for the OSCE from Its Engagement in Ukraine,” Interim Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project, June 2015, p. 12.

Fourthly, cooperation in the field with the Joint Centre for Control and Co-ordination (JCCC) is crucial, particularly with regard to the ceasefire, disengagement, and the withdrawal of weapons, as stated in the Minsk agreements.<sup>19</sup> This has proven to be useful most recently in collective efforts to achieve localized ceasefires that are critical for humanitarian purposes, and to enable essential infrastructure repairs. It is essential in this context that both sides of the JCCC cooperate with each other.

Cooperation with both local institutions and authorities, and international partners is also essential. In the field, for example, the SMM is closely cooperating with the UN and its specialized agencies. This cooperation between the UN and Chapter XIII organizations such as the OSCE is of growing significance, which has been frequently acknowledged.<sup>20</sup>

Finally, careful consideration of the expectations and needs of the people on the ground are vital for both conflict management and prevention efforts. A decisive humanitarian response by the international community to any conflict is not only required by international standards and commitments, but it also has a de-escalating impact at every stage of the conflict cycle. When tensions are building up, careful attention to humanitarian issues can ultimately help prevent the breakout of the conflict. During the active phase of a conflict, it mitigates the effects on the civilian population and, at the same time, can prevent further escalation and speed up political solutions. In the aftermath of a conflict, humanitarian work will create the conditions for reconciliation and prevent damaging effects for the society as a whole.

UN Secretary-General António Guterres recently stated that, “our most serious shortcoming – and here I refer to the entire international community – is our inability to prevent crises.”<sup>21</sup> Guterres highlights the critical need for greater investment in prevention strategies, such as monitoring and analysis. The SMM in Ukraine is a unique case, where a civilian Mission is both implementing its mandate through monitoring and reporting on the security situation in an ongoing conflict, and thus, contributes to both preventing and resolving the conflict. This experience and the example of the SMM has the potential to be helpful for conflict management and prevention in other parts of the OSCE region.

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<sup>19</sup> The Joint Centre for Control and Co-ordination is a bilateral initiative between the armed forces of Ukraine and the Russian Federation.

<sup>20</sup> Jeffrey Feltman and Oscar Fernandez-Taranco, “Conflict Prevention, Mediation and Peacebuilding,” in *Furthering the Work of the United Nations: Highlights of the Tenure of Secretary-General Ban Ki-Moon 2007-2016*, *United Nations*, 2016.

<sup>21</sup> Secretary-General-designate António Guterres’ remarks to the General Assembly on taking the oath of office, 12 December 2016.