

# **The OSCE Role in Conflict Management: What Happened to Cooperative Security?**

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## **Introduction:**

The Organization (formerly Conference) for Security and Cooperation in Europe (OSCE) has recently passed the 40<sup>th</sup> anniversary of the signing of the Helsinki Final Act by 35 heads of state in “Europe” extending “from Vancouver to Vladivostok the long way around. The Final Act represented a major step in East-West détente by trying to reduce the risks of war and improve relations across the two great power alliances that divided Europe, NATO and the Warsaw Pact, with a great deal of the initiative coming from the Neutral and Non-Aligned states of Europe<sup>1</sup> Over the next 15 years, the CSCE reduced security dilemmas between the rival alliances and increased transparency and interaction across the Cold War divide through the center of Europe, thereby contributing to the end of the Cold War by 1989-90. Beginning in 1990, the CSCE put forward bold plans for creating a new order of security and cooperation in Europe based upon the concept of cooperative security. Underlying this concept is the assumption that security is fundamentally indivisible, and that any breach of the fundamental norms of security must be met by a collective response of the entire community of states to assure compliance with those norms. In short, cooperative security fundamentally rejects the notion that security within a community of states should be based on a balance of power among competing alliances. Instead its fundamental principle is that all states should respect those

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<sup>1</sup> See P. Terrence Hopmann, “From Helsinki I to Helsinki II? The Role of the Neutral and Non-Aligned,” in Heinz Gärtner (ed.), *Neutrality: From the Cold War to Engaged Neutrality* (Lanham, MD: Lexington Books, forthcoming 2016).

norms, principles, and decision-rules that underlie a cooperative security regime and work together to respond to any violations of those fundamental norms.

For most of the first decade after the Cold War, the CSCE/OSCE constituted the embodiment of this security regime and attempted with modest success to implement it throughout the broad geographical region that it covered. Many observers, especially in the East, were disappointed that it did not supplant entirely the institutions that had developed throughout the Cold War in the West, especially NATO and the European Union. As the Warsaw Treaty Organization and Comecon collapsed while Western institutions expanded eastward, the idea of a single “undivided Europe,” a “common European home,” slipped away. In the first 15 years of the 21<sup>st</sup> century, new divisions have appeared in Europe, security has decreased, and cooperation in economic, environmental, and humanitarian activities has declined. As old institutions have enlarged and new ones have appeared, the OSCE remains as the only institution on the continent with universal participation and a mandate to promote cooperative security, but the enthusiastic consensus that enabled it to institutionalize in the years immediately after the end of the Cold War has largely dissipated.

In 2005, on the occasion of the 30<sup>th</sup> anniversary of the signing of the Helsinki Final Act, a panel of eminent persons from all regions represented in the OSCE produced a consensus report seeking to reinvigorate the organization as new challenges were beginning to arise. However, the report was largely bland, lacking in specific recommendations, and the few concrete recommendations have seldom been fully implemented. Over the ensuing ten years, the region has faced several major crises that have significantly undermined the normative core of cooperative security, including the Russian intervention in fighting in the South Ossetia region of Georgia in 2008 and in Crimea and the Donbas regions of Ukraine in 2014 and afterwards. So-called “frozen” conflicts in Georgia (Abkhazia and South Ossetia), Moldova (Transdniestria), and Azerbaijan (Nagorno-Karabakh) have remained unresolved and have even “unfrozen” into outright violent conflict in several instances. So in late 2014 the Swiss chairmanship commissioned another eminent persons report, which resulted in both an Interim Report concentrating mostly on the OSCE’s response to the crisis in Ukraine and a Final Report<sup>2</sup> issued in November 2015. However, in contrast to the bland consensus document produced ten years

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<sup>2</sup> OSCE, “Final Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project” (November 2015).

before, in this case the report shows that even that consensus has largely evaporated, and so the report consists mostly of three alternative narratives: a view from the West (presumably most states belonging to NATO and/or the European Union), a view from Moscow (apparently acting alone), and a view from “States in-between” (written by a Georgian scholar and seemingly representing the views of his own country and of Ukraine).<sup>3</sup> This report thus dramatically underlines the divisions that have occurred within the OSCE by the time of its 40<sup>th</sup> anniversary. Although there was a unanimous consensus that Europe in 2015 faces “grave dangers,”<sup>4</sup> and awareness of the fact that “Europe today is far from the co-operative order imagined in the early 1990s when, in the Charter of Paris, its leaders declared an end to ‘the era of confrontation and division’ and the arrival of ‘a new era of democracy peace and unity in Europe,’”<sup>5</sup> there were substantial differences about the causes of this state of affairs and what needed to be done to overcome the “mutual distrust” that had replaced the spirit of cooperation.

This paper seeks to analyze the Eminent Persons’ Report by examining the history that lies behind the differences so clearly presented in this document. It asks how Europe got to this point of conflict, in part by examining the historical background to the three “narratives” presented in this report, exploring the question of how the same events could have been perceived and constructed in such different ways; in this regard, I will particularly note some of the major points of omission from each of the three narratives that lead them to divergent conclusions. I will also analyze the normative foundations of the OSCE regime, which contain some of the seeds of dissensus by allowing for divergent interpretations of the same principles by different participating states. I will particularly look at how some of these different narratives have created the conditions behind the recent conflicts within the OSCE region, especially in Ukraine, and have played out in the divergent actions of the participating states and of OSCE officials. Finally, I will briefly explore how these different narratives might be overcome to strengthen cooperative security in Europe. However, before undertaking this analysis, some historical background will be helpful to understand both the intended goals of the OSCE for a

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<sup>3</sup> It is not clear how the views of some of Europe’s neutral and non-aligned states were represented (though most likely associated with the Western view), nor of other states of the southern Caucasus (Azerbaijan and Armenia), nor of the participating states in Central Asia and Mongolia (although a parliamentarian from Kazakhstan was also represented on the panel).

<sup>4</sup> OSCE Panel of Eminent Persons, *op. cit.*, p. 5.

<sup>5</sup> *Ibid*, p. 11.

new European security order and some of the apparent contradictions that made these goals difficult to implement in practice.

### **The Helsinki Final Act and the Normative Foundation for Cooperative Security in Europe**

The original CSCE negotiations culminated in a summit conference of heads of state of all 35 countries in Helsinki on July 31-August 1, 1975, at which the Final Act was signed. The Helsinki Final Act, first and foremost, contains the "Decalogue," ten principles that should govern interstate relations: 1) sovereign equality of states, 2) refraining from the threat or use of force, 3) inviolability of frontiers, 4) territorial integrity of states, 5) peaceful settlement of disputes, 6) non-intervention in internal affairs, 7) respect for human rights and fundamental freedoms, 8) self-determination of peoples, 9) cooperation among states, and 10) fulfillment of obligations under international law.<sup>6</sup>

These ten principles have created the normative structure under which the CSCE and the OSCE have operated ever since. The further elaboration of these principles has created the normative core for a European cooperative security regime, and these ten principles demonstrated a remarkable capacity to influence the way in which international relations were restructured in the CSCE region when the Cold War came to an end. The Decalogue also reflected a political compromise between East and West that ran throughout the entire Helsinki process. The third principle about the inviolability of frontiers appeared to satisfy the East's goal of affirming the European status quo, even if it did allow for the peaceful, negotiated change of borders. The Federal Republic of Germany added this caveat to the general principle in order to create the possibility for a peaceful unification of Germany - an eventuality that seemed at best to be a distant dream in 1975. Conversely, the seventh principle largely adopted the Western view of human rights and fundamental freedoms. Although the terms formally do not go beyond those contained in other documents such as the UN human rights covenants and the Universal Declaration of Human Rights, by placing human rights in the context of international security issues, the Helsinki Final Act emphasized that these human dimension issues did not fall exclusively within the internal purview of individual states, but were an inherent component of

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<sup>6</sup> The text of the Helsinki Final Act may be found at [www.osce.org/docs/english/1990-1999/summits/helfa75e.htm](http://www.osce.org/docs/english/1990-1999/summits/helfa75e.htm).

security relations and hence subject to discussion and even action among participating states.<sup>7</sup> Other principles emphasized the desirability of resorting to diplomatic means rather than the use of force to settle all disputes among participating states and affirmed the right of the self-determination of peoples.

This normative regime had a profound impact on the security situation in Europe after 1975. Some commentators have even concluded that it played a significant role in undermining the legitimacy of the communist governments throughout Central and Eastern Europe, where governments signed agreements that they clearly had no intention of implementing in fields such as human rights. It certainly inspired the formation of a wide variety of human rights movements in Central and Eastern Europe, such as Charter 77 in Czechoslovakia and Solidarity in Poland, that lobbied their governments to observe their commitments undertaken when they signed the Helsinki Final Act. In the final analysis, a network of informal domestic and transnational alliances emerged across Eastern Europe and the Soviet Union that “weakened the institutions, drained the resources, and deligitimated the arguments that sustained repressive, one-party rule.”<sup>8</sup>

However, several of the principles adopted at Helsinki have collided with one another in the process of implementation over the past 40 years, and in several cases participating states have attempted to create a hierarchy among these principles which were, in the original negotiations, conceived as carrying equal weight. This was most notable immediately after 1975 with respect to the sixth and seventh principles, and it remained a serious and sometimes conflictual topic of debate throughout the first two CSCE Review Conferences held in Belgrade and Madrid. The effort to enhance individual human rights and the rights of persons belonging to minorities has necessarily involved the organization in what many states consider to be their internal affairs. Subsequent OSCE documents have asserted that the protection of the human rights of individuals and persons belonging to minorities does not constitute inappropriate “interference in the internal affairs of states.” Nonetheless, many newly democratizing states have focused almost exclusively on “majority rule” as the foundational principle of democratic governance, thereby creating what the French author Alexis de Tocqueville described as the

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<sup>7</sup> Stefan Lehne, *The CSCE in the 1990s: Common European House or Potemkin Village?* (Vienna: Braumüller, 1991), p. 7.

<sup>8</sup> Daniel Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Defense of Communism* (Princeton, NJ: Princeton University Press, 2001), p. 284.

danger of a “tyranny of the majority” appearing in the early 19<sup>th</sup> century in the United States.<sup>9</sup> This has all too frequently led to discrimination against national, religious, linguistic, and ethnic minorities throughout the OSCE region, and to the denial of basic human rights such as freedom of speech and of the press in many participating states. Although OSCE institutions have tried valiantly to support human rights and the rights of persons belonging to minorities, these efforts have often been resisted, sometimes even violently, on the grounds that they constitute undue interference in the internal affairs of some participating states.

After the end of the Cold War a second major source of conflict emerged within the OSCE region involving a clash in the interpretation of the fourth and eighth principles. The assertion of the right to “self-determination” has provided the principle around which many secessionist movements throughout the OSCE region have rallied, challenging the principle of the “territorial integrity of states.” Regions within OSCE participating states that constitute concentrations of persons belonging to minorities, some of which had been recognized as autonomous regions previously, have frequently claimed a right to self-determination, typically interpreted by their leaders to mean full independence from the state in which they are located. By contrast, most central governments have interpreted these secessionist movements as undermining the territorial integrity of their states and in some cases even stripped them of their previous autonomous status. This was further reinforced by the decisions taken by the international community, including the CSCE, to recognize and admit as independent states all of the 15 former Union Republics of the Soviet Union and the six republics of the Federal Republic of Yugoslavia. At the same time, none of the autonomous regions within these states would be recognized as independent entities and admitted into international organizations. The general view at the time was that their autonomy would be protected within the newly emerging democratic states, and that further disintegration would lead to the appearance of numerous micro states throughout the broad European region, in which new majorities might dominate minorities that lived on their territory. However, autonomy too often failed to protect large ethno-national minorities within these autonomous regions, as many of these states chose to implement democratic reforms, as noted above, solely on the basis of majority rule without

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<sup>9</sup> Alexis de Tocqueville, *Democracy in America*, Vol. 1 (New York: Vintage Books, 1945), Author’s Preface to the Twelfth Edition (1848), p. x.

regard for the right of persons belonging to minorities or of large minority communities within their states.

In many participating states, these secessionist issues have been resolved peacefully through negotiation and referendums: these cases include Quebec in Canada, Scotland in the United Kingdom, Tatarstan within the Russian Federation, Catalonia within Spain, Slovakia's separation from Czechoslovakia, to cite some of the most prominent examples. However, most of the violent conflicts that emerged in the years after the breakup of the Soviet Union and Yugoslavia – Chechnya in Russia, Nagorno-Karabakh within Azerbaijan, Abkhazia and South Ossetia within Georgia, Transdniestria within Moldova, Kosovo within Serbia, and Crimea with Ukraine – have reflected these different interpretations of the principles of self-determination and territorial integrity contained within the Helsinki Decalogue. Therefore, throughout the 40 years since the signature of the Helsinki Final Act, among the most delicate issues confronted by the OSCE are those involving the effort to reconcile these apparently competing principles in the daily practice of international relations in the OSCE region.

However, with the disappearance of the East-West confrontation, a consensus has gradually emerged around the belief that, when principles - including those in the Decalogue - have been freely accepted by participating states, this effectively gives other participating states certain rights of interference in order to uphold those norms. Therefore, on matters ranging from intrusive inspection to verify compliance with military confidence-building measures and arms control agreements, to provisions for human rights and rights of persons belonging to minority groups, the OSCE has insisted on "transparency" and on the right of the "international community," as represented by a consensus within the OSCE, to intervene in the internal affairs of participating states to enforce those principles to which they have subscribed.<sup>10</sup> In short, the Helsinki Decalogue has evolved in such a way as to weaken the absolute nature of state sovereignty to a far greater degree than was envisaged at the time the Final Act was signed in Helsinki in 1975.

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<sup>10</sup> By late 2004, it appeared that the Russian Federation and several other closely aligned countries were trying to pull back from this position and return to the cold war era slogans about nonintervention in the internal affairs of states. They adopted an especially critical stance regarding ODIHR's role in monitoring elections, specifically in response to a decision to declare the first run-off ballot in the Ukrainian presidential elections of November 2004 to be invalid, leading to a repeat vote in which the outcome was reversed and Viktor Yushchenko was elected president over strong Russian objections.

## **Cooperative Security within the OSCE Region after the End of the Cold War**

With the fall of the Berlin Wall on November 9, 1989, the CSCE began a rapid process of transformation to respond to the new post-Cold War security situation in Europe. Suddenly the possibility of creating a genuine system of "cooperative security" on the European continent appeared to be feasible. In principle, cooperative security seeks to replace competition among opposing blocs with a genuinely cooperative set of relations, in which the security of all states is insured by cooperation among them. Rather than relying on a classical balance of power or fixed alliances, cooperative security assumes that security is indivisible. Rather than being directed against external enemies, it seeks to provide guarantees against a breach of the peace by one of the organization's own participating states. Rather than relying on pre-existing alliances, it seeks to respond flexibly and collectively to efforts by any one state or a small group of states to violate the principles, norms, and rules established by the collective action of all participating states.

In other words, the immediate post-Cold War vision included the possibility of a CSCE no longer divided into three groups - West, East, and Neutral/Nonaligned - but instead united to maintain cooperative peace and security within the large European region covered by the CSCE. It thus changed from a regime based on mutual confidence-building and transparency between two competing blocs into a cooperative security regime covering the entire European region "from Vancouver to Vladivostok." This view was most clearly articulated by the new leadership that emerged in Central Europe following the collapse of communism. Most directly, in March 1990 Czech Foreign Minister Jiri Dienstbier proposed to replace the existing system of competing alliances with a collective security system based on the CSCE. Even earlier, Polish Prime Minister Tadeusz Mazowiecki proposed in January 1990 creating a Council of European Cooperation to coordinate policy in the entire CSCE region. And even in the Soviet Union, Foreign Minister Shevardnadze called for the creation of a new order based on a system of collective security and built around the CSCE, while Mikhail Gorbachev referred to the CSCE as the foundation for his conception of a "Common European Home."

This enthusiasm for the CSCE, however, was not so widely shared in the West, as the United States responded cautiously, fearing competition with NATO, while several Western European countries, especially France under François Mitterand, seemed to prefer focusing upon the enlargement of the European Union as the primary foundation for a post-Cold War European

security structure. At its summit in London in July 1990, however, the NATO heads of state did recognize explicitly that the new security situation in Europe would require that the CSCE develop a permanent institutional structure to replace the series of conferences and follow-on meetings that had constituted the only institutionalized format for the CSCE prior to 1990.<sup>11</sup>

Two major documents were produced by the CSCE in the first year after the end of the Cold War that fundamentally changed the normative and institutional structure of European security. The first of these was a report of an expert meeting held in Copenhagen in June 1990 on the human dimension of security. It reflected the essential features of Western democratic practices and attempted to apply them to the entire continent. Specifically, it called for free elections open to outside observation leading to representative governments in all CSCE states, equality before the law, pre-eminence of the rule of law, freedom to establish political parties, and assurances about the rights of accused persons. In effect, it enacted a code of democratic procedures to guide all member states, noting “that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions.”<sup>12</sup> It also expanded and gave substantive content to many of the human dimension principles contained only in general terms in previous CSCE documents. Among the most important of these was the right of peaceful assembly, the complete prohibition of torture under all circumstances including in times of war, progress in eliminating capital punishment through abolishing the death penalty in all participating states, protection of the right of conscientious objection to military service, insuring rapid issuance of visas and other documents to facilitate movements of peoples across international borders, and broad protection of the rights of national minorities to participate fully in political life without restriction.<sup>13</sup>

The second major document was the "Charter of Paris for a New Europe" signed at a summit meeting held November 19-21, 1990. In its preamble, the Paris charter announced the opening of a new era for European security, based on a reaffirmation of the Helsinki Decalogue:

Europe is liberating itself from the legacy of the past. The courage of men and women, the strength of the will of the peoples and the power of the *ideas* of the

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<sup>11</sup> Lehne, *op. cit.*, p. 10.

<sup>12</sup> “Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE,” (Washington, DC: U.S. Commission of Security and Cooperation in Europe, June 1990), p. 14.

<sup>13</sup> *Ibid, passim.*

Helsinki Final Act have opened a new era of democracy, peace and unity in Europe.<sup>14</sup>

In addition to reaffirming the *acquis* of the CSCE from the Helsinki Final Act through the various follow-on conferences and expert meetings, the Charter of Paris began the formal institutionalization of the CSCE. Having met as an itinerant series of conferences, moving from site to site without permanent headquarters or secretariat, the Paris meeting established a secretariat in Prague (moved to Vienna in 1993). In addition, a Conflict Prevention Center (CPC) was created in Vienna, an Office for Free Elections (subsequently renamed the Office for Democratic Institutions and Human Rights - ODIHR) was set up in Warsaw, and a Parliamentary Assembly, made up of parliamentarians from all participating states, was created with its headquarters in Copenhagen. Regular meetings were to be held at the level of foreign ministers annually, summit meetings of heads of state were to be held biannually,<sup>15</sup> and a Committee of Senior Officials would meet as needed to conduct all business between the annual and biannual meetings at the highest political levels. In short, after Paris the CSCE began to take on most of the traditional features of an established international organization rather than a series of *ad hoc* meetings about security issues.

The Charter of Paris also strengthened the economic, security, and human dimension principles of the Helsinki Final Act. In the economic realm, an initial push to enshrine the principles of free market economics was tempered by attention to “social justice and progress and the welfare of our peoples.”<sup>16</sup> In matters of security, they welcomed the signing of the CFE Treaty and the Vienna document on CSBMs and called for further negotiations on disarmament and confidence and security building based on “more structured co-operation.” The human dimension document placed special emphasis on the rights of persons belonging to national minorities and opposition to “all forms of racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds.”<sup>17</sup>

One divisive issue that received a great deal of debate in the negotiation of the Treaty of Paris concerned the conditions under which an emergency meeting of the Committee of Senior

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<sup>14</sup> Conference on Security and Cooperation in Europe, *Charter of Paris for a New Europe* (Paris, 1990), p. 13. Italics added.

<sup>15</sup> This alternation of summit conferences and ministerial meetings continued regularly through 1999. Since 2000 only ministerial conferences have been held as the OSCE no longer seems to command the primary attention of most Heads of State.

<sup>16</sup> *Ibid*, p. 11.

<sup>17</sup> *Ibid*, p. 8.

Officials might be convened in response to “unusual military activities.” An initial proposal to allow any single state to request such a meeting was opposed by an interesting combination of the United States, Soviet Union, and Yugoslavia. The latter’s opposition appears to have stemmed from an awareness that the process of disintegration that was beginning to appear already within the Yugoslav Federation might itself become the subject of such a meeting. By contrast, the US and the Soviet Union seemed to be motivated more by a desire to avoid giving too much pre-eminence to the CSCE in security matters. This issue was thus postponed to an experts meeting held at Valletta, Malta, in January-February 1991, which developed what has become known as the “Valletta emergency mechanism,” intended to give content to the Helsinki principle calling for the peaceful resolution of disputes. In event of a serious violation of any of the ten principles of the Helsinki Decalogue or the occurrence of an event threatening the peace or the security of any participating state, the concerned state(s) could seek clarification with the parties involved. A reply must be provided within 48 hours. If this failed to resolve the dispute or if there was no reply, then the concerned state could request an emergency meeting of the Committee of Senior Officials (currently referred to as the “Reinforced Permanent Council”). If this request is supported by at least twelve other participating states, the chair must call such a meeting within three days.<sup>18</sup>

This procedure was adopted at the CSCE Council meeting in Berlin in June 1991, and it was put into effect on July 1 when Austria requested such a meeting, supported by 12 European Union countries, in response to unusual military activities near its borders as fighting broke out in Yugoslavia, initially in Slovenia. This meeting took place in Prague on July 3-4 and appealed to the parties to agree upon a cease-fire. The appeal issued by the Committee of Senior Officials in Prague noted that “all fighting has to stop immediately. There must be political control over all armed forces. These forces have to return to their barracks and stay there. Hostile action against these barracks must stop. Prisoners taken during the hostilities have to be released immediately.”<sup>19</sup> The CSO offered the “good offices” of the CSCE for the first time as a mediator between the federal government in Belgrade and the regional governments seeking independence. Although this procedure did not prevent later violence in Yugoslavia, it did assist in defusing the fighting in Slovenia and enabled it to achieve its independence peacefully, unlike

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<sup>18</sup> “Summary of Conclusions,” Berlin Meeting of the CSCE Council, 19-20 June 1991.

<sup>19</sup> CSCE, Committee of Senior Officials, Journal No. 1, Annex 1, 4 July 1991.

the situation subsequently in Croatia and Bosnia-Herzegovina.<sup>20</sup> Elsewhere the appeal fell on deaf ears, and the absence of any mechanism to enforce decisions of the CSO meant that no effective measures were taken to halt the escalating violence between ethnic Serbs and Croats, especially in several regions of Croatia.

Arms control in Europe was also strengthened at Paris with the signature by all NATO and Warsaw Pact states of the treaty on Conventional Forces in Europe (CFE), which had replaced the long-stalled MBFR negotiations in early 1989. Thus, the “hard” arms control side of European security, so much emphasized by Western policy-makers in the years before the Helsinki Conference opened, finally reached its fruition. Five categories of armaments - main battle tanks, armored personnel carriers, artillery, attack helicopters, and combat aircraft - were limited on both an alliance basis and on a national basis, terminating the imbalances of military forces that many feared might precipitate a conventional war in Europe in spite of the presence of nuclear weapons in the region. Furthermore, from this time forward the “hard” arms control process was brought under the aegis of the CSCE, and the two negotiations that had started along separate tracks were brought together.<sup>21</sup>

Also a new document on Confidence and Security-Building measures, known as the Vienna Document 1990, was signed, expanding on the provisions allowing for transparency of military activities and exchange of information that would make the inadvertent outbreak of war less likely. In particular, all large-scale military maneuvers and movements of large numbers of troops would have to be announced to the entire set of participating states well in advance. Furthermore, participating states would be invited to send observers to watch these activities on-site. Special provisions for urgent consultations were set up in the event that any unannounced activity occurred in contravention to the terms of the agreement. Thus, if a state was caught preparing for a surprise attack, its failure to announce its preparatory activities could be used as a pretext to engage urgent negotiations to head off the attack before it commenced. On the other hand, it was assumed that no state would use maneuvers as a guise to cover up preparations for a surprise attack if it were required to invite observers from other states, including its potential targets. Therefore, these confidence-building measures could assure states that pre-announced

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<sup>20</sup> Stefan Lehne, *The CSCE in the 1990s: Common European House or Potemkin Village?* (Vienna: Braumüller, 1991), pp. 66-67.

<sup>21</sup> See P. Terrence Hopmann, "From MBFR to CFE: Negotiating Conventional Arms Control in Europe," in Richard Dean Burns (ed.), *Encyclopedia of Arms Control* (New York: Scribner's, 1993).

large-scale military activities were largely routine in nature and were not being conducted for aggressive purposes. In short, these measures would make it virtually impossible for any state to prepare a surprise attack against any of its neighbors without signaling its hostile intent well in advance of commencing an attack. This would give time both to engage negotiations to avert the attack, and, if these failed, it would at least give the target state ample time to prepare to resist the imminent aggression.

In addition, the Charter of Paris created in 1990 a CSCE Conflict Prevention Center (CPC) based in Vienna. Prior to the Paris Summit there had been considerable debate among the participating states about how powerful this new institution should be, and many of its advocates favored creating an institution that would approximate a European regional equivalent of the global United Nations Security Council. Fearing that such a powerful security institution might challenge NATO's pre-eminence in European security, however, the United States and several other Western European countries preferred a more modest role for the CSCE, and so they succeeded in watering down considerably the more ambitious proposals to create a powerful security institution in the CPC. Thus the institution created at Paris was mandated primarily to collect and disseminate data about the military budgets and armaments quantities of participating states and to assist with the implementation and verification of the CFE Treaty and the Vienna Document 1990 on CSBMs. The Conflict Prevention Centre was officially opened on March 18, 1991. Soon after its opening, the CSCE Council of Ministers expanded its mandate by assigning it the task of an ad hoc forum to provide good offices under the Valletta Mechanism for the peaceful settlement of disputes at its Berlin meeting in June 1991. Again, it was charged with the task of receiving reports concerning the implementation of an economic boycott of Yugoslavia imposed by the UN in September 1991, but its resources and staff were not strengthened at that time so it continued to fall far short of having a capacity to perform even these modest tasks in an adequate fashion, especially as the crisis in the Balkans escalated rapidly in the second half of 1991.<sup>22</sup> It was not until mid-1992, therefore, that the potential value of the CPC was recognized by the CSCE's participating states and its mandate and capacity were extended to respond to the outbreak of ethno-national violence throughout many of the former communist states participating in the CSCE. This happened too late, however, for the CSCE to

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<sup>22</sup> See Victor-Yves Ghebali, *L'OSCE dans l'Europe post-communiste, 1990-1996* (Brussels: Bruylant, 1996), pp. 64-71.

play a major role in heading off violence that had already broken out in many regions. Indeed, it was largely in reaction to this spontaneous and seemingly contagious outbreak of violent secessionist conflicts that the CSCE was able to develop the political consensus necessary to strengthen its limited institutional capacity to engage in conflict prevention.

The next major milestone in the post-Cold War expansion of the CSCE came with the follow-on conference and summit in Helsinki from March 24 through July 8, 1992, representing a return to the original site of the CSCE's founding negotiations and marking most clearly the changes in the organization after almost two decades of evolution. This was the first meeting at which all of the former Soviet and Yugoslav countries participated fully. The Helsinki conference was preoccupied with the wave of violence that was sweeping across the former Soviet Union and Yugoslavia, and it sought to engage the organization more actively both to prevent the future outbreak of such conflicts and to manage and resolve those that had already broken out. In this environment the concept of "preventive diplomacy" began to play an important role in CSCE discussions for the first time. Based on an analogy with "preventive medicine" in which the medical community places its emphasis on the prevention rather than the cure of disease, preventive diplomacy would emphasize preventing the outbreak of violent conflict rather than peacemaking or peacekeeping, which normally is put in place only after violence has occurred and a subsequent cease-fire has been negotiated. Too often, however, the cease-fires came only after violence had poisoned relationships, creating more intense hostility and desires for revenge and, therefore, making resolution of the underlying drivers of the conflict more difficult to be realized.

The necessity for an international institution to promote preventive diplomacy became apparent as the Cold War came to an end in Europe. Fighting broke out almost immediately in both the former Soviet states and in the former Yugoslavia. Regional conflicts emerged in several of the successor states to the Soviet Union, including Azerbaijan (Nagorno-Karabakh), Georgia (Abkhazia and South Ossetia), Moldova (Transdniestria), and Tajikistan. In Yugoslavia, the disintegration of the federal state led to violence, first in Slovenia, then in Croatia and soon afterwards in Bosnia-Herzegovina, and almost a decade later on a more limited scale in Macedonia. Human rights violations by the rump Yugoslav state led to a CSCE decision in 1992 to invoke the "consensus minus one" principle and to impose sanctions upon the Federal Republic of Yugoslavia, which was suspended from active participation in the CSCE at that

time. This wave of violence in the region following the breakup of these two large multinational states thus spawned efforts at the Helsinki Summit to strengthen the Conflict Prevention Center and to endow it with additional functions in the realm of conflict management.

At Helsinki the CSCE heads of state adopted in 1992 a proposal by the Netherlands to create the office of the High Commissioner on National Minorities (HCNM), based in The Hague. Its mandate call upon the HCNM to engage in early warning, preventive diplomacy, and informal conciliation in an effort to prevent and resolve some of the most significant conflicts that emerged in Eurasia after the end of the Cold War, where the issue of the status and treatment of persons belonging to ethno-national minorities was a major issue. This proposal initially met with skepticism on the part of the United States, United Kingdom, and France. These governments voiced their concerns about the definition of national minorities, their fear that the independence proposed for the High Commissioner might overlap or duplicate functions also performed by the Chairman-in-Office or the Conflict Prevention Center, and a particular U.S. worry that the intervention in such disputes might inflame rather than pacify them. However, there was broad support among the participating states, so these countries acquiesced in the overall scheme while narrowing its functions somewhat in comparison with the original Dutch proposal. Involvement of the High Commissioner was limited to disputes involving “national” as opposed to other minorities, to conflicts involving groups and not single individuals, and to disputes having a potential to affect international peace and security. Communication by the High Commissioner with persons or organizations that practice or condone terrorism or violence is strictly prohibited. In spite of these limitations, the High Commissioner was given a great deal of independence to engage in conflict prevention at the “earliest possible stage.” The main task of this “eminent person” was to obtain “first-hand information from all parties directly involved, discuss the questions with the parties, and where appropriate promote dialogue, confidence, and co-operation between them.”<sup>23</sup> If the High Commissioner believes that a serious risk of violent conflict exists, he/she is supposed to communicate an “early warning” to the Chairman-in-Office and the Permanent Council.

In addition, a Court of Conciliation and Arbitration was created based in Geneva, with voluntary membership, although many key OSCE states declined to participate and, in the initial 35 years of its existence, it has not taken up a single case. Finally, the Forum for Security

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<sup>23</sup> CSCE Committee of the Whole, “Helsinki Decisions,” 7 July 1992, p. 9.

Cooperation was created, meeting regularly in Vienna, to provide a venue for discussion of long-term issues of common security and to negotiate on additional confidence-building and arms control measures. This forum itself was divided into two “pillars.” The first focused on negotiations to strengthen arms control and confidence and security-building measures within the region, although there was considerable debate about whether the region included the North Atlantic, North America, and the newly independent states of Central Asia, all of which fell outside of the traditional CSCE arms control zone extending only “from the Atlantic to the Urals.” The second pillar, even less precise than the first, was referred to as dialogue on measures and activities to enhance security and co-operation. This might include discussion of topics such as force planning, conversion from defense to civilian production, and consultations on specific regional issues that might pertain only to several participating states. It did not appear that the second pillar was directed as much to the negotiation of binding agreements as it was to the provision for a forum for discussion that perhaps involved fewer than the full set of participants or regarding issues where widespread consensus might not be achieved.

Another major advance taken at Helsinki was the decision to establish missions in areas of tension to provide for "early warning, conflict prevention and crisis management (including fact-finding and rapporteur missions and CSCE peace-keeping) [and] peaceful settlement of disputes." The original intent of the heads of state assembled at Helsinki appeared to be largely to create temporary, more or less *ad hoc* missions to deal with conflicts as they arose. However, especially due to the continued worsening of the situation in the former Yugoslavia, the Committee of Senior Officials meeting in Vienna one month after the Helsinki Summit decided to create so-called "missions of long duration," the first of which was to be sent to monitor the situation in three regions of the former Republic of Yugoslavia, namely Kosovo, Sandjak, and Vojvodina. From this time on, these missions were normally mandated for periods of six months. However, throughout the 1990's the mandates were generally renewed at regular intervals with the exception of the first mission in the FRY, which was not extended due to objections from the government in Belgrade. Several other missions have not been renewed since 2001, either because they were deemed to have achieved their original goals or because the host state declined to allow them to function effectively.

The case of the former Yugoslavia, however, affirmed a limiting principle, which applies to activities not only of the OSCE, but of most international organizations operating within the

territory of sovereign states, namely that an invitation of a participating state is generally a prerequisite for establishing an on-site mission of long duration. All OSCE missions require that a Memorandum of Understanding be negotiated between the Conflict Prevention Center in Vienna and the host government, establishing the mandate, working conditions, and duration of the mission's work in their country. If the host government objects to a mission's activities, it may request that the mission be withdrawn from its territory. Thus, the mandate for the mission in Ukraine was substantially downgraded in 1999 from a full-scale mission to an OSCE "Project Coordinator," because in this case the OSCE determined, with some substantial urging from Kyiv, that the objectives of the original mandate had essentially been achieved and that the situation in Ukraine had become relatively stable. Even the mission in the Federal Republic of Yugoslavia, withdrawn in 1993, was reconstituted in March 2001, following the election of Vojislav Kostunica as President and the removal of Slobodan Milosevic from power. At the request of host governments, missions have been closed in Belarus, Estonia, and Latvia, although doubts were frequently expressed regarding whether or not their mandate had been fulfilled.

Finally in the realm of security, the 1992 Helsinki Summit broached for the first time the issue of CSCE-sponsored peacekeeping operations. It authorized peacekeeping (but not peace enforcement) operations "in cases of conflict within or among participating States to help maintain peace and stability in support of an ongoing effort at a political solution."<sup>24</sup> Decisions to establish a peacekeeping operation would be taken by consensus on the recommendation of the Conflict Prevention Center and only after a cease-fire has been achieved and a memorandum of understanding had been worked out to provide protection for CSCE personnel on the ground. Personnel could be provided either by individual participating states or by groups of states including NATO, the Western European Union, or the Commonwealth of Independent States (the group of former Soviet states that was created at Tashkent in 1991). Although this provision has never been formally utilized, an Ad Hoc Committee was created to study the possibility of deploying an OSCE peacekeeping force to Nagorno-Karabakh if a political solution were achieved that called for the deployment of such a force; in addition, the Kosovo Verification Mission, created in late 1998, appeared to have been based in part on this decision taken at Helsinki in 1992.

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<sup>24</sup> *Ibid.*, pp. 19-20.

In summary, between 1990 and 1992 the CSCE became a fully institutionalized cooperative security organization. It adopted a wide range of normative principles to undergird the concept of cooperative security throughout the CSCE region. It also created a multi-faceted and comprehensive set of concrete institutions which, given sufficient resources and political support, should have been able to implement those principles throughout the region. Although it got a late start after the “Rubicon” of violence had been crossed in a number of conflict zones within the region, it developed a framework to prevent the future outbreak and escalation of violent conflicts, to manage those conflicts that had already occurred, and to promote negotiations to try to resolve the many conflicts that appeared within the region. And it experienced some success, most notably in the role of the OSCE missions and the High Commissioner on National Minorities in conflict prevention in Ukraine (Crimea), Macedonia, and Albania, and in the missions in support of the Dayton Peace Agreement in Bosnia-Herzegovina and of the UN Missions in Croatia and Kosovo. At the same time, in spite of great effort and initiative, it has so far failed to bring a resolution to the secessionist conflicts in Nagorno-Karabakh (Azerbaijan), South Ossetia (Georgia), Transdniestria (Moldova), and it has seen its efforts at peace-building in Georgia disrupted by war in 2008, and the successful resolution of the Crimean autonomy agreement of 1996 was violently reversed in 2014. Indeed, these latter two events clearly represent the most serious violations of the norms of the Helsinki Final Act and the Charter of Paris since their signature, including the final decade and a half of the Cold War during which time no such significant violations of the Helsinki norms occurred in spite of the intense rivalry that characterized that dangerous period in world history.

So, what happened? Why did this cooperative security regime that had so much potential to usher in a new era of democracy and peace in Europe lose momentum and fall back, not into a repeat of the Cold War, but to a realist world of competing blocs and power relationships? Is this proof of the inevitability of realist predictions that, whether as a consequence of human nature or of an anarchic structure of the international system, conflict in a world of sovereign states is inevitable and cooperative security regimes are illusory? Or does this reflect the manner in which the security narratives of the OSCE participating states have been constructed since the beginning of the 21<sup>st</sup> century, as reflected in the alternative narratives contained in the report of the panel of eminent persons? And, if the latter, is there some way in which these divergent narratives can be bridged in order to construct a shared narrative of the requirements for an

effective and enduring cooperative security regime? It is to these questions that I will turn in the remainder of this paper.

### **Alternative Narratives and Scenarios for European Security after the Cold War**

The early post-Cold War years generally witnessed substantial cooperation across a wide range of issues within the CSCE framework, including the CFE Treaty. However, the Treaty of Paris also acknowledged indirectly the potential tensions among the Helsinki norms as noted above and also introduced the seeds of another tension that lies at the heart of many of the divergent narratives witnessed in recent years. Specifically, the Charter of Paris reaffirmed the “indispensable” nature of “respect for and exercise of human rights” in order to “strengthen peace and security among our States.” It reaffirmed the “right to self-determination,” while placing it in the context of “the relevant norms of international law, including those relating to territorial integrity of States.” It also introduced indirectly new tensions that would eventually become the central issue of divergence among the alternative narratives of European security identified in the 2015 report of the OSCE Eminent Persons Panel. In particular, it noted the end “of the division of Europe” and the indivisibility of security in which “the security of every participating State is inseparably linked to that of the all the others.” Certainly this phrase implied that an era in which peace was maintained through a balance of power among competing alliances had come to an end, and this then led to strong support in many quarters for strengthening the CSCE system of cooperative security that would replace, or at least somehow overarch, any alliances that would remain.

With the dissolution of the Warsaw Pact, many Russians initially came to believe at first that NATO too would pass away and that the CSCE would become the foundation for a new Europe, free and undivided. Indeed, this idea was echoed by many in the West, including most prominently the leader of the West German Social Democratic Party, Egon Bahr, who proposed that the CSCE be converted into a true supranational institution with integrated military forces, thereby constituting a true collective security organization.<sup>25</sup> In the United States, President George H.W. Bush declared the advent of a “new world order.” However, the very same

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Jonathan Dean, *Ending Europe's Wars: The Continuing Search for Peace and Security* (New York, Twentieth Century Fund Press, 1994), p. 213.

paragraph in the Charter of Paris also contained the qualification that all participating states would fully respect “each other’s freedom of choice” with regard to affiliation with specific regional or international security institutions. In a speech in Berlin in April 1990, US Secretary of State James Baker argued that CSCE and NATO were mutually complementary institutions, thereby making clear the US position that the CSCE should in no way be considered as a substitute for the continued existence of NATO. Indeed, most NATO member states began to extend the concept of “freedom of choice” to the principle that no state could interfere with the right of any CSCE participating state to affiliate with any international security institution of their choosing, and therefore no state could veto the entry of any other sovereign state into an alliance such as NATO or into an economic community such as the European Union. Russia in turn replied by creating the Commonwealth of Independent States in an attempt to integrate many former Soviet states into their own cooperative entity. The result was that the entire goal of a Europe “whole and undivided” began to slip away, and the CSCE, with the outbreak of numerous conflicts throughout the disintegrating regions of the Soviet Union and the former Yugoslavia, began to focus more on conflict management across Europe rather than on building a pan-European cooperative security institution.

Finally, the Charter of Paris called for creating a set of new mechanisms for the “peaceful settlement of disputes, including mandatory third-party involvement.” They focused on the meeting in Valletta in early 1991 that created a mechanism for compulsory mediation of interstate disputes, when called upon by at least ten participating states. However, at a foreign ministers meeting in Berlin in June 1991, Soviet Foreign Minister Bessmertnykh added qualifying language, insisting that such a mechanism must not intervene in the internal affairs of states.<sup>26</sup> Therefore, once again, the principle of the territorial integrity of states trumped, in Soviet and later Russian policy, both the principle of self-determination of states and mandatory third-party dispute resolution. Unfortunately, as I will explain below, the failure of Russia to turn to the Valletta mechanism during the Ukraine crisis of 2014 constituted one of the primary obstacles to the peaceful resolution of this rapidly escalating dispute.

These potential contradictions, however, remained largely below the surface in the early post-Cold War years. In a project coordinated by this author along with his colleagues at Brown University’s Watson Institute for International Studies in 1996, we met with most of the major

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<sup>26</sup> *Ibid*, p. 215.

Russian think tanks, academic institutions, as well as senior government officials and members of the Russian State Duma, culminating in a conference held at Moscow State Institute of International Relations (MGIMO). At this time, the Russian specialists on security policy were asked to respond to four possible future scenarios for Russian relations with former Soviet states in 2006, ten years in the future, in terms of both their desirability and likelihood: #1: integration under Russian domination; #2: cooperative integration; #3: unregulated disintegration, and #4: cooperative independence. The widespread consensus identified in our meetings was that the most desirable scenario was based on cooperative integration, in which Russia would seek to create within its zone of influence a system of cooperative relations similar to the one evolving in Western Europe. However, most perceived at that time that the most likely outcome was unregulated disintegration, largely because they did not perceive at that time that Russia had the capacity to manage the centrifugal forces that seemed to be occurring within post-Soviet space at that time. Interestingly, we concluded with the following observation:

Active involvement of Western institutions such as the UN and the Organization for Security and Cooperation in Europe (OSCE) and international peacekeepers in the conflicts within the post-Soviet region would generally be welcomed by the specialists whom we met. Most would prefer to see Russia no longer forced to bear the burden of maintaining stability and security in various regions of the former Soviet Union alone and would welcome international cooperation in these efforts.<sup>27</sup>

The major security threat as perceived by virtually all Russian experts in 1996 emanated from internal problems within the Russian Federation, including economic, political, and security issues; external threats generally paled in comparison. The threat of Islamic fundamentalism, both within the southern regions of the Russian Federation and beyond its southern borders, was frequently cited as well. At the same time, our experts noted the danger that Russian leaders, for political reasons, might “exaggerate these threats and resort to heavy-handed military means in an attempt to assert control.”<sup>28</sup> China was occasionally mentioned as a possible external threat in

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<sup>27</sup> P. Terrence Hopmann, Stephen D. Shenfield, Dominique Arel, “Integration and Disintegration in the Former Soviet Union: Implications for Regional and Global Security,” Providence, RI: Thomas J. Watson Jr. Institute for International Studies, Brown University, Occasional Paper #30, 1997, pp. 33-36.

<sup>28</sup> *Ibid*, p. 13.

the medium-term to long-term future, but interestingly the West was generally not viewed as threatening with three significant caveats:

Although the majority of the Russian specialists disapprove of the North Atlantic Treaty Organization (NATO) expansion, most do not see that this change in the European security architecture constitutes a threat to Russia's security, as long as three conditions are met: 1) nuclear weapons should not be deployed in former Warsaw Pact countries; 2) Russia should remain genuinely involved in bilateral consultative bodies with the Western alliance; and 3) former Soviet republics, including the Baltic states, must not be invited to join NATO separately.<sup>29</sup>

In various ways, it was the disregard for these three premises that has contributed significantly to the divergent narratives between Russian views of the European security architecture, and especially the role of the OSCE, reflected in the report of the Eminent Persons Panel, and those of Western states and the states "in between."

First, although nuclear weapons have not directly been deployed in the former Warsaw Pact countries, the deployment of strategic missile defenses, first planned for Poland and later shifted to Romania, does constitute a strategic system related to nuclear issues. Although the United States insists that this is intended to counter Iranian ballistic missiles with nuclear warheads (which do not exist yet and are unlikely to exist for quite some time after the signature of the P5+1 agreement with Iran), their location has consistently been perceived as threatening by Russia. As the "View from Moscow" asserts, this threat is reinforced by the US unilateral withdrawal from the ABM Treaty of 1972, the cornerstone of the regime of strategic nuclear arms control.<sup>30</sup>

Second, the Russians have come to perceive Russia's engagement in the central institution of cooperation between Russia and NATO, the NATO-Russia Council under the NATO-Russian Founding Act, as "sugar coating for the bitter pill of enlargement."<sup>31</sup> This contrasts notably with the "View from the West," which emphasizes Russia's invitation to join the G7 and the NATO-Russia Council. Nonetheless, Russia had been assured many times by NATO that it would never engage in military activity "out of area," that is in any circumstance other than an Article 5 issue in which a NATO member state was attacked directly, without

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<sup>29</sup> *Ibid*, p. 14.

<sup>30</sup> OSCE Eminent Persons Report, *op. cit.*, p. 8.

<sup>31</sup> *Ibid*, p. 24.

political authorization from either the UN Security Council or the OSCE; of course, Russia essentially holds a veto in both institutions. Yet, that is essentially what happened in the Kosovo War against Serbia in 1999. Although Russia participated in the Rambouillet talks to try to find a negotiated solution to the Kosovo crisis, Russia opposed any resolution that would have authorized direct use of force by NATO against Serbia. The main cause for NATO intervention in Kosovo in 1999 was the threat to Kosovar Albanian citizens from Serbian police and military units on the ground, especially the slaughter of Kosovar civilians, to which the bombardment of Belgrade and other major Serbian targets was largely irrelevant. The only effective way to protect vulnerable civilians on the ground is to put “boots on the ground” capable of providing local protection, an operation that might have received UN or OSCE support under the (not yet formally adopted) principle of the “responsibility to protect.” Yet, after the Somalia incident of 1991, and until after the 9/11 terrorist attack on the US, it was politically impossible for the US to introduce a ground operation to protect Kosovo’s civilians, thereby leaving overwhelming air bombardments as the residual military option. However, Russians viewed this bombardment, especially those directed against civilian targets in Belgrade, as, in the words of “the View from Moscow,” an “atrocious.” Although there are many differences between the cases, which I will mention below, this action clearly constituted for Russian leaders a precedent for their action in Crimea in 2014. After 1999 the Yeltsin government collapsed in Russia, and Vladimir Putin assumed the presidency at the beginning of 2000, and from that point on Russian commitment to the institutions of European security created during and at the end of the Cold War largely evaporated.

Russia has been ambivalent about the principle of self-determination, at times appearing to support it when it was consistent with Russian interests and at other times opposing it. Russia certainly used violent force to oppose Chechen “self-determination” in the two wars in the 1990’s, when Chechnya threatened to secede from the Russian Federation, within which it constituted one of 22 republics. At the same time, the Yeltsin government negotiated an autonomy relationship with Tatarstan within the Russian Federation, for a time granting it greater independence than most other republics within the federation. Russia has more clearly supported the right of self-determination for the Abkhaz and South Ossets within Georgia and of the Transdnistrians within Moldova, while remaining ambivalent and at times taking contradictory positions with regard to the self-determination of Nagorno-Karabakh Armenians within

Azerbaijan. However, since communist ideology has largely been replaced by a hyper-nationalism within Russia, their greatest concerns have tended to focus on the status of ethnic Russians living outside the Russian Federation, especially in the Baltic states and in Ukraine. At the same time, they have vigorously denounced the right to self-determination of ethnic Albanians living outside Albania, in Serbia (Kosovo) and to a lesser degree in Macedonia. In short, Russian leaders have managed to straddle the tension between the “territorial integrity of states” and the “right of self-determination of peoples” largely according to the political position of the parties caught in the midst of these cross-pressures, although they are not alone in prioritizing one Helsinki principle over another on grounds of national self-interest.

Third, and likely of greatest importance, was the eastward enlargement of NATO. The dilemma derives from the obvious desire of the former Warsaw Pact states and at least some former Soviet Republics to “choose” to enter NATO, consistent with the norm established by the Charter of Paris. At the same time, the eastward expansion of the alliance has undoubtedly contributed to a new division of Europe, and indeed a division that largely isolates Russia, contradicting another norm from the Charter of Paris affirming the indivisibility of security within the “new Europe “. This eastward drive has also compounded another important issue for Russian leaders, namely the status of Russian-speaking and identifying peoples living outside of the Russian Federation.

This issue initially arose in a conflict involving the status of Crimea within Ukraine that smoldered between 1992 and 1996, at which time it was largely peacefully resolved through an autonomy agreement brokered by the OSCE’s High Commissioner on National Minorities (HCNM), Max van der Stoep.<sup>32</sup> However, it also became a major point of contention in both Latvia and Estonia, in which the CSCE created Missions of Long Duration largely to monitor and assist the large Russian-speaking minorities within these two Baltic Republics to secure rights to citizenship and full participation in the democratic process in their countries. Although some significant steps were taken, largely with pressure from the OSCE mission and the HCNM, Russia has never been fully satisfied that ethnic Russians have attained full political rights in either country. Nonetheless, over their objections, the OSCE Missions in the two countries were closed (although the HCNM remains active there) and they subsequently were admitted into

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<sup>32</sup> See P. Terrence Hopmann, “The OSCE’s Contrasting Roles in Managing the Ukraine/Crimea Crises in 1992-96 and 2014-15,” in *OSCE Yearbook 2015* (Baden-Baden: Nomos Verlaggesellschaft, 2015), pp. 277-293.

NATO and the European Union. In the West, the Baltic countries are largely perceived as European states that were illegally seized by Russia in the run-up to World War II, but in Russian eyes these were nonetheless three of the 15 former Soviet Republic bordering on Russia that had now joined NATO and the EU, moving the line of division in Europe directly onto Russia's northwestern borders. In summary, to varying degrees all three of the caveats identified in our 1996 research in Russia, at a time when cooperative security was still viewed as the most favorable option for the following decade, were essentially violated beginning in 1999.

Russian reactions to NATO's eastward enlargement, of course, stimulated serious threat perceptions through Central Europe, making these countries more anxious than ever to join NATO. Yet, in a classic spiral resulting from a mutual "security dilemma," these countries' efforts to shore up their own security in the face of a perceived Russian threat only made Russians feel more insecure. Their countermeasures to offset NATO's enlargement then created even greater perceptions of threat in the newest NATO member states, further reinforcing the cycle of perceived threat and insecurity that has come to replace "common" or "cooperative security" in Europe. This issue has become especially acute in the cases of Georgia and Ukraine, neither of which has yet been accepted into full NATO membership, and yet both of which have expressed strong desires to join the alliance. This view is clearly expressed in the "Perspective from Tbilisi" in the report of the Panel of Eminent Persons. In the view of the Georgian panelist, "Russia has never adjusted to the idea of the demise of the Soviet Union and throughout the last two decades has attempted to reconstruct the lost empire, first through the creation of the Commonwealth of Independent States (CIS), then creating the CSTO and finally launching the idea of the Eurasian Economic Union."<sup>33</sup> The author thus notes that Russia has supported the independence of breakaway regions in Georgia, Azerbaijan, Moldova and Ukraine, and that no existing European security institution has the capacity to respond to these violations of international norms. Even more ominously, the old fear arises that a deal might be struck between Russia and the West at the expense of the states "in between" that will eventually lead to their loss of independence.<sup>34</sup> Ironically, however, even though Ukraine and Georgia's bid for NATO membership was indefinitely postponed at the NATO Bucharest Summit in 2008, Russia's military action in Georgia in August 2008 and even more importantly in Ukraine since

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<sup>33</sup> OSCE Eminent Persons Panel, *op. cit.*, p. 27.

<sup>34</sup> *Ibid*, p. 29.

2014 have had the paradoxical consequence of making their membership once again a topic of discussion in Brussels and in NATO capitals. Consistent with the classic pattern of the “security dilemma,” Russia’s actions in response to their perceived threat from NATO may actually promote the outcome they claim to fear the most, namely the further expansion of NATO and the EU into large areas directly on their southern and western borders.

### **The Ukraine Crisis: The Conflicts Come Together**

All of the tensions between the principles underlying European security and the “three narratives” of European security institutions have come to a head around the crisis in Ukraine. This crisis involves a conflict between the right to “self-determination,” especially for Crimean Russians, versus preserving the territorial integrity of the state of Ukraine, recognized internationally in the Budapest Memorandum of 1994 signed by Russia, the United States and the United Kingdom, in which Ukraine agreed to give up its nuclear weapons and join the Nuclear Non-Proliferation Treaty as a “non-nuclear weapons” state and was guaranteed its territorial integrity within its existing borders. It involves a conflict between protecting the human rights of ethnic Russians in Ukraine, and of ethnic Ukrainians and Tatars within Crimea, versus the principle of “non-interference in the internal affairs of states.” It involves a conflict between the rights of Ukraine to choose the political institutions with which it wishes to associate, including NATO and the EU, versus moving the division of Europe further eastward and directly on Russia’s western border. At the same time there are many basic Helsinki principles that were flagrantly violated by Russia in this case around which there is no ambiguity, namely the non-use of force, the inviolability of frontiers, the peaceful settlement of disputes, cooperation among states, and the fulfillment of obligations under international law; indeed these constitute the most egregious violation of these principles in the 40 years since the Helsinki Final Act was signed, including the final 15 years of the Cold War. On this matter, the Western view expressed in the Eminent Persons report is clear:

Nothing in the events in Ukraine can justify Russia’s seizure by force of Crimea, in breach of international law, the UN Charter, the Helsinki Final Act and many other agreements. The claim that this was an act of self-determination would be more convincing if Russian forces had not been involved, if the procedures had

complied with the Ukrainian constitution and if the referendum had taken place following an open debate and with proper international monitoring.<sup>35</sup>

It seems clear that the situation that occurred in Ukraine in February 2014 created uncertainty and even insecurity for many in Crimea, especially for ethnic Russians. There had previously been tension in Crimea as dissatisfaction arose over the allegedly incomplete implementation of the autonomy agreements reached in 1996, which had ended a prior Crimean crisis peacefully. Although the dismissal of Ukrainian Prime Minister Yanukovic cannot properly be characterized as a *coup d'état*, as claimed in the “View from Moscow” in the report of the OSCE Eminent Persons Panel, it did constitute an extra-constitutional change in which an elected president was forced to flee the country. Nor is it the case that the events were provoked solely by a coalition of “nationalists, neo-Nazis, Russophobes and anti-Semites,”<sup>36</sup> although some of the participants in the Maidan demonstrations undoubtedly came from among these groups. The early action by the Verkhovna Rada to make Ukrainian the sole official language throughout the country was, indeed, both unwise and provocative, although it was rapidly rejected by the interim president. In short, the Russian population of Crimea had reason to be concerned, but there was no imminent threat to their survival or even to their wellbeing that could justify immediate, yet surreptitious intervention by Russian military forces, the rapid closure of the borders to all international observers, and a rapid, poorly prepared, and unmonitored “referendum,” which was in any case boycotted by most ethnic Ukrainians and Tatars residing in Crimea. The OSCE’s High Commissioner on National Minorities, Astrid Thor of Finland, was forcibly denied entry into Crimea, especially to evaluate the serious situation faced by the Tatar minority.

If Russia had still been actively committed to the European cooperative security structures, especially those embodied by the OSCE, a different scenario might have evolved. In this alternative, counter-factual scenario, Russia could have approached the OSCE and requested that the seldom-used Valletta mechanism be put in motion, calling for third party mediation between Russia and Ukraine due to the threat to international security inherent in the rapid and extra-constitutional change in the government in Kyiv. This could have led to international assurances that the rights of Crimean citizens that were threatened by the change of government in Ukraine would be protected internationally. The Crimean leadership could have requested

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<sup>35</sup> OSCE Eminent Persons Panel, *op cit.*, p. 23.

<sup>36</sup> *Ibid*, p. 26.

that the OSCE's Office of Democratic Institutions and Human Rights (ODIHR), which in many ways constitutes the gold standard of international election monitoring, schedule an internationally supervised referendum on Crimea's status, including the options of remaining in Ukraine as an autonomous region, independence, or joining the Russian Federation. ODIHR also could have assured that the preparations for the referendum allowed the participation of ethnic Ukrainians and Tatars residing in Ukraine. If, as likely would have been the case, a majority had voted in favor of union with the Russian Federation, the OSCE could have overseen the transition, while assuring that the rights of the Ukrainian and Tatar minorities were protected in the process. In this case, the use of military force, prohibited by the Helsinki Final Act and the UN Charter, would have been avoided. The process would have been transparent and peaceful, and likely would have been seen as legitimate by the international community, for which the process was more important than the outcome. Furthermore, pursuing its concerns through the legitimate international institutions that it had helped to create would have enabled Russia to escape the sanctions and international isolation that it has suffered as a consequence of its actions in Ukraine.

Similarly, a negotiated solution of the crisis in the Donbas region would have been more likely to establish an appropriate level of federalism, with significant devolution of power to regional institutions, than has been the case when the authorities in Kyiv have been forced to manage a military conflict in their eastern region that has created hostility between Moscow and Kyiv and makes a negotiated solution to the crisis so difficult to achieve. To its credit, Russia did not block and has even contributed personnel to the OSCE Special Monitoring Mission (SMM) in Ukraine. However, the only negotiated agreements reached at two separate conferences in Minsk have produced so far only a cease-fire agreement and provisions for withdrawal of heavy armaments away from the line of contact between the opposing forces. And, as the SMM has reported virtually every day, there are frequent violations of all of the provisions of the Minsk agreement by all sides. In short, all of the factors that have driven Russia away from its participation in the post-Cold War cooperative security institutions have made it extremely difficult for these institutions to promote any resolution of the intense conflict that has pitted Russia against both the West and the "states in-between." The dilemma is that it will be very difficult to strengthen these institutions in the midst of this conflict – as the divergent narratives in the Eminent Persons Panel demonstrate clearly – and it will be almost

impossible to resolve this conflict unless and until these institutions are strengthened and a new vision of cooperative security is reached that overcomes these serious obstacles to collective action. Escaping from this “chicken and egg problem” is thus the greatest challenge to rebuilding cooperative security in Europe.

The Eminent Persons’ report does offer some useful suggestions for strengthening the OSCE, even at this time of divergent perceptions of its relevance. These include strengthening the 2011 Vienna document on confidence- and security-building measures, updating the open skies treaty, adopting new measures to limit military exercises and deploying heavy military equipment close to borders, increasing military-to-military contacts, reinforcement of the NATO-Russia Council, and finally the negotiation of a new adapted Conventional Forces in Europe Treaty. Although these are all valuable suggestions, they will be difficult to realize in the current climate of diverging perceptions, hostile rhetoric and threatening military activities. Here too we are confronted with the “chicken and egg” problem of needing to create new mechanisms to strengthen the security regime, a difficult task under any circumstances, but an especially daunting task at a time of such clearly divergent perception of security threats, reflected throughout the Eminent Persons’ Report, and the climate of mutual blame and recrimination that makes constructive dialogue and a return to serious diplomacy so necessary, but also so challenging.

### **Conclusion:**

In conclusion, the early post-Cold War years represent a significant missed opportunity to create a true cooperative security regime in the European and North Atlantic area, with the CSCE serving as a potential foundation for this regime. The Helsinki Final Act of 1975, the Charter of Paris of 1990, and the Copenhagen Document on the Human Dimension of Security, also from 1990, provided the normative foundation for such a regime. The Charter of Paris and the 1992 Helsinki Summit conference created the institutional structure for a pan-European/North American security regime. And conferences in Moscow and Valletta, among others, added to the mechanisms for conflict management throughout the region. In short, the principles, norms, structures and institutions, as well as mechanisms for conflict management were all created in the early 1990’s and undoubtedly would have constituted a sufficient foundation for a full-blown cooperative security regime. Therefore, there is no need to create new norms, institutions, or

conflict management mechanisms in the OSCE region: what is needed is a commitment to utilize and implement fully the structures that already exist.

Still the essential question remains about why this regime didn't develop in the fashion imagined by the collective political actors in the CSCE region as the "new world order" emerged from the dark days of the Cold War. First, the transition at the end of the Cold War was a tumultuous period in world history. The simultaneous collapse of the Soviet empire and the multi-ethnic Yugoslav state created conditions in which numerous violent ethno-national conflicts broke out. At the same time, these events occurred when the CSCE was still in the process of creating its institutions and conflict management mechanisms, and so its obvious inability to respond immediately to such a wide range of violent conflict already created doubts about its effectiveness as a tool of conflict management. Since the prevention of violent conflict was at the core of the CSCE norms and institutions, however, these came into being only after the "Rubicon" of violence had been crossed in many regions within the territory covered by the CSCE. The management of violent conflicts, and the effort to build peace in their aftermath, is inevitably a more difficult task than preventing violence in the first place, but in this regard the CSCE institutions came along too late to respond at times when they were most needed. Since violence came to an end in most of these regions by the turn of the century, many thought that conflict prevention was no longer required, so the human and financial resources that should have been devoted to conflict management were drastically reduced. Post-conflict stabilization, management of so-called "frozen" conflicts, and post-conflict peace-building became the primary focus of OSCE efforts after 2000. Unfortunately, however, this left the institution insufficiently prepared to deal with the conflicts that emerged between Russia and Georgia in 2008 and between Russia and Ukraine in 2014. In both cases, the OSCE was largely cut out of its conflict prevention role and was faced with managing a *fait accompli* only after violence had occurred and OSCE norms had been violated.

At a deeper level, however, the failure of the OSCE to develop into a full blown cooperative security regime resulted from a shared, residual belief in the fundamental principles of realist international relations. Ideas that had dominated the thinking of statesmen for centuries remain very sticky, even after many of the conditions upon which these ideas were founded seem to have disappeared from the European continent. Whether based on a belief in unchangeable human nature at one level or upon a permanent structure of international anarchy at another

level, these theories continued to push political leaders to pursue security at the expense of potential rivals and to believe that security depends more on a balance of power among competing alliances than upon institutions pursuing a cooperative security agenda. And in this case the neo-realist theory became a self-fulfilling prophecy.

As a consequence, politicians in the West were unable to abandon the idea of the superiority of NATO over the OSCE as a guarantor of security, and this view was emphasized especially in most of the newly independent countries of Central and Eastern Europe that had emerged from Soviet domination. In Russia, on the other hand, the broadly shared perception of having “lost” the Cold War, and the feelings of humiliation and weakness that followed, created a widespread sense of insecurity, even though most leaders in the West, at least in the early years, did not perceive their securitization of Western Europe as providing a threat to their neighbors to the East. Nonetheless, this process created a perception of insecurity in Russia that led to a rapid rise in ultra-nationalism, especially as President Putin worked to “make Russia great again.” But Putin’s vision of Russian greatness was founded on his belief in the unity of the Russian people, wherever they resided, thereby apparently providing them with a rationale for maintaining a *droit de regard* and at times even a *droit d’ingérence* in neighboring states where large ethnic Russian minorities reside. In their security culture, this is supplemented by a desire to retain buffers between Russia and its Western neighbors, whom they believe failed to respect Russian values and interests.

Therefore, the intellectual foundation upon which security is constructed in Europe in the 21<sup>st</sup> century in many ways represents a reversion to beliefs formed in the 18<sup>th</sup> and 19<sup>th</sup> centuries under the doctrine of political realism and brought to their extremely violent fruition in the two world wars of the first half of the 20<sup>th</sup> century. Although the end of the Cold War provided a unique opportunity for an alternative “construction” of beliefs about international security to be realized through regimes such as the one based on the OSCE, the traditional beliefs in defensive realism seem to have trumped the newer liberal institutionalist ideas about cooperative security. This, along with a series of unfortunate missteps, missed opportunities, and the inability to adapt to the new international order with sufficient rapidity, contributed to the marginalization of the OSCE as an institution and even more importantly to the idea of cooperative security as an alternative system of global order to the one based on traditional *realpolitik*.

What is needed, therefore, to strengthen cooperative security in Europe is not new institutions, principles, or conflict management tools, but a change in the collective mindset regarding the indivisibility of security. Rather than holding to competing narratives, focusing on attributing blame for what went wrong in the past, what Europe and North America need today is to reinvigorate the ideas and practices of cooperative security that formed the cornerstone of the Helsinki process over the past 40 years. Competing conceptions of security need to be replaced by a shared conception that peace and security are, indeed, indivisible and must be based on cooperation rather than renewed competition. We need to reimagine what might have evolved if the cooperative security regime that emerged after the end of the Cold War had been allowed to flourish instead of pursuing the disparate paths taken by states in the West, in Russia, and in the states “in between.” Only when this normative consensus is reborn can the existing institutions, norms, and mechanisms function as they were originally intended to provide the foundation for a genuine regime of cooperative security from Vancouver to Vladivostok.