Chapter 3

OSCE Special Monitoring in Ukraine

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Abstract The OSCE Special Monitoring Mission (SMM) to Eastern Ukraine (Donbas) offers an interesting case study of what international organizations do during a war. The current conflict is tricky and multilayered. The SMM is the only international observing mission deployed permanently in this war zone, but thus far has received little academic scrutiny. Daily reports are published online so that anyone can be part of the observation process and a witness to what is going on in Donbas. But does the mission contribute to a “revival” of the OSCE? Is it an adequate, accurate, and objective monitoring tool? Is it helping to improve the situation in the field and to make life easier for the population? Finally, should the SMM to Ukraine be modified, replaced by another type of mission, or assisted in some way? In answering these questions, the chapter also considers the future of such missions in the context of the current crisis in Nagorno-Karabakh.

Keywords Minsk process • OSCE SMM • Peace building • Peacekeeping • Politics • Russian federation • Secession • Security studies • Soft power • Soldiers • Transnistria • Ukraine • United nations • Watchdogs

3.1 Introduction

In the aftermath of the 2014 Ukrainian Euromaidan protests, pro-Russian and anti-government separatists’ groups aimed for independence from Ukraine in the Eastern part of the country, the Donbas region. These separatist movements followed the March 2014 annexation of Crimea by the Russian Federation and escalated into an armed conflict between the separatist forces and the Ukrainian army. Pro-Russian citizens were supported by volunteers, paramilitaries and materiel from Russia. The conflict is ongoing at the time of writing. The OSCE launched the first Special Monitoring Mission (SMM) to Eastern Ukraine shortly before that conflict and it has lasted until today.

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There is thus far little written about the OSCE's SMM in member countries, and even less about its current monitoring mission in Ukraine. It rarely shows up in the media. But that Mission offers an interesting case study of what international organizations do during a war, and raises questions about the future of monitoring missions and peacekeeping operations elsewhere in the world. Thus, the case of Ukraine helps us to look closely into the impact and consequences of a monitoring mission and to look deeper into four issues of SMMs:

- (i) Is it an adequate, accurate, and objective tool of monitoring?
- (ii) Is it helping to improve the situation in the field and making life easier for the population?
- (iii) Should it be modified, replaced by another type of mission, or assisted in some way?
- (iv) Do SMMs have a future?

To respond to these questions requires a general understanding of what monitoring means in the context of war and armed conflict. By doing so, this chapter is aiming to contribute to the debates about the role of international organizations in conflict prevention, peacekeeping, and monitoring. One can assess the quality of a monitoring mission's work by looking at the outcome and value such missions have for the local population in terms of peace, stability, and safety, and its role vis-à-vis the expectations of the OSCE participating States.¹

3.2 War in Ukraine

The ongoing conflict and war in Donbas, in Eastern Ukraine, started in April 2014 between Russian militias and Ukraine military forces.² The geographical dimension is very different from previous OSCE experiences and SMMs, such as in Georgia or Transnistria in the 1990s and beyond because the area of Donbas comprises 53,000 km² and hence is larger than Switzerland, and the line of contact on the Russian border is almost 500 km long. The intensity of the fighting also differs significantly

¹ Field research was carried out in July–August 2017, July–October 2018, and February–March 2019, in Kyiv, Kharkiv, Mariupol, and Kramatorsk. Desk research included face-to-face and online interviews of 17 mission members, 3 diplomats, 5 academics, and the general public. All are anonymous, with some exceptions. Survey samples consisted of 42 persons in Kyiv, 31 in Karkhiv, 21 Mariupol, and 14 in Kramatorsk. Focus groups included inhabitants of Kharkiv (7 males, 5 females), Kramatorsk (4 males and 4 females), and Mariupol (5 males and 5 females). I visited the Mission's offices and monitors in Kyiv, Kharkiv, and Kramatorsk. I followed a patrol and witnessed a "window of silence" exercise. For evidence, I analyzed the content of 147 reports published by the Mission (2017–2020), and I compared the SMM with other field missions launched by the OSCE and other organizations. The OSCE SMM never employed me in any way. I am grateful to Dr. Anja Mihr, Alexander Hug and Giselle Weiss, my first readers, for their kind and very useful help. I am also grateful to Pascal Delumeau of the French Foreign Ministry for his support and explanations.

² Unian.info: "OSCE SMM's Alexander Hug: the reality of our work is much more complex than just describing it as blindness," 15 March 2017.

from other contexts. Since 2014 more than 13,000 people have died, including 3,000 civilians, and 35,000 have been wounded. The main causes of casualties are shelling, namely about 50%; and mines/UXOs (unexploded ordnances), namely about 35% of casualties. Shelling has become a daily routine, meant to keep the enemy on both sides in check. Nearly two million people have left the region, heading either westward to Ukraine or northward toward Russia. Many have become internally displaced persons (IDPs) in the process. More than a thousand persons have been reporting missing and no permanent governmental commission or institution has been set up to handle prisoner exchanges despite ongoing but sporadic exchanges since 2019.

International mechanisms, including the OSCE talks in Minsk, under the auspices of the so-called Minsk-Group mandate for conflict prevention, are seen as inefficient by many, since ceasefire violations occur on an almost daily basis.³ The distance between the trenches at the contact-line is short, under 50 meters in some places, and fighting often breaks out by accident. This unstable stalemate is increasingly pulling the two parts of Donbas apart. But it is not a frozen conflict yet. A comparable situation, rarely invoked in the Western media, is that of Nagorno-Karabakh, which is also considered an “active armed conflict” as defined by the Uppsala Conflict Data Program based at the University of Uppsala.⁴ At the time of writing, that other conflict between two participating states of the OSCE (Armenia and Azerbaidjan) is coming back to the frontline.

As always, civilians, caught between a rock and a hard place, suffer the most. While Russia “Chechnyafies” the problem,⁵ Ukrainian politicians exploit it in the pursuit of personal goals. The immediate questions that come to the mind are, Why all the suffering? and What can be done to stop it? The answer to the first question is very complex; the answer to the second, in contrast, is simple: the sides have only to retire and remove their heavy weapons. However, at present there is neither the incentive nor the political will to make that happen.

One of the reasons for this is that the creation of the two separated republics of Eastern Ukraine, in 2014, was not only a result of dirty politics (Matveeva 2018). The war triggered tremendous generosity on the part of ordinary people from both sides. As help from the state was slow coming, volunteers organized themselves. People in general are resilient, and those living in the conflict zone preserved a strong regional identity and a density of interpersonal linkages (Sasse 2017a). Crossing the contact line has become a daily routine for about 40,000 persons, and represents a counterpoint to the dividing efforts of the parties to this war. In a recent survey, 57% of the respondents on “rebel” territory have family members or friends in the Ukrainian-controlled part of Donbas and are in touch with them at least twice a week (Sasse 2017b). People in Donbas continue to present themselves as both Ukrainian and Russian. When displaced persons in Ukraine were asked who was responsible

³ OSCE Minsk Group website: <https://www.osce.org/mg>.

⁴ <https://www.pcr.uu.se/research/ucdp/methodology>.

⁵ Author’s interview with Andrew Wilson, London, May 2018.

for the war, less than half gave the official answer: The Russian Federation (Sasse 2017a). Hence, the causes of the conflict have many facets.

3.3 A Monitoring Mission Operating in an Active Conflict

The SMM is arguably the first field operation operating for such an extended period of time on both sides of an active conflict and it is the only international observing mission deployed permanently in this war zone. But does it contribute to a “revival” of an international organization that has been mostly ignored by the general public over the last 30 years? To answer that additional question, we need to understand the context in which the Mission was launched, in the wake of the clash between pro-Euromaidan and anti-Euromaidan Ukrainians. *Maidan* is the name of the central square in Kyiv—Maidan Nezalezhnosti (Independence Square) where demonstrators gathered during “Euromaidan” (or “Revolution of Dignity”), which started back in November 2013. The demonstrations started peacefully with people being in favor of a closer trade and working agreement with the EU. But it would have negatively impacted Ukraine’s trade agreements with Russia. When the Ukrainian government eventually aimed to back out of signing the agreement with the EU, a wave of protests started, which came to be known as Euromaidan. Clashes became violent and resulted in deaths, including police officers. Eventually, 98 protesters died in clashes with the police and were later celebrated as the “Heavenly Hundred.” Endemic corruption was but one trigger behind the protests. Many Ukrainians, especially in the Western regions, wanted to be part of the EU. When the incumbent president changed his stance, after an encounter with the Russian head of state, they felt betrayed. At the same time, in Eastern Ukraine, where the population has strong ties with Russia, people watched the protest with a critical eye, the more so when some Maidan activists portrayed Russia as the archenemy and stressed the need to impose Ukrainian as the sole official language. The reaction against Euromaidan came to be known as the “Russian Spring.” Supporters spoke of the “natural borders” of the Russian world and used the concepts of *Malorossiya*, meaning “Little Russia,” the territories of the Black Sea taken from the Ottoman Empire under Catherine the Great and of *Novorossiya*, translated as “New Russia,” or the “ideal land for Russian speakers” (Fig. 3.1).

In response to these events, in February 2014, Russia managed to invade Crimea and soon afterward, the war in Donbas started. Generally speaking, wars of territorial conquest are no longer considered a normal instrument of external policies. The Helsinki Final Act of 1975—and predecessor of the OSCE—consecrated the territorial status quo in Europe, and the UN International Court of Justice in The Hague upheld the *uti possidetis* principle meaning “as you have, so you shall possess.”⁶ Recent attempts to conquer territory by force similar to the Iran-Iraq war, the Falklands War, and the Iraq war failed. But effective deterrence depends on the volume

⁶ Burkina Faso vs. Mali decision (1986).

Fig. 3.1 Ceasefire violations observed by the SMM 11 February 2021. *Source* OSCE SMM, 12/02/2021

and quality of forces deployed (Tertrais 2018), and at the time, Ukraine's potential for deterrence was very weak.

What followed in April 2014 was that the Ukrainian authorities launched an "anti-terrorist operation" in Eastern Ukraine. But the army was not prepared. It could only mobilize about 1,500 soldiers and a poorly trained and equipped "volunteers corps" to fill the gap. The war was presented by the Ukrainian High Command as an affair of a few months, an echo of the "fleur au fusil" spirit of 1914 in France, but instead it lingered. The Ukrainian army quickly became more professional and progressively integrated the volunteer groups (Lebedev 2017). Then, in May 2014, a pro-Maidan demonstration in Odessa of about 2,000 people, attended by right-wing activists armed with weapons, clashed with a smaller 300-people-strong anti-Maidan group. 42 of the anti-Maidan group died after a building they were in was set on fire. The gap broadened.

An initial ceasefire was signed in Minsk (Belarus) on 5 September 2014, known as the Minsk-1 agreement. But in February 2015, with Russian help in manpower and militias, the separatists won the decisive battle of Debaltseve, and another round of negotiations was called, resulting in the Minsk-2 agreements. By that time, the OSCE had already launched the SMM, in March 2014. It happened by default, as no other organization was ready for the job. Monitoring peace agreements is traditionally a task undertaken by the United Nations (UN). But after the disastrous experiences during the civil war in former Yugoslavia, the UN Security Council, in which Russia holds a veto, was unable to go back to peacekeeping in Europe. An EU⁷ mission was out of the question due to Russia's opposition, to say nothing of a NATO operation.

3.4 The Role of the OSCE in This Conflict

In a comprehensive study of international election monitoring, Norris noted that "regional intergovernmental organizations possess unique sources of leverage, legitimacy, and long-term engagement that make them—perhaps surprisingly—the most consistently effective norm defenders."⁸ Field operations are rightfully considered to be the backbone of the OSCE's conflict resolution capability. As was written elsewhere, "one of OSCE's most significant comparative advantages is its ability to get actively involved in conflict resolution processes on multiple levels through its network of field operations and the activities of its institutions."⁹ Yet, the OSCE remains generally true to its origins today as a platform for dialogue. The non-binding status of its charter¹⁰ provides that organization with some flexibility. The OSCE is based on consensus by its 57 member states and it exerts no sanctions, which is both

⁷ Today, the EU helps the SMM, contributing to staff costs and assisting in satellite imagery.

⁸ Norris and Nai 2017, pp 55 & 69.

⁹ OSCE conference: Promoting Lasting Solutions, p 4.

¹⁰ Based on the Helsinki Final Act (1975), the Paris Summit (1990) and the Istanbul Charter for European Security (1999).

an advantage, as the member states would never have agreed to a more stringent process, and a drawback.

But since the beginning of the conflict in Ukraine in 2014, we see that the OSCE has been caught in a vortex of diplomatic competition. Against this backdrop, the international organization runs another, separate field mission, at Russia's checkpoints Gukovo and Donetsk on the international border between Ukraine and Russia. But these two small checkpoints are the only ones Russia allows the OSCE to observe along a 400 km border. Moreover, the small size and very limited mandate of that mission make it a very ineffective field operation, consisting as it does of only 20 permanent international staff.

Notwithstanding, war-like armed conflicts in Eastern Europe go back for decades and the tensions between the OSCE and the Russian Federation are not new. Euro-maidan was only the last drop in the bucket that let the violent clash emerge again. It already began at the OSCE Istanbul summit in 1999, when the OSCE member states called for a political settlement in Chechnya and adopted a Charter for European Security. This event marked a turning point, as Moscow started to view the OSCE as a tool in the hands of Western powers and decided to undermine it (Ivanov 2002). Tensions increased between Russia and other participating states after the "color revolutions" in Georgia, Ukraine, and Kyrgyzstan, which Moscow attributed, not without reason, to meddling by the CIA in its former sphere of influence. At the Munich Security Conference in 2007, the Russian president, Vladimir Putin, accused the United States of manipulating international law in violation of fundamental principles such as state sovereignty, and of transforming the OSCE into an instrument designed to promote its foreign policy. Since then, the Russian government has been promoting its idea of comprehensive OSCE reform. At the same time, it has acknowledged the role of the OSCE in Ukraine, while proposing a new setup for monitoring the conflict, as we shall see, namely the Minsk Group and its subsequent agreements.¹¹

In 2014, the SMM was mandated to contribute to reducing tensions, facilitating dialogue, helping foster peace, security, and stability, engaging with authorities at all levels, gathering information, and reporting on the situation.¹² In addition, field missions often perform, as we shall see, functions not initially planned, such as socialization, quiet diplomacy, and good offices. In doing so, they sometimes manage to keep open certain channels of communication.

¹¹ See, for example, the analytical report of the Russian *Centre for Current Politics*, "Бесконечный тупик. Состояние и перспективы процесса политического урегулирования конфликта между Украиной и республиками Донбасса. К первой годовщине минских соглашений," February 11, 2016.

¹² Decision n° 1117 of the OSCE Permanent Council, 21 March 2014.

3.5 The OSCE Mission in Eastern Ukraine (Donbas)

The Mission's initial budget was EUR 5 million in 2014, and it is now around EUR 100 million annually. Of course, as for any mission, the budget is key to its effectiveness and whether it is sufficiently equipped to fulfill its tasks. Intelligence-led missions can now use a whole range of new technologies to support and sustain monitors (Dorn 2016). But it costs money. The OSCE participating States showed some flexibility when it managed to cover the cost of the Mission in its early stage of deployment using savings from other operations and contingency funds.¹³ The remainder was financed through voluntary contributions, mostly from the United States.¹⁴

To make sense, a monitoring mission means a sufficient number of personnel but requires less qualified staff than a capacity-building mission, such as the ones currently deployed by the OSCE in Kosovo, for example, where it was difficult to find experienced policemen and judges to materialize the tasks in the agreements signed with the government in Pristina.

By May 2020, the SMM had 1,280 members, including 723 international monitors and 436 national staff. It is the first OSCE mission of this size and duration *during* a war. All monitors are "seconded," meaning that their respective states pay their salary of approximately EUR 4,500 per month. The head offices (HQ) are in Kyiv, and the monitoring teams work in the ten biggest cities of Ukraine that are Kyiv (12 monitors and 51 staff at the HQ), Donetsk (355 monitors), Luhansk (245), Chernivtsi (9), Dnepropetrovsk (10), Ivano-Frankivsk (11), Kharkiv (10), Kherson (7), Lviv (11), and Odesa (13). Thus, the two de facto republics share the greatest number of monitors at around 600, which makes sense (Fig. 3.2).

Monitoring the war zone is not only a safety challenge and a security threat for OSCE observers and staff, but also an emotional and moral challenge to cope with. Asked to recount a striking memory of the field, one observer said: "When I go back to some villages where I had met people during a previous visit, and find them dead, it is quite upsetting. I tell myself that, as long as I have some emotional reaction it means I am still ok."¹⁵

For their protection, monitors wear flak jackets, helmets, and travel in armored 4 × 4 vehicles. Each team is composed of three monitors, including a paramedic. In April 2017, Joseph Stone, an American paramedic, was killed on patrol when his vehicle accidentally hit an antitank mine on a country road near the village of Prychyb. The other two observers in the car were wounded but survived. It is, so far, the first and only death of a mission member.¹⁶ Since then, monitors are no longer allowed to drive on non-asphalted roads, which further prevents them from observing

¹³ Institute of World Policy (2016), p. 10.

¹⁴ Point 9, Decision 1117, Permanent Council of the OSCE (21 March 2014).

¹⁵ Author's interview with Alexander Hug, Kyiv, July 2018.

¹⁶ <https://www.voanews.com/europe/american-osce-monitor-killed-ukraine-identified-joseph-stone>.

Fig. 3.2 OSCE SMM patrol near the Donetsk Filtration Station during a Window of Silence mission.
Source (photo: Frederic Oberson, March 2019)

remote places. In May 2015, eight monitors were taken hostage by the separatists for a month, the only incidence of kidnapping involving Mission's members.

Before each patrol, a security risk assessment is made, both at the base and the Kyiv HQ. Any risk is mitigated with the following measures: getting additional information from the sides, getting additional equipment, changing the route, or canceling the patrol. When they arrive in a location where firing is going on nearby, monitors immediately return to their cars and wait, listening to the firing with microphones installed in their vehicles. If it does not stop, they leave in a direction where they will be safe. Later, they go back to the location, listen again, and consult HQ, which decides whether to allow them to carry on. In areas where violence is known to occur frequently, the monitors drive to the vicinity of the villages they had planned to observe, get out of the car, and listen for 15–20 min. If they hear nothing, they continue their journey. A problem is that they usually do not know if the firing is aimed at them, planned, or simply random. Nevertheless, intentionally targeting monitors is very rare and it only happened, rarely, at the beginning of the conflict.¹⁷

Today's mission policies, security measures and practice date back to the experiences gained in former Yugoslavia in the late 1990s. Since then, the professionalization of international monitoring has made notable progress. Today, most missions provide guidelines, handbooks, and training to their staff. Drawing on UN experience, the OSCE published handbooks and a code of conduct containing principles such as

¹⁷ Author's interview with eight OSCE SMM monitors, in Kramatorsk (August 2018) and Kharkiv (February 2019).

impartiality, compliance with human rights standards and discretion. A few instances of a breach of that code occurred in Ukraine that led to a decrease of trust in the mission and its observers. For example, in April 2016, photos of monitors attending the wedding, in June 2015, of a Russian separatist were found on social media. In a post to its official Facebook page, on 7 April, the OSCE expressed regret over the incident: “The unprofessional behavior displayed by the monitors in the picture is an individual incident that should not be abused to cast a shadow on the reputation of other mission members.” The monitors were dismissed,¹⁸ but the picture continued to circulate on social media. Nevertheless, the violations of the code of conduct are infrequent even though most remain unreported, especially when they result from monitors’ naivety and/or lack of training.¹⁹ Some monitors have military training and most have worked previously in other OSCE related missions.²⁰ They all underwent an in-house training program, the “General Orientation Programme,” in Vienna.²¹ It lasts five days and covers basic requirements for new mission members. They also follow a five-day Hostage Environment Awareness Training (HEAT) course, in cooperation with the Austrian Army. The trainees are then invited to the Kyiv HQ for a week of “induction training,” after which they are deployed in the field. During their course of assignment, monitors acquire other elements of training, for example, on weapons recognition or impact-site assessment, as well as a special “outreach” course that instructs them on communicating with the civilian population.

Among other criteria for service, monitors must hold a license for armored vehicles above 3.5 tons. The reason is that they drive the cars themselves, unlike in other missions, to reduce the risk of misunderstanding between international monitors and local drivers who do not speak the same language. Moreover, monitors usually stay in a country for a much longer period than observers of other OSCE missions, which is an additional asset, as it arguably enables them to develop some expertise and best practices.

Question arises whether these technical tools are adequate to the monitors’ tasks. Apart from binoculars, walky-talkies, and microphones, monitors use unmanned aerial vehicles (UAV), static cameras, and satellite imagery for two main reasons. One is to observe at night when fighting mostly takes place and, secondly, because they are often prevented from accessing certain parts of the territory.²² Unmanned vehicles, UAVs, can, for example, work inside the Zolote disengagement area and spot

¹⁸ “OSCE Expresses ‘Regret’ After Staff Shown At Separatist Wedding In Ukraine,” Radio Free Europe, 6 April 2016.

¹⁹ I have, personally, witnessed a few, in countries such as Belarus or Afghanistan. Although they raise doubts about the quality of the mission, they generally do not have a major impact.

²⁰ Stephanie Liechtenstein, Interview with A. Hug, Security & Human Rights Monitor, 24 Feb 2015.

²¹ Dijkstra H, Petrov P & Mahr E (2016), p. 34.

²² UAVs are of three types: mini, mid-range, and long-range. In 2019, the Mission was equipped with 53 mini-UAVs, 11 mid-range UAVs, and only one long-range UAV that is able to fly at an altitude of 5 km and to cover a distance of 160 km. The two sides also use their UAVs to observe each other and to prevent the Mission from working, as the following example illustrates: “while positioned in Raivka (non-government-controlled) to conduct a mini-UAV flight, the SMM observed a non-SMM UAV flying at an altitude of about 70 m over its position for around three minutes. The

a newly dug trench.²³ They can thus be useful, though costly, tools, and are frequently targeted by all sides.²⁴ Another weapon with which observers have to deal is the AK-47, also known as a Kalashnikov. It can easily fire at *small* or *mid*-range UAVs, while the *long*-range ones are targeted by surface-to-air missile systems. Sometimes the observers are able to recover them by risking their lives.²⁵ The Mission's UAVs are also often interfered with by electronic warfare equipment, called jamming. It causes remote SMM pilots to lose their GPS signals. But mid-range and long-range UAVs are equipped with emergency systems using different frequencies that allow them to evade interference most of the time. For example, when the SMM's UAV experienced repeated jamming while flying over areas near Shyroka Balka, the interference could have originated from anywhere in a radius of several kilometers of the UAV's position.²⁶ As the example shows, it is difficult to identify the origin of the attacks.

Another category of technical tools used in SMMs are cameras. In 2019, the Mission in Ukraine counted 13 cameras installed in various areas of the conflict zone and planned to put eight more in place. It contracted a civilian company to install them and a specialized staff such as photo analysts, operators, and IT specialists to evaluate the images. Occasionally, cameras are damaged, or the sides prevent the observers from accessing them. Quoting from experiences, it is reported, for example, that "barbed wire was placed around the mast of the SMM camera in Stanytsia Luhanska [...] which impedes the SMM's access to it",²⁷ or that the camera at the Donetsk Filtration Station recorded an explosion "assessed as an impact 600–800 m south, projectile in flight from north-west to south-west",²⁸ or that the camera at the Oktiabr mining area recorded "a projectile in flight from south-east to north-west and a projectile from south-south-east to north-north-west, followed by a total of twelve undetermined explosions."²⁹

By no means do these stories include a clear statement on responsibility for violations of the ceasefire. Boris Gryzlov, Russia's official representative to the Trilateral Contact Group (TCG), in Minsk (Belarus), declared: "It is very difficult for the OSCE monitors, because shootouts mostly take place at night, and at night the mission doesn't work. They can only register the presence of shots, but do not even determine from which side the grenades, mines, or just someone's bullets are flying."³⁰

Mission left the area/.../ and had to abort (its) mini-UAV flight", See: SMM daily report 84/2020, p. 4 and 6, under "other impediments."

²³ And Second: "On the eastern edge of Popasna (government-controlled), an SMM mini-UAV spotted, for the first time, 46 anti-tank mines /.../ assessed as belonging to the Ukrainian Armed Forces", Daily Report, OSCE SMM, 7 June 2018.

²⁴ Daily report 93/2020, 20 April 2020, p. 6.

²⁵ For example, Daily Report, OSCE SMM, 19 April 2020.

²⁶ Daily Report, OSCE SMM, 8 June 2018.

²⁷ SMM daily report 84/2020, p. 3.

²⁸ Daily Report, OSCE SMM, 7 June 2018.

²⁹ Daily Report, OSCE SMM, 7 June 2018.

³⁰ Sputnik News: "OSCE monitors can't determine who starts skirmishes in D," 21 June 2017.

When asked to comment on that statement, a Mission member said: “It is untrue, partly [...] because the cameras can show, approximately, the provenance of the heavy weapons’ rounds.”³¹ But that is not enough to silence critics, and it would be better if the monitors were able to register the provenance of the shots with greater precision and detail. Nevertheless, it is highly unlikely that reporting a higher number of violations with greater precision will make any difference in bringing the sides to the negotiation table.³²

The “Package of Measures” that is part of the Minsk agreements also refers to the use of satellite imagery to enhance the SMM’s monitoring capacity. The Mission is entitled to obtain imagery through individual OSCE participating states or from the EU satellite center in Spain.³³ This imagery enables monitors to look into the past and observe, for example, whether new trenches have been dug. Acoustic sensors were added more recently, in 2018, in the hope that, under certain circumstances, they would make it possible to determine the origin of a weapon that has just been fired.³⁴

3.6 Mission’s Reporting Scheme

Observers of the monitoring mission cannot intervene, only report. Scholars who have studied the monitoring and reporting work of international organizations such as the OSCE are often focused on election observation, a widely used tool since the end of the Cold War, but less on monitoring missions during a conflict (Kelley 2012, Norris and Nai 2017).³⁵ Judith Kelley has shown that election observation can promote progress only under certain conditions, for example in the case of constructive international incentives, domestic pressures for reforms, less conflict-prone settings, and international monitoring organizations that are persistent, capable, and free of political baggage.³⁶ That is not necessarily the case during a conflict. Viewed through this lens, the SMM meets only a few of the same criteria that apply to election observation missions, since international incentives are far from neutral and constructive in the Ukrainian context, and the ongoing conflict is close to a zero-sum situation, at least in the opinion of major stakeholders (Fig. 3.3).

³¹ Author’s interview with a OSCE SMM monitor, Kiev, August 2019.

³² A Mission member told me (November 2020) that the amount of data the cameras installed on UAVs manage to get is so huge that the Mission lacks the staff to process and analyze it. Therefore, only part of that data shows up in the reports.

³³ In Torrejón. See Frederic Oberson (1998) *Intelligence cooperation in Europe: the WEU Intelligence Section and Situation Centre*, in Politi, A. (ed.). *Towards a European Intelligence Policy*, Cahier de Chaillot 34, EU-ISS.

³⁴ Author’s interview of Alexander Hug, June 2018.

³⁵ Hyde (2011).

³⁶ Kelley (2012).

Fig. 3.3 OSCE SMM camera near a checkpoint in Donbas. *Source* (photo: Frederic Oberson, September 2019)

A comparison with international election monitoring is worth drawing when understanding the limits and possibilities of a mission. During election observation missions, for example, for logistical, financial, political, and security reasons, monitors can only observe a few polling stations, attend a few meetings, and cover only a fraction of the country in which elections take place. Authoritarian governments undertake their utmost to prevent election observers from entering certain cities and towns, or polling stations, to witness possible election fraud. Moreover, election monitors stay for only a limited time in a country, a few days or weeks only, contrary to SMM monitors who can stay up to several years.

Transposed to the context of Ukraine, SMM monitors can theoretically provide credible information, therefore improving transparency and assigning responsibility for some violations and increasing accountability. But there are side effects. Pippa Norris, a political analyst at Harvard University, showed that when international organizations publish reports highlighting problems without identifying remedies and sanctions, it can encourage public cynicism.³⁷ Mechanisms to ensure compliance are essential,³⁸ because without accountability, information about flaws and failures can be ducked by politicians through blame avoidance.³⁹ But international organizations are complicated actors, and monitoring is a complex job. In the case of elections, for which the OSCE has developed expertise, scholars have stressed

³⁷ Norris and Nai (2017).

³⁸ Fox (2007).

³⁹ Hood (2013).

that they involve very complex issues that stretch far beyond E-Day. That said, the collection of strong, substantiated facts not based on hearsay, assumptions, or suppositions go to the very heart of monitoring. Monitors must consider multiple types of evidence and corroborate their findings, according to established standards of proof developed over years.

Against this backdrop and when considering the OSCE Mission's reporting methods and the quality of the information, reports and evidence are essential. Is the SMM reporting adequately, without bias, and with clarity, precision, and relevance, having checked every piece of information? Does the SMM provide relief for the population living in conflict areas?

The SMM is publishing daily reports online, so that anyone can be part of the observation process and a passive witness to what is going on in Donbas. The reports are published in three languages: English, Ukrainian, and Russian. In doing so, the SMM fulfills its duty to make the conflict transparent whilst aiming to be neutral, but it also exposes the organizers to heavy scrutiny and critics, by delivering "very uncomfortable truths," as one Mission member said.⁴⁰

Public reporting is not unique in the history of monitoring, but it is unique within the framework of the OSCE or any other international organization of that quality. Normally reports and evidence from ongoing conflicts are sent to the participating states foreign services or governments only. Another issue is that the local population often view monitors as strangers lost in translation and feel disappointed with the international community. "In the war zone, people have very few contacts with the Mission and know very little about its work. Its image is globally negative and there is a misunderstanding of its work," as one said.⁴¹ But does that mean monitors are not doing their work properly? A Mission member responded: "they call us *blind monitors* because our reports are making them uncomfortable. Monitoring is different from verifying. Its effects are hard to see. We come to a village with a pen and notebook and observe the suffering."⁴² The Mission's credo is to report only facts in a very mobile conflict. "There is always a risk of discrediting the whole mission if we are not careful. If a side opens fire, it may be in response to another fire. As a monitor, you don't always have the full picture."⁴³ There is no hotline, but the public can make reports using an e-mail address. Nevertheless, the Mission does not respond to individual requests. Perhaps a hotline would be a good idea, increasing contacts between the population and monitors who spend most of their time in armored vehicles, working in compliance with very strict security protocols. The SMM might also consider using a crowdsourcing platform such as Ushahidi.

Hence, the Mission issues two types of reports, the *Daily Reports* and the *Spot Reports*, which are written when something important happens between two daily reports. In addition, it produces a *Weekly Summary* for the participating states only. It is a compilation of the Mission's findings. Observers send their drafts to their

⁴⁰ Unian (2017), OSCE SMM's Alexander Hug interview, Unian.info, 15 March 2017.

⁴¹ Author's interview with Ioulia Shukan, University of Paris-Nanterre (Paris, April 2018).

⁴² Author's interview with a SMM monitor, Paris, April 2018.

⁴³ Author's interview with a SMM monitor, Kyiv, August 2017.

head office in Kyiv, which forwards them to OSCE HQ in Vienna for reviewing and clearance before publication.

The *Daily Reports* are by far the most important source of information provided by the SMM. Moreover, a comparison of reports in the earlier years of the mission after 2014 with those published in 2020 and 2021 shows that their structure and content have undergone substantial change. The presentation has improved with the introduction of charts and tables, making them more reader-friendly. The content of the *Daily Reports* is structured in the following way, for example: ceasefire violations, types of weapons used, civilian casualties, disengagement areas and restrictions on the Mission's freedom of movement, damage to houses and civilian infrastructure.

Each report always starts in the same way, informing the reader of whether the Mission recorded more, less, or the same number of ceasefire violations in the two conflict zones, in Donetsk and Luhansk, compared to the previous day. The daily reports also list the number and kind of arms and weapons used, including multiple-launch rocket systems, surface-to-air missile systems, howitzers, tanks, anti-tank guns, mortars, mines and UXOs, automatic-grenade-launchers, heavy machine guns, and small arms fire.

People traveling on the contact line can often see billboards bearing the words: *nié pokidaitié dorogy*, meaning "don't deviate from the road," a warning against mines and other dangerous arms left on the side roads. Eastern Ukraine has become one of the most heavily mined territories in the world and has the highest rate of anti-vehicle mine casualties. Reportedly, it would take 10 to 15 years to demine it.⁴⁴ There has been some limited progress on de-mining, but 262 civilians have fallen victim to these weapons over the past three years.⁴⁵ The OSCE SMM recruited some Mine Action Officers and regularly publishes vacancies for such positions.⁴⁶

Unexploded ordnances (UXOs) are also a big issue. For example, in June 2018, the SMM followed up on reports of a boy injured while handling unexploded ordnance at a hospital in Horlivka. "The boy, who was amputated, told the SMM that he had found a thin pen-like object measuring 10–15 cm in length with a red clasp, which he brought home, where it exploded."⁴⁷ Another example states that monitors spoke by phone with a woman's fiancé who found her lifeless on the floor inside a house in Shyroka Balka on 9 April 2020, covered in blood.⁴⁸ These are only two of the many examples of gloomy life in the war zone. They show that when the monitors observe, meet the population, and report on casualties, they contribute to informing journalists, scholars, or anyone wishing to understand the realities in the field.

⁴⁴ <https://112.international/conflict-in-eastern-ukraine/austria-allocates-11-million-for-mine-clearing-of-Donbas-32839.html>.

⁴⁵ <https://www.osce.org/special-monitoring-mission-to-ukraine/450589>.

⁴⁶ For example: <https://jobs.osce.org/vacancies/mine-action-officer-vnsmus01124>.

⁴⁷ Daily Report, OSCE SMM, 7 June 2018.

⁴⁸ Daily Report 93/2020 issued on 20 April 2020.

3.7 Withdrawal of Weapons

Observing the withdrawal of weapons is an important part of the SMM's mandate. Unfortunately, the Minsk-1 and -2 agreements are vague on this key issue and the fight over interpretation leads to tensions.⁴⁹ Furthermore, the agreements include no instructions on the sequence in which their provisions should take place. To make things worse, the numerous denials of access to many sites are another hindrance to the Mission. For example, as reported by monitors, in violation of withdrawal lines, in non-government-controlled areas, the SMM saw three stationary self-propelled howitzers (2S1 Gvozdika, 122 mm) close to an abandoned building about 2 km south-west of Donetsk city's Kirovskiy district⁵⁰; and in "violation of withdrawal lines, in government-controlled areas, an SMM mid-range UAV observed six self-propelled howitzers (2S3 Akatsiya, 152 mm) in Yablunivka."⁵¹ The cases illustrate that the Mission's monitors report precisely on the type of violations of the disengagement process, independently and transparently, which could contribute to establishing the responsibilities of the sides. But they frequently observe weapons that cannot be verified as withdrawn, as their storage does not comply with the criteria for identifying them that were set by the Mission on 16 October 2015, in its notification to the signatories of the Minsk agreements' Package of Measures. The withdrawal of weapons is part of any demilitarization effort, also known as DDR process (Demilitarization, Demobilization and Reintegration) of any peace building and conflict managing process, which is also applied by the UN in conflict zones. It is the first step to peace, but as in the case of the Donbas, not successful yet. But when we look at similar long-lasting violent conflicts and DDR processes, such as the Good Friday Agreement in Northern Ireland in 1997, we see that demilitarizing the 2,500 men in arms was a very difficult task. In comparison, the armies of the two self-declared republics of Eastern Ukraine are more than ten times larger, to say nothing of the Russian military that equips the paramilitaries with weapons and resources (Fig. 3.4).

So far, military positions have remained almost unchanged on the line of contact between the warring sides, since the Battle of Debalstve (2015). Both sides use heavy weapons, target populated areas, lay more mines, and prevent the Mission's patrols from carrying on their work. The stakeholders are using the conflict to pursue their interests, with few incentives to find a solution. The ceasefire might even reduce the perception of injury that motivates parties to make compromises.⁵² In this context, the war allows for a whole array of manipulations and narratives. At present, the population is still resilient. But, as a Mission member said, quoting Simon Perez: "Although there is a light at the end of the tunnel [the civilians are the ones keeping that light on], the problem is that there is no tunnel [no process through which the hopes and the needs of the people can be put forward]."⁵³

⁴⁹ Kadri Liik (2015), *The Diplomatic Battle for Ukraine*, ECFR article online, 27 April 2015.

⁵⁰ Daily Report, OSCE SMM, 13 February 2018.

⁵¹ Daily Report, OSCE SMM, 3 February 2018.

⁵² Tanner, F. (2017), *Advantages of a Civilian Mission*.

⁵³ Author's interviews with A. Hug, Kiev, June 2019.

Fig. 3.4 Mines near a checkpoint in Donbas. *Source* (photo: Frederic Oberson, March 2019)

Another task is to monitor the disengagement process in pilot areas that have been agreed upon, in Minsk, on 21 September 2016. In 2020 there are only three disengagement areas, namely Stanytsia Luhanska, Zolote, and Petrivske. The last two were added after Russia applied diplomatic pressure to have them on the list. That part of the monitoring record is also negative, as reflected by the reports. Two of the pilot areas (Zolote and Petrivske) saw *some* disengagement just after the agreement was signed; but the sides fully re-engaged in the fight soon afterward, undermining the spirit of the disengagement areas.

3.8 Contact Line and Freedom of Movements

The sides make life very difficult for the population, and manning of checkpoints on both sides is appalling. But the fact that so many civilians cross the contact line indicates that people don't believe in this conflict.⁵⁴ There should be more crossing points or, as they are called, "entry-exit checkpoints" (EECPs), working around the clock, with fewer bureaucratic procedures. The five crossing points are Maiorska, Marinka, Hnutove, and Novotroitske in Donetsk and Stanytsia Luhanska in Luhansk. The latter is a pedestrian-only bridge that about 150,000 people cross monthly. It was repaired in November 2019, after much negotiation between the conflicting parties.

⁵⁴ A report estimated the total number crossing every day from 27,000 to 42,000. See UNHCR, "Crossing the line of contact," November 2017.

Fig. 3.5 OSCE SMM monitor near the contact line, hearing some shots. *Source* (photo: Frederic Oberson, March 2019)

It is unclear to what extent the Mission played a role, but it is probable that the repetitive mentions of the disastrous state of the bridge in the reports contributed to pressure on stakeholders.

OSCE observers are frequently prevented from fulfilling their tasks, as reflected in many reports. There are two main types of restrictions, namely those that the Mission imposes itself and those that are imposed by the sides. Denial of access is more frequent than conditional access. For example, when “a group of National Guard officers, citing orders from their superior, denied the SMM entry to a military compound in Manhush (government-controlled), 111 km south of Donetsk”,⁵⁵ or when “at a checkpoint south of Stanytsia Luhanska bridge (...) members of the armed formations denied the SMM passage, referring to the closure of the checkpoint due to COVID-19.”⁵⁶ Moreover, observers sometimes face pressure and harassment: “We faced more and worse impediments and incidents in non-government-controlled areas, including aggression, intimidation, harassment, and violence”⁵⁷ (Fig. 3.5).

But there are also success stories to be told, namely the “Windows of Silence” that are temporary local ceasefires that enable maintenance and repairs of vital civilian infrastructure. Observers and monitors conduct simultaneous patrols, on both sides of the contact line, and coordinate by radio or telephone. Since June 2018 the Mission

⁵⁵ Daily Report, OSCE SMM, 13 February 2018.

⁵⁶ SMM Spot Report 15/2020.

⁵⁷ Cheysheva, O. (2017) “Interview with Alexander Hug”, One Quart Magazine, May 2017 (<https://onequartmagazine.com/life/05/2017/oksana-chelyssheva-interview-with-alexander-hug/>).

dispatched around 40 patrols every day around the Donetsk Filtration Station (DFS), securing the water supply for around 300,000 people on both sides of the line. The local population sees that as positive: “the SMM has a poor image amongst people I met in Donbas. Nevertheless, the fact that it facilitates repair work is seen as positive.”⁵⁸ But the infrastructure is often damaged during the night, and the teams have to start from scratch the next day. Per Fischer, the Coordinator of the Economic Working Group at the Minsk Talks, said that the SMM helps improving the life of the population in a number of ways, such as the payment of the water bills by the separated republics, which has to be done in cash, due to the war, and brought every month to the contact line, under the auspices of the SMM. Another positive thing he mentioned is the Windows of Silence tool, making repair work possible. “It is a success, but very shaky.”⁵⁹

The Mission negotiates with the sides to obtain explicit security guarantees before sending its patrols, but it cannot be certain that local fighters will abide by them. For instance, on 13 April 2020, a patrol at the non-governmental controlled railway station in Yasynuvata was monitoring adherence to a localized ceasefire to facilitate the operation of the Donetsk Filtration Station, when they heard explosions, despite having been provided security guarantees.⁶⁰ As a Mission member commented: “Very often, when we ask for security guarantees, the sides continue to fight, but to a lesser degree. It is difficult to explain to civilians what these localized cessations of fire, so-called “Windows of Silence,” are good for, not least because the OSCE is not a humanitarian agency but facilitates the access of those who can deliver aid or repair infrastructure.”⁶¹ Here is another example: “in Luhansk region, the SMM monitored adherence to a Window of Silence and facilitated reportedly a transfer of funds from non-government to government-controlled areas in relation to a water utility payment.”⁶² Moreover, the Window of Silence tool confronts the monitors with a dilemma when they need to find a balance between secrecy, for the protection of civilians, and transparency to report on the conflict on a daily basis. But it is a tool that has proven essential in enabling repair of basic infrastructure such as water, gas, electricity, and telephone communications. In this sense, the Mission can rightfully be called a facilitator of humanitarian aid and civilian relief.

⁵⁸ Author’s interview with Ioula Shukan, an academic working on Ukraine, Paris, April 2018.

⁵⁹ Author’s Skype interviews with Per Fischer, 10 October & 1st November 2018. Since May 2015, the four working groups (Political, Humanitarian, Economic, Security) within the Trilateral Contact Group (TCG) are meeting every two weeks in Minsk (Belarus), at the Hotel & Conference Center. The Minsk negotiation format is one of the rare arenas where the separatists can receive attention and express their views in front of a panel of experts, since their representatives are present in each of the four working groups.

⁶⁰ OSCE SMM Spot Report 12/2020.

⁶¹ Alexander Hug’s interview with the author, Kiev, June 2018.

⁶² Daily Report, OSCE SMM, 8 June 2018.

3.9 Impact of SMM

The purpose of any mission is not only to *inform* about a conflict but also to contribute to *improving* the situation and to making life easier for the population. This second aim is taken for granted by domestic and international actors. Unsurprisingly, the Mission claimed to have been proven effective in deterring violence and reducing tensions.⁶³ Nevertheless, its work has not yet been subjected to a thorough examination. Given the great number of obstacles, skeptics would argue that such a mission is unable to bring about any change. But, theoretically, its presence might raise the cost of violence.

Nevertheless, as this study shows, violence and compliance with rules are a matter of degree and gains are never global, but restricted to certain domains, which, of course, is better than nothing. SMM staff can ease and improve conditions on the ground in various ways and reinforce the utility of such missions in the long run. By their repeated patrols and daily reports, they help to provide basic needs to the population to water, electricity, heating, etc., and by doing so improving the commitment of local actors to keep up telephone communication, crossing points and even prisoner exchange. Arguably, monitors even play a role in deterring an escalation of violence, in certain cases. But these glimmers rarely last, making the work of the Mission a task similar to that of Sisyphus, condemned to roll a boulder up a hill forever. Lastly, given the limited framework of this study, it is impossible to determine whether this SMM has had any success in helping to improve the behavior of the OSCE and its participating States, as the mechanisms of influence and diplomacy are very difficult to assess.

3.10 Learning from Experience

“It seems highly unlikely at least in the near term that a need would arise for an OSCE military peacekeeping force as opposed to a civilian one,” Ambassador Adam Kobieracki, Director from Conflict Prevention Centre of the OSCE, concluded in 2013 in Vienna.⁶⁴ Ever since its first SMM in 2014, the OSCE had the possibility to deploy a military peacekeeping force, but has not done it so far. In Ukraine, it is already cooperating with other UN agencies and missions, in particular the Human Rights monitoring mission in Ukraine (HRMMU), but not in the context of a “helmed” one. In the 1990s and beyond it proved capable of working closely with the UN in Kosovo, within the “pillar system,” when the OSCE was in charge of the institution-building pillar, within the framework of UN Security Council Resolution 1244. But the 567-staffed OSCE mission in Kosovo was under a different mandate

⁶³ My interviews with 14 Mission members, in 2016–2020. See also the factsheets published by the SMM, which are stressing its role in reducing tensions.

⁶⁴ OSCE conference: Promoting Lasting Solutions, p 7.

and in close cooperation with 5000 NATO soldiers, 360-staffed UN mission and even 150 staff from the EU. An exception, so far, not the norm.

Nevertheless, there have been attempts for peacekeeping missions already back in 2015. In light of the Minsk agreements, the Ukrainian government in Kyiv, followed by Moscow, proposed a UN peacekeeping mission for Ukraine in 2015. Russia circulated a draft UN Security Council resolution that was a hybrid arrangement, with UN peacekeepers protecting SMM monitors, while the Ukrainian draft was about a robust operation enforcing the ceasefire, under Chapter VII of the UN Charter, but with no reference to the SMM. Two years later, Russia launched another proposal, but Kyiv disagreed on the question of the mandate and insisted that the future mission should not include peacekeepers from Russia. Some OSCE officials reacted negatively to both proposals, stating they did not require any force for protection: “Why bother with a blue helmet force? It would be another obstacle for us. There is no peace to be kept yet (...) It won’t make any difference in the field.”⁶⁵

Thus, SMM monitors often find themselves in the middle of a political entanglement they have no power to address. With little leverage, they are at the mercy of the political will of participating states (Lehne 2015). They work as auditors, providing third-party evidence to accusations of violence and malpractice, but cannot impose costs on those responsible for violations, let alone sanctions. For that reason, some say that other forms of field action are needed, so-called “second-” and “third-” generation missions that include a strong mandate and enough armed personnel to enforce compliance. In this respect, does the SMM need to be transformed into a peacekeeping mission or to be associated with a second mission with a peacekeeping mandate?

Some believe it does. The Hudson Institute for policy research stated that the SMM mission played an “important and courageous role” in monitoring the conflict, but lacked the leverage to resolve it. Nevertheless, even if a major peacekeeping operation became feasible, “it would be prudent to keep the SMM in place as a fallback in case the new force stumbles.”⁶⁶

If we look at the different types of missions and monitors deployed in recent history (Doyle and Sambanis 2006), we see that the SMM monitors can only serve as observers without any enforcement powers, let alone a military mandate. Other types of missions have stronger powers, for example those that have ‘policing’ in their mandate, such as the so-called “second-generation” missions, which are addressing the roots of conflicts, for example: economic reconstruction, reform of the police, army, judiciary, and elections. As for the “third-generation” missions, they are authorized to use force. Nevertheless, the SMM is partly undertaking tasks devoted to these other categories, since it plays the role of an intermediary between the sides and of a facilitator of humanitarian aid and economic reconstruction, through the “Windows of Silence” tool.

⁶⁵ Author’s interview with a Mission member (OSCE SMM), Kiev, June 2018.

⁶⁶ Gowan, R. (2018), “Can the United Nations Unite Ukraine?,” Hudson Institute, February 2018, Hudson Institute, pp. 11 & 20.

Adaptive peacebuilding and monitoring have been receiving more attention in recent years (de Coning 2018). Some argue, drawing on the ongoing experience of Georgia, that unarmed missions without a mandate for enforcement have little effect on peace duration when they operate in the context of ongoing conflicts since 2009, and that they may even increase the level of aggression toward the civilian population. To take a position in that debate, I will look at other conflicts and field missions, using a comparative analysis.

There are examples of successful monitoring missions over the past decades. One of them is the EU Monitoring Mission in Aceh Province, Indonesia, deployed when the separatists signed an agreement with the government after almost 30 years of war, in 2006.⁶⁷ That mission, which had both civil and military components, successfully monitored the disarmament, human rights, and amnesty processes.⁶⁸ Amnesty, in particular, was essential, as fighters only agreed to disarm once they were convinced they had a future similar to what transpired in Nicaragua, when the war between the Sandinistas and the CIA-backed Contras ended after many efforts to find a solution.⁶⁹ But the time is not yet right for this approach in today's Ukraine, where the questions of amnesty and local elections, among others, still divide the population and politicians.

Another example worth mentioning, although it can hardly be called a success, is the UN mission to North and South Cyprus, an island that has been divided by the Greek and Turkish speaking inhabitants for more than 50 years. The Mediterranean island has been ridden by conflict over territory, sovereignty, and identity, despite the efforts of international monitoring and peacekeeping. American diplomats such as Henry Kissinger and the government of Turkey played a significant role in this affair because of the strategic importance of Cyprus.⁷⁰ Talks finally resumed in 2014, but no signs of progress are in view, despite the UN commitment. Nothing is more revealing than this stalemate, full of the dawdling and backtracking of the main players, as Lawrence Durrell showed in the autobiographical work *Bitter Lemons*, about the three years he spent on Cyprus.⁷¹ Former British Prime Minister Anthony Eden sums up the problem in his memoirs: "For geographical and tactical reasons, the Turks have the most rights in Cyprus, for reasons of race and language, it is the Greeks, for strategy, the English."⁷²

Transnistria, officially part of Moldova and bordering Ukraine, is yet another region within the OSCE region that provides for comparison. Russia exercises a dual role as mediator and party to the conflict in Transnistria, and the OSCE initiated a

⁶⁷ Institute of World Policy (2016), "Conflict Settlement Practices Around the World: Lessons for Ukraine," p. 11.

⁶⁸ Schulze, K. (2009), "AMM (Aceh, Indonesia)," in ESDP: The First Ten Years (1999–2009), Grevi, G., Helly, D. & Keohane, D. (eds.), Institute for Security Studies, Paris, France.

⁶⁹ Oberson, F. ; *Sandinista! The Clash en Nicaragua* (www.fragmentsoftime.net).

⁷⁰ Brendan O'Malley & Ian Craig (1999), *The Cyprus Conspiracy: America, Espionage and the Turkish invasion*, I. B. Tauris, London.

⁷¹ Faber and Faber, London, 1957.

⁷² Anthony Eden (1960), *Full circle*, Cassell, London, p. 405.

mediation but achieved very little, for more than 20 years. Moldova is still offering the region autonomy, while Transnistria insists on international recognition and a loose confederation of equals. In 2003, Moscow proposed a federation with autonomous status, the “Kozak memorandum,” named after Vladimir Putin’s confidant, Dmitri Kozak. But the final draft provided for long-term status for Russian military forces, and for that reason, the Moldovan president withdrew his initial approval. The status of the Transnistrian Moldovan Republic (TMR) remains unclear to this day. It finds itself in an existential dilemma between its uncompromising political orientation on Russia and its economic connectedness with Moldova, Ukraine, and the EU. Moreover, its geographical situation would make unification very costly for Russia, while reintegration in Moldova would come at an even greater cost (Fischer 2016). This dilemma is similar to that of Eastern Ukraine. The only success is the two bilateral accords agreed between Ukraine and Moldova, on November 2015, with the support of the UE border assistance mission, to fight smuggling and illicit trade at the border.⁷³

The Republic of Georgia is another country where the combined efforts of the OSCE and EU achieved very little. The head of the EU investigation team on the 2008 Russo-Georgian War recalled the challenges she had to deal with when, for the first time in its history, the EU created an independent fact-finding commission to determine what went so badly wrong and how to avoid a repetition. According to her, “a factor for that war was the lack of progress, for more than 15 years, in the resolution of the two frozen conflicts of Abkhazia and South Ossetia, despite the presence of the UN, the OSCE, and the EU. The international community looked the other way as if it had given up on upholding an increasingly fragile cease-fire.”⁷⁴ Indeed, from 1993 to 2008, UN observers were deployed to monitor the secessionist region of Abkhazia, but that small mission, the United Nations Observer Mission in Georgia, found itself “substantially dependent on Russia’s policies and preferences.”⁷⁵

The last, but not least, comparison is the current conflict in Nagorno-Karabakh. At the time of writing, thousands of lives have already been lost as a consequence of the worse fighting since the 1990s between Armenia and Azerbaijan in that disputed enclave, showing that the conflict was not frozen at all. It also has geopolitical implications, since Russia and Turkey hold strategic interests in the region. When full-scale fighting resumed a few months ago, the OSCE was sidelined. A ceasefire brokered by Russia came into effect in November 2020, after Azerbaijan retook much of the land it had lost during the 1992–1994 war. Moscow deployed around

⁷³ For a recent global survey, see: https://unece.org/fileadmin/DAM/trade/Publications/ECE_TRADE_433E.pdf.

⁷⁴ Heidi Tagliavini, “Lessons of the Georgian Conflict,” 30 September 2009, *The New York Times*.

⁷⁵ Bruno Coppieters, “The UNOMIG,” in Joachim A. Koops, Borrie MacQueen, Thierry Tardy, and Paul D. Williams, *The Oxford Handbook of United Nations Peacekeeping Operations* (Oxford: Oxford University Press, 2015), p. 446.

2,000 peacekeepers and the ceasefire deal allowed Azerbaijan to keep the territories it recaptured, a concession that fueled outrage in Armenia.⁷⁶

Why wasn't the OSCE more active in the current temporary settlement? Russian President Vladimir Putin explained that, given the urgency,⁷⁷ "there was no time for holding additional consultations within the framework of the OSCE Minsk Group." Co-chaired by the United States, Russia, and France, that group had also been in charge of negotiating a peaceful settlement. It is unclear at the time of writing what role the OSCE will play in the future. Nonetheless, some elements of the recent ceasefire were based on the peace plan that had been negotiated within that OSCE framework over a period of many years. Moreover, the High-Level Planning Group of the Minsk Group was mandated to devise a plan for a multinational OSCE peacekeeping force. The group could, in the near future, propose a plan to replace the Russian peacekeepers, but only if the stakeholders agree, in particular the Biden administration in the United States, which took office in January 2021. As OSCE chair in 2021, Sweden could also play a role.

Consequently, the OSCE could very well be asked to use the expertise and lessons learned from Ukraine over the last five years to set up a mission in Nagorno-Karabakh that would resemble the OSCE SMM in Donbas.

One additional problem is that the COVID-19 pandemic is currently preventing Minsk Group visits to the field and most meetings are taking place virtually, making it even harder for the OSCE to get involved more actively.

3.11 Conclusion: Future Challenges for the OSCE SMM in Ukraine

The OSCE's SMM in the Donbas region of Ukraine provides a good example for the possibilities and limits of international conflict monitoring missions. Until recently, no one really knew whether international monitoring was a good idea, because it had received little real scrutiny.⁷⁸ The situation has improved a little over the last years, with several analyses and surveys on some missions.

It is important to stress that the OSCE can only monitor, not resolve, the conflict, not having neither the means nor the mandate to do it. Only the sides can initiate a sustainable peace process. Nevertheless, the SMM is worth receiving more attention due to its importance, size, funding, and duration. It is an example for review and lessons-learned systems.⁷⁹ But the current conflict in Eastern Ukraine has been

⁷⁶ It was also found that around 1,000 Syrian fighters working for a private Turkish company has been deployed in the region, as reported by *The Guardian* (<https://www.theguardian.com/world/2020/oct/02/syrian-recruit-describes-role-of-foreign-fighters-in-nagorno-karabakh>).

⁷⁷ Stephanie Liechtenstein, "With Multilateral Efforts Bypassed in Nagorno-Karabakh, OSCE Struggles to Find Role," IPI Global Observatory, 3 December 2020.

⁷⁸ Kelley (2012).

⁷⁹ Tammikko, T., Ruohomäki, J. (2019), p. 5.

suffering from a lack of member states interest in recent years, and the current COVID-19 crisis is bound to make things worse (Mustasila 2020). Moreover, the COVID-19 confinement resulted in a reduction of the Mission's staff, with the repatriation of a number of international monitors (based on individual choice), and social distancing for those who stayed.⁸⁰

War is a deceptively simple event. One side fights another in order to gain or preserve territory and they tend to create a new reality of their own and prevent any attempts at ending the conflict. SMMs have to respond to this reality.

Starting as a war of attrition, the fight in Ukraine progressively transformed itself into a war of position and is now driving toward a “frozen”—or “protracted”—conflict, similar to the situations in Transnistria and northern Georgia. It could last for decades, but if it does, it is not the fault of the OSCE SMM, which is not the root cause of the conflict. Hence, it cannot resolve it, but only ease it and facilitate a peace building process, based on the evidence it has and the neutrality it aims to provide.

Fundamental provisions of the Minsk Agreements are not implemented in the field. When the sides re-commit themselves to implementing the ceasefire, the violations drop drastically on the following day, but fighting resumes a few days later.⁸¹ These cycles of commitment and re-commitment are creating fatigue, and a war routine is well installed, as a quote from an interview with a Ukrainian soldier illustrates when explaining: “Our mornings begin with militant attacks—the separatists wish us ‘good morning,’ and we return favors [...] and yesterday is repeating.”⁸² A gray economy is also well-entrenched, reducing the willingness of stakeholders to seek a negotiated settlement; the ecological situation is also appalling.⁸³ Nevertheless, studies have mapped economic connectivity, underlining connections across the divide (Mirimanova 2017).

The current conflict in Ukraine is tricky and multilayered, but certainly not absurd. It is not a Catch-22 situation.⁸⁴ It is at the nexus of many conflicting interests of a political, geopolitical, economical and emotional nature. At the root of the problem is the total absence of trust between the sides, who not only lack the will to implement the peace process but also fear that if they were to endeavor to start unilaterally, they would be abused by the other. Ultimately, this conflict can only be resolved through dialogue and trust. Meanwhile, the SMM continues to facilitate an indirect dialogue between the sides.

Against this backdrop, what are the real achievements of the Mission, the biggest the OSCE has deployed so far? The effects of international observation have been

⁸⁰ Author's Skype interview with Ambassador Çevik, the Mission's Chief Monitor, 24 April 2020.

⁸¹ For example, there was a 90% drop from 4 to 9 March 2018, followed by a rise of about 500 violations, on 10 March. OSCE SMM Daily reports, March 1st-12, 2018.

⁸² “Hero of Ukraine Valeriy Chibineev,” Unian.info, 7 December 2016.

⁸³ “The Real Price of Coal in the wartime Donbas: a human rights perspective,” Heinrich Böll Stiftung, Kyiv & Justice for Peace in Donbas, 2017, p. 21.

⁸⁴ In “Catch-22”, his satirical novel of 1961, Joseph Heller depicts a tricky problem and a no-win, absurd situation.

documented in a series of studies focusing on elections (Hyde 2011; Kelley 2012; Donno 2013; Norris and Nai 2017). These authors built their assessment on the logic that international observers provide unbiased information, therefore deterring malpractice, raising the cost of cheating, and triggering diplomatic pressure. In Ukraine, the SMM is the only actor that can provide that sort of information.

There is evidence that international monitoring is ineffective unless it is coupled to mechanisms of accountability and compliance, ranging from soft to hard power, including agreements, re-commitment to ceasefires, applying diplomatic pressure, and providing technical assistance. In that respect, the Mission has shown that by developing soft power it was able to provide both credible information and technical assistance, which I have attempted to assess in this chapter. It also proved flexible. But it cannot solve the conflict outright and can only bring small improvements to the everyday lives of the people living in the war zone. I suggest that some improvements are due to a combination of diplomatic engagement, mediation, shaming, and long-term monitoring. I also argue, with Walter Kemp, that the Mission is a test of OSCE capacity and effectiveness (Kemp 2016). Few have praised OSCE missions so far, apart from the small one deployed in Kyrgyzstan, in 2005.⁸⁵ Assessing the SMM in 2015, a panel of experts published a report stressing the need to strengthen the OSCE's operational capability.⁸⁶

Furthermore, the concept of organizational learning can help to assess whether the Mission has undergone changes resulting from lessons-learned (Argyris and Schön 1978, Adebahr 2009). But it is difficult to be sure that changes actually result from learning and not from other factors, such as decisions taken by the sides to the conflict. Still, I would argue that, for five years, SMM monitors have improved their skills and developed best practices that will guide future missions. The SMM is therefore a solid, if incomplete, step toward the professionalization of international monitoring and its capacity-building process. As monitors improved their skills, their reports became more precise and accurate. This is a matter of methodological progress (using the lessons-learned process and assessment of prior field missions). In comparison, the EU has not been able to better learn to deploy its civilian capabilities.⁸⁷ The Mission has assumed the multiple roles of observer, monitor, journalist (i.e. war correspondent), chronicler, witness, mediator, and facilitator (of humanitarian aid, mainly). But it is often wrongly *perceived* as playing the role of investigator, law enforcement officer, peacekeeper, or watchdog.

The OSCE SMM in Donbas has consistently provided stakeholders with objective information as to the realities on the ground, even though that information may be incomplete. Everyone is nonetheless able to make an assessment on facts and not on hearsay, unverified rumors, or allegations, which are known to have triggered violence in other conflicts. But the observation tools and methods of the Mission are

⁸⁵ Rybachenko A, (2016), p. 23: "the OSCE center in Bishkek was key to developing a timely and effective crisis response."

⁸⁶ Interim Report & Recommendations of the Panel of Eminent Persons on European Security as a Common Project.

⁸⁷ Dijkstra H, Petrov P & Mahr E (2019), p. 2.

far from satisfactory. Not only are the monitors prevented from entering certain areas in the war zone, but their tools are often damaged or destroyed: “Our observation tools are limited. Our cameras are regularly sabotaged and our UAVs are shot down. We have limited access to the border.”⁸⁸

The mandate and toolbox of the OSCE were assessed as being well-tailored to conflict resolution during moments of ripeness for third-party action, but only if equipped with the political will of the participating states.⁸⁹ This statement summarizes the crux of the conflict in a nutshell.

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⁸⁸ Author's interview with 5 different SMM monitors, June 2018, February 2019, in Kyiv, Kramatorsk and Kharkiv.

⁸⁹ OSCE conference: *Promoting Lasting Solutions*, pp 2–3.

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