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An Analysis of the Organization for Security and Co-operation in Europe's Special Monitoring Mission to Ukraine"

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Abstract

When conflict arose in Ukraine in 2014, the Organization for Security and Co-operation in Europe's (OSCE) Special Monitoring Mission to Ukraine (SMM) was established with the aim of fostering peace, security and stability in the region. The mission was further tasked with monitoring and the facilitation of dialogue, activities all aimed at resolving, or de-escalating the conflict. However, despite unparalleled access to the conflict zone and vast resources, the mission has failed in its aims. This thesis highlights how and why this is the case, using two methods of analysis. Firstly, primary source research is used to determine to what extent the SMM is adhering to its mandate in Ukraine. Here, it is concluded that although the SMM is succeeding in some of its mandated activities, in many others it is failing. The second method of analysis looks toward the nature of the Conflict in Ukraine and the OSCE to determine why the mission has failed in its aims. Analysing particular characteristics and features of both the conflict and the organization, the paper finds that the two are incompatible entities, with the OSCE being an unsuitable and ineffective organization to be working within the Donbass region. This conclusion helps not only to explicate the SMMs failure to de-escalate or resolve the Ukrainian Conflict, but also highlights some of the broader core problems within the OSCE and its methods of functioning. These issues not only call into question the organizations involvement in Ukraine but also its overall relevance in European security today.

Als 2014 die Konflikte in der Ukraine aufkamen, etablierte die Organisation für Sicherheit und Zusammenarbeit in Europa (OSZE) die Sonderbeobachtungsmission in der Ukraine (SMM), mit dem Ziel, Frieden, Sicherheit und Stabilität in der Region zu unterstützen. Außerdem diente die Mission der Observation, dem Monitoring und der Förderung von Dialogen, Aktivitäten, die alle darauf ausgerichtet waren, den Konflikt zu lösen oder zu entschärfen. Trotz einmalig weitreichendem Zugang zu der Konfliktzone und enormen Ressourcen hat die Mission ihre Ziele jedoch verfehlt. Diese Arbeit streicht unter Verwendung zweierlei Analysemethoden heraus, wie und warum dies der Fall ist. Primärquellen wurden verwendet, um festzustellen, inwieweit die SMM an ihrem Mandat in der Ukraine festhält. Hierbei wird festgestellt, dass die SMM in einigen ihrer Mandatsaktivitäten erfolgreich ist, in vielen anderen jedoch nicht. Die zweite Analysemethode beschäftigt sich mit dem Charakter des Konfliktes in der Ukraine und der OSZE, um festzustellen, warum die Mission ihre Ziele verfehlte. Spezielle Charakteristika und Eigenschaften des Konfliktes und der Organisation analysierend, erkennt die Studie, dass die beiden unvereinbare Einheiten sind, wobei die OSZE für Arbeit in der Donbass Region eine ungeeignete und ineffektive Organisation ist. Diese Schlussfolgerung hilft nicht nur, das Versagen der SMM, in ihrem Versuch, den Ukrainekonflikt zu entschärfen und zu lösen, zu erklären, sondern streicht auch umfassendere Kernprobleme der OSZE und ihrer Funktionsmethoden heraus. Diese Probleme stellen nicht nur die Beteiligung der Organisation in der Ukraine, sondern ihre gesamte Relevanz in der europäischen Sicherheit heute, in Frage.

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Part I
Introduction

1
The Ukraine Conflict & Special Monitoring Mission: An Introduction

The Conflict in Ukraine has been the deadliest in continental Europe since the turn of the century.[1] Since 2014, it has been responsible for the deaths of at least 10,090 people, 2,777 of which have been civilians.[2] The country, and in particular the Donbass region, continues to be embroiled in a humanitarian crisis. The conflict has led to the internal displacement of at least 1.6 million Ukrainians and the United Nations Office for the Coordination of Humanitarian Affairs estimates that at least 2.9 million people in the Donbass region have difficulties accessing safe drinking water.[3]

Despite the efforts of the United Nations (UN), European Union (EU), and several international organizations to resolve the conflict, the War in Donbass shows little sign of ending in the near future with many now classifying it as a 'frozen conflict'.[4]

Since March 2014, one organization which has been assigned a particularly significant role to play in attempting to resolve the Conflict in Ukraine is the Organization of Security and Co-operation in Europe (OSCE). At the outbreak of the conflict, the OSCE established the Special Monitoring Mission to Ukraine (SMM); a mission dedicated to using soft-security initiatives to help end the war. Provided with a generous budget and 544 members, the mission's mandate was to monitor the situation on the ground and report back to the international community and public on everything it witnessed. It was also mandated to facilitate dialogue between both sides of the conflict.

Despite the resources it was given, the SMM was unable to help resolve, or even deescalate, the conflict. Three years on, and despite the missions continued presence in the conflict zone with a budget almost twice the size of its original and with double the

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[1] Other names for the conflict include the War in Donbass, the Ukraine Conflict and the Russian military intervention in Ukraine. The term Donbass refers to the Eastern region of Ukraine and includes two Oblasts (districts), the Donetsk and Luhansk Oblasts. Collectively this region covers over 53,000 km^2 and has a population of over 6.5 million.

[2] Conflict in Ukraine enters its fourth year with no end in sight, 13 June 2017, UN Report, *United Nations Human Rights Office of the High Commissioner,* http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21730&LangID=E (accessed 21 August 2017).

[3] Ukraine – Complex Emergency Fact Sheet #2, 26 April 2017, *USAID* http://reliefweb.int/sites/reliefweb.int/files/resources/04.26.17%20-%20USG%20Ukraine%20Fact%20Sheet%20%232.pdf (accessed 21 August 2017); Ukraine Situation update No.7, 14 August 2015, *United Nations Office for the Coordination of Humanitarian Affairs,* http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_ukraine_situation_update_number_7_14_august_2015.pdf (accessed 21 August 2017).

[4] Remler, Philip, 'Ukraine, Protracted Conflicts and the OSCE', *Security and Human Rights*, Vol.26 (2015), pp. 88-106.

number staff, the war continues.[5] Indeed, during this time, fighting has not decreased reduced significantly and both sides have become even more entrenched in their ideological and physical positions.

Whilst the SMM can by no means be considered the sole actor responsible for resolving this conflict, after three years, its overall contribution to de-escalation and/or resolution of the Conflict in Ukraine should be questioned. Although its intentions are undoubtedly good, it can be argued that the OSCE has failed to achieve its aims in Ukraine because it is not a suitable organization to deal with such a conflict.[6] This will be the overarching argument of this thesis.

Beginning with an introduction to the Organization for Security and Co-operation in Europe, the Conflict in Ukraine and the Special Monitoring Mission itself, the paper will then move onto an in-depth two-pronged analysis of the OSCE's presence in Ukraine. It will begin by analysing *how* the Special Monitoring Mission is failing to achieve its aims before positing reasons as to *why* this is the case. Firstly, in determining the question of *how*, the paper will seek to determine to what extent the SMM is adhering to its mandate, ultimately finding that the mission is failing to fully achieve many of its key mandated activities and aims. Secondly, the thesis will attempt to understand *why* this is so, analysing and judging the overall suitability of the OSCE within the context of the Conflict in Ukraine through a series of thematic chapters.

Overall, it will be argued that due to a combination of reasons, the OSCE and its Special Monitoring Mission are unsuitable bodies for implementing conflict de-escalation and resolution in Ukraine at this time, the evidence for which can be seen, not only in the missions past three years of involvement in Ukraine, but also in OSCEs overall nature as an international soft-security organization working in a highly unique, complex and controversial conflict.

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[5] In 2014, the SMM was provided with a budget of €57,181,100 and employed 544 staff/volunteers. In comparison, in 2016, the SMM was provided with a budget of €98,774,700 and employed 1,114 staff/volunteers. This information is based on the following: OSCE Annual Report 2014, OSCE, OSCE e-Resources, http://www.osce.org/annual-report/2014?download=true (accessed 21 August 2017); OSCE Annual Report 2016, OSCE, OSCE e-Resources, http://www.osce.org/annual-report/2016?download=true (accessed 21 August 2017).

[6] It should be noted that it is not the aim of this thesis to assign blame for the continuation of the Conflict to Ukraine to the OSCE. Ultimately, a lasting resolution to the war must be agreed upon and implemented by the Ukrainian Government and Separatist forces. However, this does not mean that the OSCE cannot be assessed and judged for its own role in contributing to peace, security and stability in the region, especially given that it has been provided with resources, access and a mandate to help achieve just this. Whilst it will acknowledge them, this paper will not address in detail all the various factors that contribute to conflict de-escalation or lack thereof. Its primary purpose is solely to assess the contributions of the Organization for Security and Co-operation in Europe towards de-escalation of the conflict.

2
Methodology

In order to determine how and why the Organization for Security and Co-operation in Europe has failed to achieve its aims in the Ukrainian Conflict, it is vital first to establish a methodological framework with which such an analysis can be made. As a global history and global studies paper, analysis will follow the disciplines and methods of traditional historical scientific research, relying on both primary and secondary sources. In addition, elements of the research and analysis will be reliant on the disciplines of international relations and political science with a particular focus on conflict and security theory.

Two main methods of analysis will be used to determine the effectiveness and suitability of the Organization for Security and Co-operation's past and continued presence in the Conflict in Ukraine:

1) *Adhering to the Mandate*

As Martina Huber and co-authors note, 'the first and most obvious benchmark for evaluating Missions' effectiveness is to assess the degree to which their mandates have been fulfilled'.[7] Therefore, determine whether the OSCE is an suitable organization for deescalating the conflict, this paper will first be required to what extent the Special Monitoring Mission to Ukraine adhering to its mandate. The mandate is of central importance to the entire mission. It provides a guideline of activities and requirements of the mission that have been pre-approved by all 57 participating states of the OSCE.[8] Not only does this mandate determine exactly what the SMM can and cannot do, but it also establishes the clear aim of the mission. This aim it to reduce tensions and foster peace, stability and security, as well as carrying out monitoring activities and supporting the implementation of all OSCE principles and commitments.[9]

This first method of analysis will assess to what extent the SMM is adhering to its mandate. This will include assessing not only the implementation and achievement of the various activities the mission is mandated to carry out, such as monitoring and

[7] Huber, Martina, Lewis, David, Oberschmidt, Randolf & du Pont, Yannick, The Effectiveness of OSCE Missions: The Cases of Uzbekistan, Ukraine and Bosnia and Herzegovina, Conflict Research Unit, (2003), p. 17.
[8] A more detailed summarization of the OSCEs organizational structure and decision-making process is provided in Part II, Chapter 4.
[9] Decision No. 1117, Deployment of an OSCE Special Monitoring Mission to Ukraine, 21 March 2014, 991st Plenary Meeting of the Permanent Council, OSCE e-Resources, http://www.osce.org/pc/116747?download=true (accessed 14 February 2017).

observation, but also an analysis of the extent to which the mission is adhering to more basic mandated requirements such as ensuring the safety of its staff and remaining impartial. This section of analysis will conclude by assessing to what extent the Special Monitoring Mission to Ukraine has achieved its overall mandated aim of reducing tensions and fostering peace.

2) *A Question of Suitability*

The second method of analysis will concern itself with determining the overall suitability of the OSCEs presence in the Conflict in Ukraine. Supported directly by the conclusions drawn in first method of analysis, this method will seek to understand the broader reasons as to why the organization has failed to effectively contribute to the de-escalation or resolution of the Conflict in Ukraine. In order to carry out such an assessment, this second method of analysis will be divided into two chapters.

First, the paper will look at the nature of the Ukrainian Conflict. This includes studying its unique characteristics. For example, it is a hybrid war, a war of disinformation and a frozen conflict. All of these characteristics make it unique and by highlighting them, one can begin to understand more clearly why the OSCE is unable to provide effective assistance in such a conflict.

Second, the nature of the Organization for Security and Co-operation will be studied. This international organization also has its own unique characteristics and limitations, which once highlighted, can be used to further understand why this body is unsuitable for the tasks it has been assigned in Ukraine.

Ultimately, through this dual-method of analysis, a clear and concise picture of the OSCE, the SMM and the Conflict in Ukraine and their relationships to one another will appear. Through these pictures along with a considerable deal of scrutiny, it can effectively be argued that the Special Monitoring Mission to Ukraine is failing to fully achieve its mandate in Ukraine and that the reasons for this lie primarily in the characteristics that define and shape both the Ukrainian Conflict and the Organization for Security and Co-operation in Europe.

3
Sources

The research carried out in this paper will rely on both primary and secondary sources. Below is a summarisation of the most important types.

Newspaper Articles

As will be seen in the coming chapters, the Ukrainian Conflict is not only a physical war, but also a war of information. The two sides of the conflict are highly polarised and both have powerful media outlets to enforce their particular viewpoints. For this reason, it is important to defend the use of newspaper articles for research purposes. Using newspaper articles carefully can offer useful information about the conflict or the OSCE that cannot be found anywhere else. It can be argued that they are essential for formulating a clear picture of these entities. At the same time, it must be conceded and understood that such articles, particularly in the context of this conflict, can be highly bias. For this reason, the newspaper articles used in this paper are primarily from reputable broadsheet newspapers or online outlets. When articles from more dubious media outlets are used, this will be noted, and the information used will be rechecked to assure its authenticity.

OSCE e-Resources

As a public organization that is founded on the ideals of transparency, the Organization for Security and Co-operation in Europe publishes a considerable quantity of data, reports and other documents on its website, all of which are available to the public in multiple languages. This database, classified within this paper as OSCE e-Resources, includes all decisions, press releases, spot and daily reports, thematic reports, news pieces and declarations that the OSCE and its missions have made. It is therefore an extremely valuable database for the assessment of the organization and the Special Monitoring Mission. In particular, this paper will rely on various Permanent Council decisions and spot & daily reports written by the SMM.

Secondary Sources

Secondary sources are also particularly important to this paper. Not only can they provide background and context to this work, but they can also be used to support many of the conclusions made below. In particular, secondary sources will be used in this paper to provide a deeper insight and understanding of conflict resolution and security theory. Many scientific papers have been written regarding issues such as conflict mediation, frozen conflicts and soft-security strategies, all of which are relevant

to this work. They will be used to inform and support the conclusions drawn in this paper, particularly in Part IV, within which assessing the OSCE and its security strategies within the context of the Ukrainian Conflict will be the focus. The vast majority of secondary sources to be used are either books, essays from a collection, or peer-reviewed journal articles.

Part II
Historical Background

'Root causes of conflict do not only involve political and security-related issues, but can also entail economic, environmental and social factors'
Ackermann, Alice, 'Strengthening the OSCE'S capacities in conflict prevention, crisis management and conflict resolution', *Security and Human Rights*, Vol.23, 1, (2012), pp. 11-18.

'Security is much more than just the absence of war; rather, it encompasses the provision of stability'
Thiel, Markus, 'The Copenhagen School. Societal Security and the OSCE's Human Dimension', in Dominguez, *The OSCE: soft security for a hard world*, pp. 111-30.

4
Introduction to the OSCE

4.1 Origins

First formed in 1973 the Conference on Security and Co-operation in Europe (CSCE) was originally attended by 35 states in Helsinki.[10] It was developed as a means of continuing dialogue and reducing tensions between the Communist and Western blocs. As a product of these talks, the Helsinki Accords, (also known as the Helsinki *Acquis*, or Helsinki Final Act) was signed in 1975, essentially establishing the foundations for the continuation of the CSCE, which officially changed its title to the Organization for Security and Co-operation in Europe in 1995. After the collapse of the Soviet Union, the activities of the OSCE adapted and expanded and a new security framework for Europe, known as co-operative security, was designed. As Andrei Zakorski notes, this 'concept was introduced only after the end of the Cold War. It reflected a shift in the defence and security policy towards greater emphasis of multilateralism in order to transcend unilateral or alliance based action that would not exclude coercion or enforcement of specific policy goals'.[11] Essentially, European security doctrine and the OSCE more specifically, increasingly began to focus on the emerging democracies of the former USSR. The OSCE used its influence and resources to promote free elections, strong rule of law, and the upholding of human rights as well as a myriad of other issues. The organization has continued to play an active role in European security in the twenty-first century. In particular, 'the institution's capacity to manage the "human dimension" of regional security has been strengthened and expanded since the end of the Cold War'.[12]

4.2 Structure

The OSCE can be classified as an inter-governmental organization (IGO). It is largely funded by contributions made by its 57 member states. These states include the vast majority of European continental countries but also countries with a stake in European security issues, such as Canada, the United States, Uzbekistan, Tajikistan and

[10] History, *OSCE*, http://www.osce.org/history (accessed 20 August 2017).
[11] Zakorski, Andrei, 'The OSCE and Cooperative Security', *Security and Human Rights*, Vol.21, 1, (2010), pp. 58-63, p. 59.
[12] Kachuveski, Angela, 'The Possibilities and Limitations of Preventative Action: The OSCE High Commissioner on National Minorities in Ukraine', *International Negotiation*, Vol.17, (2012), pp.389-415, p. 392.

Kyrgyzstan. Importantly, it is a consensus-based organization, meaning that any decisions that are made must be agreed upon by all member states.[13]

The OSCE defines its activities through three dimensions. The politico-military dimension sees the organization working on conflict prevention and resolution strategies in areas such as border management, conflict monitoring, arms control, military reform and terrorism prevention. The economic and environmental dimension sees the organization participating in activities such as green initiatives, combating money laundering, supporting the disposal of hazardous waste and promoting energy security. Finally, the human dimension sees the OSCE working on national minority issues, promoting democracy, ethnic equality, freedom of the media, and the rule of law, as well as combating human security issues such as human trafficking, domestic abuse and infringements on basic human rights. Through these three dimensions, the OSCE has aimed at developing a comprehensive approach to security that understands the potential influence that individual domestic issues can have on the overall security of Europe in the long-term.

The primary way in which the organization engages in its many activities is through its 17 field missions. These missions are the recipients of the majority of OSCE resources including staff and funds. Each mission is different in that it has its own agreed upon mandate with specific aims, activities, and budgets. The missions are supported by the Secretariat, based in Vienna, Austria and currently headed by Secretary General, Thomas Greminger. The organization as a whole is headed by the chairmanship, which is run and hosted by a different member state each year.[14] Decisions within the organization are made primarily by the Permanent Council based in the Hofburg in Vienna, in which each member state has a representative.[15]

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[13] In special circumstances the OSCE can implement a mechanism known as 'Consensus Minus One' or 'Consensus Minus Two', in which decisions can be made even with the absence of consent from one or two member states. These mechanisms are not always relied upon however, even when a consensus is not reached. For more details about this procedure or the general mechanisms of the OSCE, please see; Valls, Raquel, 'The procedures and mechanisms of the OSCE', *Centre Virtuel de la Connaissance sur l'Europe*, https://www.cvce.eu/content/publication/2006/2/16/32a78695-6b86-46d0-98cc-e6db63fd4037/publishable_en.pdf (accessed 20 August 2017).

[14] At the time of writing the chairmanship was held by Austria, with Foreign Minister Sebastian Kurz acting as Chairperson-in-Office.

[15] For a more comprehensive explanation of the OSCEs structure and history, please see; Zupančič, Rok, 'Modern "Don-Quixotism" or an Emerging Norm of International Relations?: Prevention of Armed Conflicts in the European Union and the Organization for Security and Co-operation in Europe', *Romanian Journal of Political Sciences,* Vol.1, (2010), pp.71-94; or visit www.osce.org.

4.2 Successes and Criticisms

There is much debate over the relevance of the OSCE in the Europe today. Whilst it is still regarded by the majority as a capable and necessary security organization, it also receives its fair share of criticism.

Beginning with its defenders, it can be seen that one of the organizations main strength lies in its 'soft power' framework.[16] Such a framework is based on the work of Joseph Nye, and essentially relies on the principle of 'cooptive power' through appeal and attraction as a means of changing political realities, as opposed to command or coercive power which forces change through military or financial means.[17] Examples of soft power activities that the OSCE participates in include the promotion of democracy, human and minority rights, good policing, freedom of press, environmental awareness as well as a range of other issues that are often not regarded as 'securitized' but nevertheless indirectly affect the security and stability of a region.[18] Such an approach to security is so comprehensive in fact; it has led some to argue that 'the OSCE is certainly the organization with the most comprehensive notion of human rights attainment and societal security promotion'.[19]

Supporters of the OSCE argue that through this approach, the organization has developed a 'niche' security framework that puts the promotion of societal and human security at the forefront of discussions on modern day European security.[20] As Rok Zupančič notes, this framework takes on a far broader and more comprehensive approach to security, and is 'not strictly limited to the military aspects of security alone' but also understands the need to tackle other 'internal state issues' that may inadvertently make a country less secure.[21] This means that, 'in the first instance, the OSCE is concerned with the elimination of the root causes of conflict as a means of avoiding the development of incompatible goals, meanwhile in the second instance the OSCE tries to prevent the development of undesired conflict behaviour'.[22] This framework, one could argue, has encouraged the OSCE to pursue and specialize more heavily in its human dimension. This dimension has certainly received the most attention and resources in recent decades and certainly stands as a priority of the organization today. Indeed, 'against the background of the situation in the first and

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[16] Dominguez, Roberto, *The OSCE: soft security for a hard world: competing theories for understanding the OSCE*, (Brussels, Peter Lang Publishing 2014), p. 18.
[17] *Ibid.,* p. 19.
[18] For a more detailed understanding of securitization theory and the Copenhagen School read; Chapter 2, 'Security Analysis: Conceptual Apparatus', Buzan, Barry, Waever, Ole, de Wilde, Jaap, *Security: A New Framework for Analysis*, (Boulder, Lynne Rienner Publishers, 1998), pp. 21-47.
[19] Thiel, Markus, 'The Copenhagen School', p. 122.
[20] Dominguez, *The OSCE: soft security for hard world*, p. 24.
[21] Zupančič, 'Modern Don-Quixotism', p. 84.
[22] Ibid., p. 83.

second baskets [dimensions], the lack of balance in the work of the OSCE is showing clearly. Its absolute 'center of gravity' has been shifted towards the humanitarian and human rights sphere'.[23] This shift is where member states still see real value in the OSCE. No other organization has the combination of resources and focus on human security that it does and its relevance in modern Europe is therefore still defended.

Despite this support, the OSCE also receives much criticism, not only from academic critics but also from many of the member states themselves. One of the most common of these criticisms is directed at the Helsinki Accords. By nature, the Helsinki Final Act was politically, but not legally-binding. This has had significant ramifications for the organization throughout its existence. It means that the OSCE does not have the legal authority to implement its programme. This has always represented a challenge for the organization, often frustrating security processes it would like to implement. It also means that agreements made by member states must not be adhered to strictly and do not carry fines or punishment of any kind if they are not. Considering this, there is an argument that the Helsinki Accords are outdated and are an unsuitable framework for the OSCE to base its activities on when facing emerging security threats, many of which Europe has never experienced before.

There are another range of areas within the organization that have also fallen under negative scrutiny in recent years. Indeed, 'despite the augmented institutionalization of OSCE activities in the human dimension, deficits still exist and in recent years the need for OSCE reform has been articulated by experts who point to three specific areas of concern:

a) stronger emphasis on transnational issues and threats such as human and weapons trafficking;
b) a renewed push for the resolution of "frozen" minority-majority conflict;
c) the prevention of a stalemate between the major powers, as Russia is increasingly wary about Western Europe.[24]

There are also concerns from members of the international community that, despite its strengths in this area, the organization focuses too much on soft-security, often at the expense of developing meaningful or relevant solutions to hard-security issues such as the ongoing Conflict in Ukraine. Indeed, there some member states, particularly the United States that have suggested that the OSCE is beneficial as a 'talking shop', but

[23] Thiel, 'The Copenhagen School', p. 122.
[24] Hopmann, Terrence P., 'The United States and the OSCE after the Ukraine Crisis', *Security and Human Rights,* Vol.26, (2015), pp. 33-47, p. 46. It is noteworthy that within the context of the Conflict in Ukraine, the OSCE has struggled, and continues to struggle with all three of these issues, making the SMM, in some ways, the most suitable OSCE mission for critical analysis.

'largely incapable of meaningful action on "hard" security issues'. [25]

4.4 Conclusion

Overall, it can be seen that the Organization for Security and Co-operation in Europe, having played an important role in Cold War European security, 'struggled for years in order to find a proper place in the European security architecture in light of the expanding EU and NATO'.[26] In the past two decades, it has attempted to redefine its approach to security, and the role it plays in enforcing it, with varying success. Though the organization indeed has a unique approach to security based largely on the human dimension, it has struggled increasingly to convince the international community at large of its relevance in modern day Europe. In understanding this, the OSCE saw the Ukrainian Conflict as an opportunity for revitalization; a way of reconfirming its 'reputation as an international security organization 'of the last resort'.[27]

[25] *Ibid.*
[26] Bloed, Arie, 'OSCE Revitalized by the Ukraine Crisis', *Security and Human Rights*, Vol.25 (2014), pp. 145-51, p. 145.
[27] *Ibid.*

5
The Conflict in Ukraine: A Historical Overview

Whilst a detailed examination of the roots and causes of the Ukrainian Conflict would involve enough research to fill a book, it is nevertheless important to address the origins of the conflict in order to provide historical context for the purposes of writing this paper. Summarising these origins can be useful in understanding why the OSCE was requested to provide aid in resolution efforts, as well as helping to establish why their presence might be viewed as necessary. Most importantly however, a summarisation of the most important causes of the Conflict in Ukraine helps to support the premise that this conflict is 'frozen' in nature. Furthermore, in understanding that this conflict has deep-set, long-term roots, its complexity can be more easily comprehended, and a better understanding can be made, as to why there is no simple or fast solution to this conflict. Once this has been established, the OSCEs role in the conflict can be addressed and analysed in order to determine to what extent it is addressing some of these aforementioned key root causes of the war. Ultimately, this chapter will give an overview of both the long and short-term causes, as well as the initial key events of the Ukrainian Conflict, providing the necessary context required to assess the OSCEs current role in Ukraine.

5.1 Long-Term Causes

Though the Conflict in Ukraine escalated very suddenly, its root causes can be found in various divisions and tensions that have been building in the country for decades. Such causes tend to make conflicts more complex and harder to resolve, given their deep roots in society. Though there are numerous long-term causes of the current conflict, only the most important three have been analysed below.

5.1.1 The Spatial Divide

Perhaps one of the most complex, but equally important, root causes of the current Conflict in Ukraine is that of the historical relationship between Russia and Ukraine. It should be understood that prior to joining the Union of Soviet Socialist Republics in 1922, Ukraine was not a nation state and had never viewed itself as such.[28] Indeed, the current borders of Ukraine 'are the result of Soviet state-building which did not take

[28] Soviet Ukraine, *Encyclopaedia Britannica*, https://web.archive.org/web/20080418030322/http://www.britannica.com/eb/article-30078/Ukraine [accessed 21 February 2017].

into account the historical and cultural details of its territories', which were in fact particularly diverse.[29] As a result, this area, if unified under a single identity at all, was unified under a Soviet one. This had important consequences when Ukraine became independent following the collapse of the Soviet Union in the final decade of the twentieth century. It left the union with little national identity. It had developed during the twentieth century as a satellite state of the Soviet Union and not on its own terms. This meant that upon independence, 'all supressed internal disagreements, and the historical differentiation of Ukrainian society, rose to the surface, and did not fit the formula of a single Ukraine'.[30] Since the early 1990s, Ukraine might have been called a state but, in reality, it had never held such a title before and unlike other Soviet states, had not chosen independence. Independence had been thrust upon it and it is fair to argue that, 'a considerable portion of the population didn't want this independence at all'.[31] This fact would become increasingly important as Ukraine attempted to define itself in the coming decades.

After the Orange Revolution ended in 2005 a basic ideology was developed and enforced by the Ukrainian government in which Russia was characterised as 'Ukraine's number one enemy in past, present and future'.[32] Furthermore, only those who were unquestionably and staunchly 'ultra-nationalist' were treated as genuine Ukrainians.[33] The extent to which this attitude permeated throughout society in the coming years was significant. As Graham Smith notes, 'such 'nationalizing' state-building practices can have far-reaching consequences for a diaspora, not least by representing the purported homeland nation as a cultural remnant of a 'Soviet colonial past' and as a symbol of a still envisaged and largely unreconstructed 'imperial nation'.[34] In particular, those who identified themselves primarily as Russians were especially affected by this new ideological wave; 'the sizable Russian minority posed a particular challenge to Ukrainian nation-building efforts, especially given the historical context of Russian domination over Ukraine and the prevalence of the Russian language in public life'.[35] As a result of this challenge, the country fell victim to *de facto* segregation, with Russian speakers being treated as second-class citizens. More often than not, these differing ideologies were dependent on one's geographical location with those living in eastern Ukraine far more likely to speak and feel Russian, given their proximity to Russia. As the Valdai

[29] The Crisis in Ukraine: Root Causes and Scenarios for the Future, *Valdai Discussion Club*, (Moscow, 2014), p. 7.
[30] *Ibid.*
[31] *Ibid.,* p. 9.
[32] *Ibid.,* p. 12.
[33] *Ibid.*
[34] Smith, Graham, 'Transnational politics and the politics of the Russian diaspora', *Ethnic and Racial Studies*, Vol.22, 3 (1999), pp.500-523, p. 504.
[35] Kachuveski, 'The Possibilities and Limitations of Preventative Action', p. 391.

Discussion Club highlighted in 2014, 'we are witnessing the formation of the two social identities on the basis of two unifying ideas – western Ukrainian and eastern Ukrainian'.[36] The War in Donbass is currently being fought along these boundaries and, in part, because of the above-mentioned reasons, and has undoubtedly had a significant impact on the people of Ukraine's own sense of identity. Indeed, Smith notes that 'identity boundaries are therefore likely to be especially unsettling, as Russians renegotiate their sense of identity in relation to the traumatically changed situational contexts in which they now find themselves'.[37]

Overall, it can be seen that, as in other recent European domestic conflicts such as Northern Ireland and Yugoslavia, national identity has been one of the most important factors in increasing tensions. Such a contentious and deeply engrained issue has made the situation in Ukraine all the more complex and ultimately harder to resolve.

5.1.2 The Political Divide

Politics has also played an important role in increasing tensions within Ukraine in recent decades. In particular, physical or perceived 'borders' within Ukraine have affected political alignments. This is evidenced when studying the results of the 2010 Presidential elections in Ukraine (see Figure I). The pro-Russian candidate, Viktor Yanukovych, received the most support in the eastern part of the country whilst his pro-Ukrainian counterpart Yulia Tymoshenko received the most support in the western regions. Notably, the highest levels of support for Yanukovych came from Luhansk and Donetsk, the two districts of Ukraine currently fighting for independence from the country.

[36] 'The Crisis in Ukraine', p. 14.
[37] Smith, 'Transnational politics', p. 501.

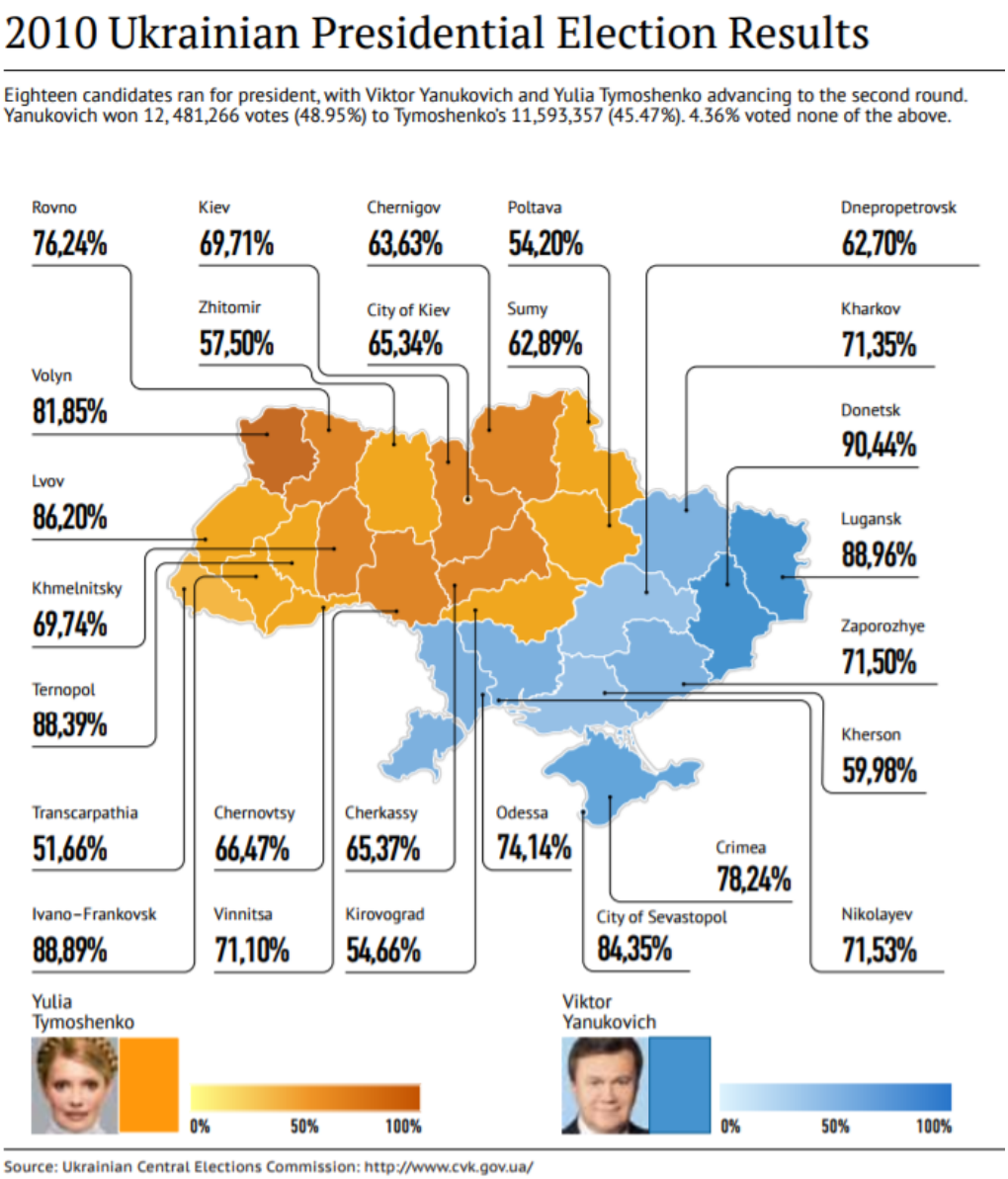

Figure I: The Crisis in Ukraine: Root Causes and Scenarios for the Future, Valdai Discussion Club, (Moscow, 2014), p.15.

Certain political issues have been particularly damaging to stability in Ukraine. For example, since its independence, an ongoing debate has raged in Ukraine, over the future of its global-political alignment. Since the early 1990s the country has found itself in a precarious position, both physically and figuratively, one that has forced it into aligning itself with either the European Union or Russia. Whilst many citizens, the majority from western Ukraine, argue that the country should seek to increase its ties and trade with the EU, others, mainly from eastern Ukraine, want the country to maintain its close relationship with Russia as it has for almost a century. This debate has

inevitably seeped into politics and the presidential debates, and was in fact the underlying reason for the Euromaidan protests in late-2013. It also helps, in part, to explain the results of the presidential election in 2010 with each candidate running on either a pro-EU (Tymoshenko) or pro-Russian (Yanukovych) platform. The European Union and Russia have done little to reduce tensions on this issue, and have arguably contributed to increasing them. Whilst the EU has increased its interest in Ukraine since its independence with a desire to bringing it under its sphere of influence, Russia has consistently warned that any attempt to do so will be viewed as a step too far. As Smith notes, 'post-Soviet Russia has found it more difficult than other twentieth century empires to come to terms with the loss of 'the big homeland'.[38] As a result, it has put enormous political and economic pressure on Ukraine to remain under its own sphere, whilst the EU at the same time has attempted to strategically apply its own policies within Ukraine in an attempt to increase the country's ties with the union.

This is just one political issue that has contributed to an increase in tensions. However, many more exist, from disagreements over the official national language to arguments over the corruption of government bodies. Politics and political debate since Ukrainian independence have further entrenched already strong identity alignments in Ukraine, contributing to the increasing polarisation of Ukrainian society over time. As will be seen, political division and the emotional responses it has sparked have been directly responsible for the escalation of conflict in Ukraine, helping to transform a peaceful demonstration into a fully-fledged conflict within a matter of months. Thus, politics can be seen as an important long-term cause of the current conflict.

5.1.3 The Linguistic Divide

For over a century, the physical space, which is now Ukraine, has hosted multiple languages, in particular Russian and Ukrainian. The existence of these multiple languages language has acted as a long-term source of division within Ukraine. Language has had a strong influence on self-perceived national identity in Ukraine and has been the subject of much political debate and disagreement in recent decades. A census carried out in 2001 found that 67.5 percent of the population of Ukraine's native language was Ukrainian.[39] However, at 29.6 percent, a significant portion of the country's population spoke Russian as their native language. Whilst Ukrainian is the country's official language, the frequent presence of Russian in everyday Ukrainian life

[38] *Ibid.,* p. 505.
[39] Linguistic Composition of the Population, All-Ukrainian Population Census, 2001, http://2001.ukrcensus.gov.ua/eng/results/general/language/ (accessed 30 August 2017).

means that 'the status of the Russian language is a hotly contested political issue, and is a critically important one for a significant number of people'.[40] Given the emotive response, whether positive or negative, that Russia's historical relationship evokes in many modern-day citizens, the presence of that countries language in Ukraine today is furiously debated. 'Thus', as Angela Kachuveski notes, 'despite most Ukrainians being comfortable in either Ukrainian or Russian, there was, and continues to be, a deep political divide over whether or not both languages should hold official status, or whether Ukrainian should be the only state language'.[41]

Looking at the regions in which Russian is spoken most frequently as a native language (see Figure 2 & 3), there appears to be a direct correlation between citizens' pro-separatist sentiments and their mother language.

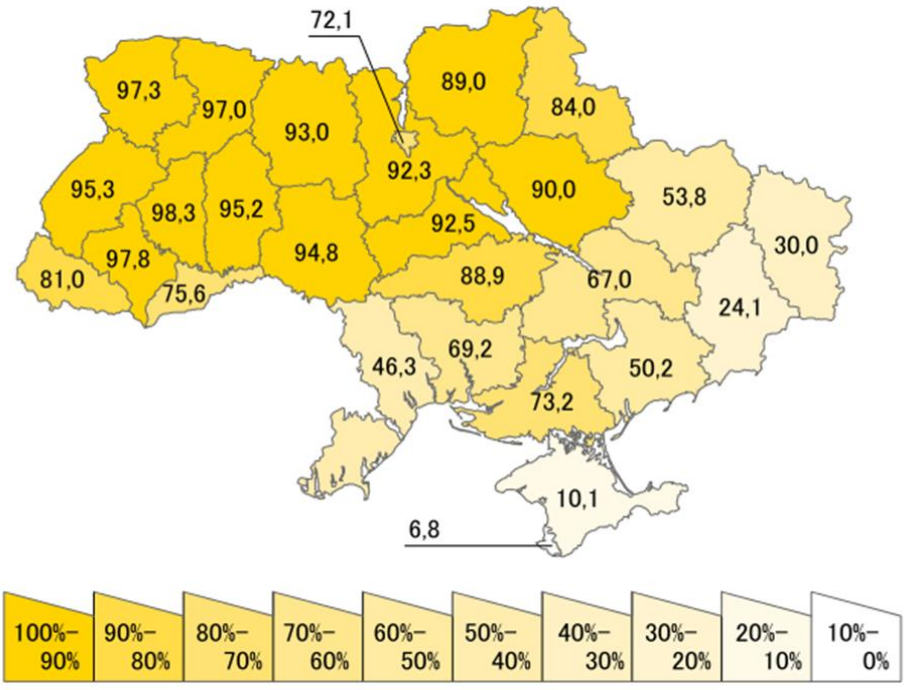

Figure 2: Population of those whose mother language is Ukrainian in Ukraine, All-Ukrainian Population Census, 2001, [http://www.ukrcensus.gov.ua/eng/].

[40] Kachuveski, 'The Possibilities and Limitations of Preventative Action', p. 394.
[41] *Ibid.*

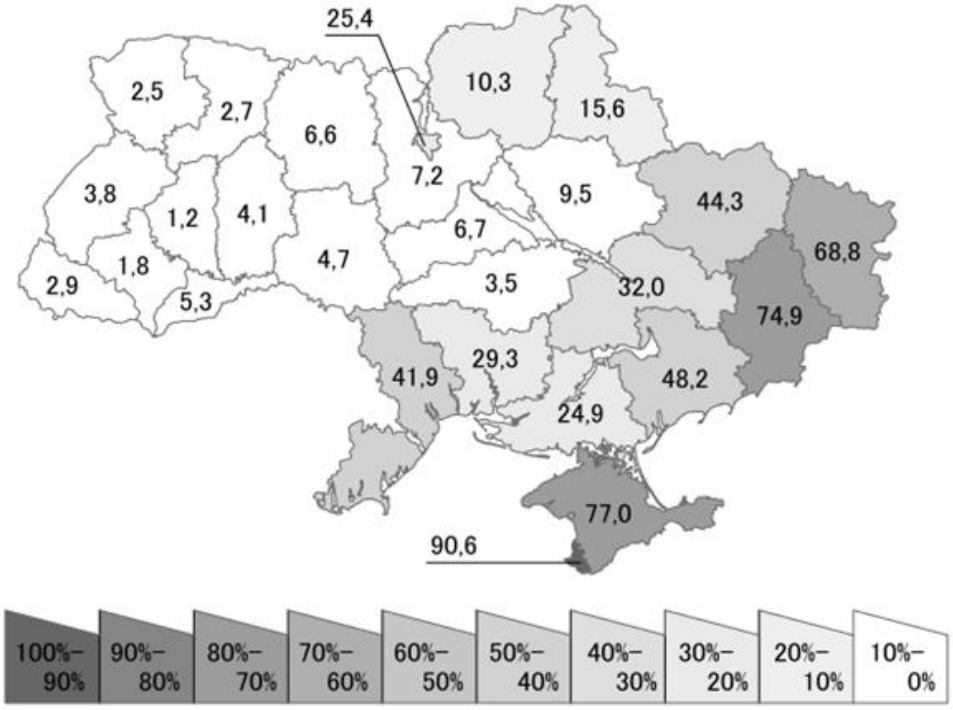

Figure 3: Population of those whose mother language is Russian in Ukraine, All-Ukrainian Population Census, 2001, [http://www.ukrcensus.gov.ua/eng/].

The fact that both the Donetsk and Luhansk Oblasts, as well as other Eastern Ukrainian regions currently acting as the primary conflict zones of the Ukrainian Conflict, have a higher percentage of Russian speakers, implies that there is a correlation between language and pro-Russian sentiments. The higher use of Russian in these regions has been a contributing factor in building a sense of Russian national identity, paving the way for the ultimate rise of separatism that eventually culminated in the Ukrainian Crisis in 2014.

More evidence for this argument and the divisive nature of language in Ukraine can be seen in the events leading up to the crisis. In Article 10 of the Constitution of Ukraine, established in 1996, Russian, as well as other languages were given constitutional protection in Ukraine.[42] However, it was not until 2012 that they were afforded the right to be given the status of 'regional languages' under the law 'Under the principles of the state language policy'.[43] This law, passed on 3rd July 2012, meant that Russian and other languages could be given the status of regional languages,

[42] Article 10, Constitution of Ukraine, Adopted at the Fifth Session of the Verkhovna Rada of Ukraine, 28 June 1996, https://web.archive.org/web/20110521190059/http://www.rada.gov.ua/const/conengl.htm (accessed 28 August 2017). The exact wording of this article singles out Russian in particular, stating, 'In Ukraine, the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed'.[42]

[43] Under the principles of state language policy, Ukrainian Parliament, 3 July 2012.

allowing their use in institutions such as courts, schools and local government. On its passing, the bill saw significant protests and opposition from those who believed Ukrainian should remain the only state language.

As a result, two days after the flight of President Yanukovych, on 23rd February 2014, the Ukrainian parliament passed a bill to repeal 'Under the principles of the state language policy', essentially establishing Ukrainian once more as the only official language to be used in the country. Though the bill was vetoed by acting President Oleksandr Turchynov, it nevertheless sparked anger with Russian-speaking communities which believed that their rights were being discarded. Many feared that they would be reduced to second-class citizens if the law were to be repealed. It can be argued that this attempt to repeal the 2012 linguistic law, helped to fuel the pro-Russian separatist movement and encouraged increased violence in the following months in and around the Donbass. Undoubtedly, the centrality of the language issue in Ukraine has been the source of much tension in the country and can therefore be seen as a key long-term cause of the current conflict.

5.2 Short-Term Causes

If the above long-term causes can be viewed as the underlying reasons for such a divisive country, then the following short-term causes can be seen as the catalyst that took those divisions and ignited them into a full-blown conflict. These causes can be viewed as a very influential series of events that led directly to the outbreak of war in early 2014.

5.2.1 Anti-Russian Sentiments

Though political division can certainly be seen as a longer-term cause, the political landscape immediately leading up to the Crisis in Ukraine can also be seen as an influential factor in the outbreak of war. In particular, the anti-Russian sentiment that seeped into public opinion from the presidential elections in 2010, were important in increasing tensions within Ukraine.

Having won the presidential election in 2010 on a promise of increasing ties with Russia, focussing on industrial development and halting Ukrainianization policies, Yanukovych was quick to forget these promises.[44] Given his heavily pro-Russian stance during the campaign, Yanukovych's move towards greater ties with the EU was unprecedented. One possible reason for such a move was the criminal case brought against Yulia Tymoshenko in 2010, which 'became highly politicized and gained an anti-Russian dimension'.[45] At a time when public opinion had become strongly anti-Russian,

[44] The Crisis in Ukraine, p. 17.
[45] *Ibid.*

Yanukovych decided to create his own anti-Russian discourse that sought to cleanse institutions such as the Security Service of Ukraine of Russian influence. This included attempts to remove Russian political influence from the Crimea. Though these moves helped to prevent anti-Russian tensions from building further, it alienated the portion of the population that had voted for Yanukovych based on his pro-Russian platform. These voters felt betrayed and worried about the consequences of Ukraine's increased relations with the EU. The feelings they had can be seen as a key reason why many took up arms against the government in 2014.

5.2.2 Euromaidan

Perhaps the most important and obvious direct cause of the Conflict in Ukraine was the protests that took place in Euromaidan between November 2013 and February 2014. Having developed a more pro-EU discourse during the first three years of his presidency, President Yanukovych had agreed to sign the Ukraine-European Union Association Agreement on 21st November 2013, which would commit Ukraine to economic, judicial and financial reforms in exchange for preferential access to the EU single market.[46] The majority in Ukraine hoped this agreement would pave the way for Ukraine's integration into the EU as a member state in the coming years, leading to better governance, democracy and protection of human rights within the country.[47] For almost two decades, both parties had been working to increase political and economic ties with one another.

However, despite his promise, Yanukovych backed out of the agreement at the last minute, having faced political pressure from Russia, as well as being enticed by a promise of $15 billion in aid to Ukraine by Moscow.[48] On hearing this, a group of students went to Maidan Nezalezhnosti (Independence Square) in Kiev to protest. Their aims were to pressure Yanukovych into adhering to his promise to sign the agreement. For this reason, the protest became known as Euromaidan. Though the demonstrations initially began as peaceful and involved only a few hundred people, excessive brutality against the protestors by the Berkut (Special Police Force) soon encouraged thousands

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[46] Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, Brussels, 21 March 2014, http://www.consilium.europa.eu/en/documents-publications/agreements-conventions/agreement/?aid=2013005 (accessed 30 August 2017).

[47] Greene, Richard Allen, 'Ukraine favors Europe over Russia, new CNN poll finds', 14 May 2014, *CNN*, http://edition.cnn.com/2014/05/12/world/europe/ukraine-cnn-poll/ (accessed 5 May 2017).

[48] Fisher, Max 'The three big reasons that protests reignited in the Ukraine', 18 February 2014, *Washington Post*, https://www.washingtonpost.com/news/worldviews/wp/2014/02/18/the-three-big-reasons-that-protests-reignited-in-ukraine/?utm_term=.aca5d93df7fa (accessed 20 June 2017). The European Union Association Agreement was eventually signed March 2014.

to join the demonstrations, now calling not only for closer integration with Europe but also an end to police brutality, government corruption and Yanukovych's resignation. The demonstrations continued throughout November and December but saw increasing levels of violence.[49] By the New Year, the situation was out of control, and thousands of Berkut officers had been brought to Kiev to tackle the rising chaos. The demonstrations culminated in the Ukrainian Revolution in February when at least 20,000 protestors marched on Ukraine's parliament. The event ended in violence with both Berkut and protestors using live ammunition, gas, and handmade weapons against one another. On 22nd February, President Yanukovych, facing almost certain impeachment, fled Kiev. By the end of Euromaidan, at least 113 people had been killed, though some estimates range as high as 780.[50]

Though an isolated event, Euromaidan was an extremely important short-term cause of the War in Donbass. It was the catalyst that triggered the events of the proceeding months. It increased public awareness of the corruption and brutality of the Ukrainian government and it inspired many to support closer ties with the European Union. However, far more importantly, Euromaidan further polarised an already divided country, forcing citizens to take sides. These protests led directly to conflict in eastern and southern Ukraine in the months to come.

5.2.3 The Rise of Separatism

After Yanukovych had fled, an interim government was set up with Oleksandr Turchynov acting as temporary President. Yulia Tymoshenko was also released from prison. These events, as well as the downfall of Yanukovych's government, provided a motive for pro-Russian groups to protest, particularly in eastern and southern Ukraine. They believed the new government was corrupt, illegally in power and likely to attempt to build on further relations with the EU. At this time, Russian protestors also travelled across the border to support the pro-Russian demonstrations, which was a likely factor in increasing tensions.[51] The aims of these demonstrations varied from region to region, with some calling for new elections, whilst others led by more radical members, called for complete regional independence from Ukraine. These protests grew larger throughout February and March and were further emboldened by the Russian

[49] For a more detailed visual account of the Euromaidan demonstrations and the conflict that it created, watch *Winter on Fire: Ukraine's Fight for Freedom*, Evgeny Afineevsky, (Ukraine, 2013).
[50] 'Around 780 people die during protests in Ukraine in reality, say volunteer doctors', *Interfax-Ukraine*, 10 April 2014, http://en.interfax.com.ua/news/general/200152.html (accessed 5 May 2017).
European Union Association Agreement, 27 June 2014.
[51] Grytsenko, Oksana, Southeastern Ukraine gets invasion of Russian protestors, 7 March 2014, *Kyiv Post*, https://www.kyivpost.com/article/content/ukraine-politics/southeastern-ukraine-invaded-by-pro-russian-protesters-338629.html (accessed 17 July 2017).

annexation of Crimea on 18th March 2014. By April government buildings in Donetsk, Luhansk and Kharkiv had been stormed and all demonstrators were calling for referendums on their regions' right to self-determination and independence.[52] The protests were not without significant violence and set the initial scenes for upcoming conflict. Though separatist thinking had been prevalent in these regions before 2014, it was these demonstrations in particular, which aided in starting the conflict.

5.2.4 Russian Annexation of Crimea

Following on from the establishment of an interim government, Yanukovych wrote to Putin on 1st March. Requesting military aid, he wrote, 'I would call on the president of Russia, Mr Putin, asking him to use the armed forces of the Russian Federation to establish legitimacy, peace, law and order, stability and defending the people of Ukraine'.[53] In response, by 4th March, 16,000 Russian troops had been deployed to the Crimea. On 16th March, a referendum was made putting the question of Crimea's status to the public. Results suggested that 95 percent of the population of the region wished to increase the Crimea's autonomy from Ukraine. As a result, on 18th March 2014, 'under the pretext of protecting the rights of Russian-speakers the Russian authorities invaded the Crimea and after a highly controversial referendum in March as an expression of 'self-determination' by the people in the Crimea they decided to annex it'.[54]

The referendum was not recognised by the United Nations and was seen as illegitimate by the international community at large. The annexation that followed was also strongly condemned. Indeed, on 27th March United Nations General Assembly Resolution 68/262 was adopted which affirmed the Ukraine's territorial integrity over the Crimea and which was voted for 100 – 11 in favour.[55]

Russia's entry into an already fragile situation, further heightened tensions and panic. Whether the population of Crimea had wanted annexation or not, Russia's actions were illegal, and the Ukrainian interim government feared that it would attempt to annex more of the country if provided with the opportunity. As a result of these fears, the government its increased military presence in eastern Ukraine and doubled down on its efforts to subdue pro-Russian demonstrations, all of which were becoming increasingly violent. Furthermore, as stated previously, the annexation of the Crimea

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[52] Kendall, Bridget, Ukraine: Pro-Russians storm offices in Donetsk, Luhansk, Kharkiv, 7 April 2014, *BBC*, http://www.bbc.co.uk/news/world-europe-26910210 (accessed 22 February 2017).
[53] Mardell, Mark, Ukraine's Yanukovych asked for troops, Russia tells UN, 4 March 2014, *BBC*, http://www.bbc.co.uk/news/world-europe-26427848 (accessed 5 April 2017).
[54] Bloed, Arie, 'OSCE Principles: Which Principles?', *Security and Human Rights*, Vol.25, (2014), pp. 210-220, p. 217.
[55] United Nations General Assembly Resolution 68/262, 27 March 2014.

had the effect of emboldening pro-Russian demonstrators in eastern Ukraine, many of whom were inspired by this event and saw an opportunity to hold their own referendums on their regions' autonomy. For these reasons, it can therefore be seen that Russia's annexation of Crimea was a significant short-term cause of the Ukrainian Conflict, further destabilising the country's already unstable situation and sewing discord between pro-Russian and pro-Ukrainian sides.

5.2.5 Final Steps Towards Conflict

As stated above, separatist activists were emboldened by Russia's annexation of the Crimea. In early April in the Donetsk and Luhansk Oblasts, pro-Russian and pro-Ukrainian activists clashed in a series of violent incidents that included the temporary seizure of the Donetsk Regional State Administration building and the Luhansk SBU building by pro-Russian protestors.[56] These activists held meetings to vote on their regional status and on 6th April, they declared independence for Donetsk, renaming it the Donetsk People's Republic.[57] This was followed shortly by a declaration of independence for Luhansk and the subsequent renaming of the region as the Luhansk People's Republic on 27th April. After these declarations, separatist forces moved to take more government buildings in major cities in the region in order to consolidate their power. In response, acting President Turchynov vowed to launch a counter-offensive against the uprising on 15th April. Throughout May and June, fighting escalated into total conflict.

5.2.6 Then Till Now

Since this time, despite its efforts, the Ukrainian Army has been unable to regain complete control of the Donbass region. Separatist forces have received significant aid from Russia, both through the supplying of additional military personnel but also through the provision of equipment, weapon and ammunition. This Russian aid is entirely unofficial. Troops from Russia cross the border in plain clothing and weapons are smuggled in lorries or at unofficial border crossing zones.[58] It is Russia's unofficial

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[56] Kendall, 'Pro-Russians storm offices'.

[57] Rosenberg, Steve, 'Ukraine crisis: Protestors declare Donetsk 'republic'', 7 April 2014, *BBC*, http://www.bbc.co.uk/news/world-europe-26919928 (accessed 15 June 2017).

[58] As well as the Special Monitoring Mission to Ukraine, the OSCE has another mission directly related to monitoring the borders between Russia and Ukraine. Known as the 'Observer Mission at the Russian Checkpoints Gukovo and Donetsk, the mission was established in July 2014. The mission is mandated to observe the border and record all suspicious activity. It has made the observations specified above. In theory, the presence of such a mission should be able to conclusively confirm Russia's involvement in the Ukrainian Conflict. However, the mission is limited for several reasons. Firstly, it is only based on two borders, located within 50 kilometres of one another. Other borders, both official and unofficial, between Russia and eastern Ukraine are not currently being monitored.

role in this conflict that has led to it being characterised by many as a 'hybrid war'; a war in which not all sides are openly and officially involved but nevertheless have a significant impact on the outcome of the fighting.

Though many ceasefires have been agreed upon in the past three years, none have been held for a significant period of time. Fighting often subsides but always escalates again and there has been no significant development towards a resolution to the conflict since the last failed Minsk II agreement, signed in February 2015. This can largely be attributed to the complexity of the situation and the unwillingness of both sides of the conflict to commit to peace. As this chapter has shown, there is no simple solution to the problems facing Ukraine. Due to both long and short-term factors, the country is deeply divided on numerous important issues, many of which finding a solution to would involve altering the very foundations of Ukraine, its constitution and its physical borders. Understanding the complexity of the conflict and the deep-set root causes of it is important when assessing the OSCE's role in the War in Donbass. Has the organization attempted to address the root problems in its conflict resolution attempts? If not, why not? Having developed a broader understanding of the origins of the Conflict in Ukraine, it is now prudent to provide an overview of the Special Monitoring Mission to Ukraine, in order to finally assess how effectively the latter works within the former.

Secondly, the mission is only mandated to watch vehicles passing. It is not allowed to enter vehicles and when one is inspected by official checkpoint staff, the mission members cannot get closer than 30 metres to the vehicles. Finally, this mission has limited resources in comparison to the SMM. It only employs 20 staff and has a modest annual budget of €1,435,667 (OSCE Annual Report 2016). Though the Observer Mission is not the focus of this paper, its shared origins with the SMM as a product of the Ukrainian Conflict, makes it a relevant mission to learn more about, particularly when attempting to understand the wider role of the OSCE within Ukraine. For more information about the Observer Mission, visit http://www.osce.org/observer-mission-at-russian-checkpoints-gukovo-and-donetsk (accessed 20 February 2017).

6
The Foundation of the Special Monitoring Mission to Ukraine

Although the Special Monitoring Mission was only established in 2014, the OSCE has had a presence in Ukraine since 1994, when the Mission to Ukraine was established.[59] Its mandate included improving relations between the Ukrainian government and the Autonomous Republic of Crimea (ARC), as well as working within the human and economic & environmental dimensions. Under heavy pressure from the Ukrainian government, this mission was closed in 1999 and replaced with the Project Co-ordinator Mission to Ukraine, a significantly downgraded mission with only 50 members of staff, which has maintained its presence in Ukraine ever since.[60] When the Ukrainian Crisis began, this mission did not have the resources or mandate to help manage it and so another mission was established.[61]

As Nicolai Petro asserts, 'a catastrophe of this magnitude could not but have wider international implications'.[62] For this reason, it is understandable as to why Ukraine requested assistance in resolving the crisis from an impartial and international organization such as the OSCE. On 21st March 2014, following the annexation of the Crimea by Russian forces, the OSCE Permanent Council passed Decision No. 1117, officially forming the Special Monitoring Mission to Ukraine.[63] The decision also set out the missions mandated activities and aims.[64] Within just 24 hours, the OSCE had monitors on the ground in Ukraine.[65]

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[59] OSCE Mission to Ukraine (Closed), OSCE e-Resources, *OSCE,* http://www.osce.org/mission-ukraine-1999-closed (accessed 20 August 2017).

[60] Decision No. 295, 1 June 1999, 231st Plenary Meeting of the Permanent Council, OSCE e-Resources, http://www.osce.org/pc/29031?download=true (accessed 20 August 2017); & OSCE Annual Report 2016.

[61] The Project Co-ordinator Mission to Ukraine also works primarily in the human and economic & environmental dimensions. Its most recent activities include training police officers, capacity-building activities with judges, and providing support to conflict-stricken areas in eastern Ukraine. For more information on the mission, visit http://www.osce.org/project-coordinator-in-ukraine (accessed 24 June 2017).

[62] Petro, Nicolai N., 'Ukraine in Crisis', *European Politics and Society*, Vol. 17, 4, (2016), pp. 421-423, p. 421.

[63] Decision No. 1117.

[64] These activities and aims are covered in more detail in Part II, Chapter 7.

[65] Although the mission took several months to set up in-full, it was offering monitoring reports almost immediately. This speedy reaction can be attributed in part to the efforts made by participating states in and around 2010 during the 'Corfu Process and the subsequently produced Ministerial Council Decision No. 3/11. This decision was made when it was highlighted that although the OSCE had an impressive ability to offer early warnings of conflict, it had little ability of providing pre-emptive and fast paced action to prevent them. The decision made in 2010 allowed the OSCE to react much faster to the crisis in Ukraine. For more information on the Corfu Process read; Ackermann, Alice, 'Strengthening the OSCE'S capacities in conflict prevention', pp. 11-18.

Unlike other OSCE missions, the SMM is not financed by the organization's unified budget but is instead funded by voluntary contributions from member states, the majority of which comes from Western countries, and a certain amount is provided from the organization's extra-budgetary fund.[66] Despite this, or perhaps even because of it, the SMM's budget is almost higher than all other mission budgets combined, totalling €98,774,700.[67] As of the end of 2016, the mission had 1,114 members of staff.[68] Both of these figures are likely to rise in the future if the conflict is not resolved.

The mission is currently headed by Chief Monitor, Turkish Ambassador Ertugrul Apakan. Its Principal Deputy Chief Monitor is Alexander Hug. Although the majority of the staff are located in Ukraine, some of the mission's staff offer support and assistance from the Secretariat in Vienna. The secretariat itself also offers its own support, as do the other groups within the OSCE structure such as the office of the High Commissioner on National Minorities.

When considering these various facts, it can be seen that the Special Monitoring Mission to Ukraine is a well-equipped, well-staffed and well-supported mission. This can be explained in part by looking at the nature of the mission. Unlike most other OSCE missions, the SMM was established in direct response to an escalating conflict. Not only this, but the mission works directly within the active conflict zone. Furthermore, it can be argued that this conflict has far more significant and wide-reaching ramifications for European and global peace and security than other conflicts the OSCE has been involved in. With so much at stake, and with so many resources being provided to this specific mission, it is important to continuously assess its effectiveness. In order to do this, one document in particular must be scrutinised: Decision No. 1117.

[66] Bloed, 'OSCE Revitalized by Ukraine Crisis', p. 146.
[67] OSCE Annual Report 2016.
[68] *Ibid.*

7
The Mission Mandate

According to the Cambridge Dictionary, a 'mandate' is defined as 'the authority given to an elected group of people, such as a government, to perform an action or govern a country'.[69] In the case of the establishment of the Special Monitoring Mission to Ukraine, this 'authority' came in the form of Decision No. 1117. Titled, the Deployment of an OSCE Special Monitoring Mission to Ukraine, Decision No. 1117 was passed on 21 March 2014 at the 991st Plenary Meeting of the Permanent Council. Not only did this decision create the SMM, but it laid out its primary aims, the principles it must adhere to and its mandated activities, as well as providing structural and organizational details. For this reason, Decision No. 1117, otherwise known as the SMM's mandate, is the most important document, not only for the OSCE and SMM but also for the purposes of researching and writing this paper.[70]

Although listed as single decision, the document is divided into smaller individual decisions taken by the Permanent Council. It is prudent to analyse these briefly in order to provide a better understanding of the mission's mandate. The document begins with Decision 1, which establishes the deployment of a Special Monitoring Mission of international observers to Ukraine. Decision 2 lays out the mission's main aim;

'That the aim of the said mission will be to contribute, throughout the country and in co-operation with the concerned OSCE executive structures and relevant actors of the international community (such as the United Nations and the Council of Europe), to reducing tensions and fostering peace, stability and security; and to monitoring and supporting the implementation of all OSCE principles and commitments'.[71]

Within this aim, there are two sub-aims; the first, to reduce tensions in Ukraine through the fostering of peace, stability and security; the second to monitor and support the implementation of all OSCE principles and commitments. It will be argued in later chapters that the SMM are currently failing to achieve both of these aims.

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[69] Definition of 'mandate', *Cambridge Dictionary*, http://dictionary.cambridge.org/dictionary/english/mandate (accessed 14 September 2017).

[70] Given the importance of Decision No. 1117 and the centrality of it to this paper, particularly in the proceeding chapters, it is recommended that readers read this two-page document as well as the interpretative statements provided by certain member states including Russia, the United States and Ukraine. This will allow for a better understanding of concepts and issues to be discussed. The document can be accessed here: http://www.osce.org/pc/116747?download=true (accessed 2 March 2017).

[71] Decisions 2, Decision No. 1117.

Decision 3 is arguably the most important section of this document with regards to assessing the effectiveness of the SMM, given that this decision lays out the various activities that this mission is obligated to perform. The most important of these activities are to monitor and report on the situation in eastern Ukraine, establish ties with local authorities, governments, citizens and organizations, report on restrictions to freedom of movement and help to facilitate dialogue between both sides of the conflict. Decision 3 also states that the mission is required to remain impartial and transparent in all activities. It will be argued in subsequent chapters that although some of these activities are being carried out by the SMM, many are not.

Decisions 4 to 10 largely establish the organizational structure and smaller details of the mission, many of which have already been referred to in previous chapters. However, Decision 7 is of some importance;

'The Special Monitoring Mission members will have safe and secure access throughout Ukraine to fulfil their mandate'.[72]

Two parts of this decision are relevant to this work; firstly, the assurance that 'SMM members will have safe and secure access' and secondly that access will be provided 'throughout Ukraine'. It will be argued in later chapters that neither of these assertions are being fully carried out.

Given the briefness of the mandate, it is susceptible to differing interpretations. This is best represented by looking at the interpretative statements attached to the document by various countries. The contents of these statements will not be analysed until later. However, it is important to note now that such differing interpretations of Decision No. 1117 and its contents have had important ramifications for the OSCE, complicating the SMMs role in Ukraine and hindering its overall effectiveness.

Since its passing, the mandate has been renewed four times, in July 2014, March 2015, February 2016 and March 2017 although no significant changes other than a rise in budget were made to the document.[73]

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[72] Decision 7, Decision No. 1117.

[73] The extensions to the mandate are titled as follows; Decision No. 1129, Extension of the mandate of the OSCE Special Monitoring Mission to Ukraine, 17 July 2014, 1010th Special Plenary Meeting of the Permanent Council, OSCE e-Resources, http://www.osce.org/pc/121532 (accessed 15 June 2017); Decision No. 1162, Extension of the mandate of the OSCE Special Monitoring Mission to Ukraine, 12 March 2015, 1044th Plenary Meeting of the Permanent Council, OSCE e-Resources http://www.osce.org/pc/144996 (accessed 15 June 2017); Decision No. 1199, Extension of the mandate of the OSCE's Special Monitoring Mission to Ukraine, 18 February 2016, 1090th Plenary Meeting of the Permanent Council http://www.osce.org/pc/223926?download=true (accessed 15 June 2017); Decision No. 1246, Extension of the mandate of the OSCE Special Monitoring Mission to Ukraine, 16 March 2017, 1137th Special Plenary Meeting of the Permanent Council, OSCE e-Resources, http://www.osce.org/permanent-council/306376?download=true (accessed 15 June 2017).

Overall, in judging the effectiveness of the SMM and its activities, referring to the mandate will be crucial, given that this is the document the mission itself relies on as a framework and guideline. If the SMM is not achieving its mandate, partially or completely, then its effectiveness can be called into question. Thus, assessing the SMMs activities in direct relation to Decision No. 1117 is the most effective way to judge the mission's performance in the past three years.

Part III
Adhering to the Mandate

As established in the methodology, assessing to what extent the OSCE is adhering to and achieving its mandate in Ukraine will be one of two methods employed to evaluate the overall effectiveness of the Special Monitoring Mission to Ukraine.[74] As highlighted in Part III, Decision No. 1117 sets a clear mandate of principles, obligations, and activities that the SMM must adhere to and perform. In addition, the mandate establishes a clear aim. A failure to adhere to this mandate, either partially or completely, may bring the mission's usefulness or effectiveness into question. Indeed, it may raise doubts about the mission's entire presence in Ukraine. In understanding this, it is therefore particularly important to assess to what extent the Special Monitoring Mission to Ukraine is adhering to the mandate it has been given, as well as the general principles of the OSCE. Judging the mission's adherence to the mandate can therefore be seen as one of the key ways in which the SMM's performance and presence in Ukraine can be assessed since its establishment in 2014.

In some areas of the mandate, it can be argued that the SMM is indeed adhering to its mandate. It is, for example, coordinating its activities with all OSCE executive structures, as well as working closely with the United Nations, Council of Europe and other actors of the international community as it is mandated to do under Decision 3 of Decision No. 1117.[75] In its organizational requirements too, it can be seen that the SMM is meeting its obligations. It does have a Chief Monitor that has been appointed by the Chairperson-in-Office and this Chief Monitor does regularly report to the Permanent Council on the implementation of the mandate. Equally, the mandated funds are used and as specified under Decision 10 of Decision No. 1117, the OSCE did deploy advance teams to the Ukraine within just 24 hours of the adoption of the decision. Concerning these particular obligations, the OSCE has been effective. Even so, these requirements are primarily bureaucratic in nature. They do not represent particular aims, deliverables, or core activities but instead establish only how the mission should be structured on an organizational basis.

When looking at actual tasks that the SMM has been requested to carry out, it can be argued that only one is being done so in its entirety. The SMM has managed to develop a good network of contacts in Ukraine, as it is mandated to do under Decision 3 of Decision 1117. As Stephanie Liechtenstein notes, since 2014, 'the SMM has

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[74] The second method of assessment, assessing the overall suitability of the SMM in the Ukrainian Conflict will be employed in Part IV.

[75] European Union Statement by H.E. Ms. Helga Schmid, Secretary General of the European External Action Service, at the United Nations Security Council Open Debate on Conflicts in Europe, 21 February 2017, New York, European Union Delegation to the United Nations, http://eu-un.europa.eu/eu-statement-united-nations-security-council-conflicts-in-europe/ (accessed 7 October 2017). This document is just one example that highlights the close work that is being done between the OSCE and SMM, the United Nations and European Union in attempting to resolve the Conflict in Ukraine.

established an impressive network of contacts with all sides in Ukraine'.[76] Deputy Chief Monitor Alexander Hug also confirmed in 2014 that the SMM had, 'within a very short time delivered a wealth of contacts and relationships. Considering the size of the country this is quite a remarkable achievement'.[77]

When looking at other mandated activities or mission principles however, it can be argued that the SMM is currently failing to carry these out in their entirety, and has been since 2014. Three of these will be the focus of the rest of Part IV. Here, these activities and principles of the SMM's mandate will be analysed and the mission's failure to fully achieve them will be explored.

[76] Liechtenstein, Stephanie, 'The OSCE Special Monitoring Mission has become the Eyes and Ears of the International Community on the Ground in Ukraine', *Security and Human Rights*, Vol.25 (2014), pp. 5-10, p. 5.
[77] *Ibid.*, p. 8.

8
Observation, Monitoring and Reporting

'Gather information and report on the security situation in the area of operation' & 'establish and report facts in response to specific incidents and reports of incidents including those concerning alleged violations of fundamental OSCE principles and commitments'

Section 1 & 2, Decision 3, Decision 1117 of the 991st Plenary Meeting of the OSCE Permanent Council.

8.1 Introduction

One of the main characteristics that has been attributed to the Conflict in Ukraine is that of an 'information war'. As Philip Remler notes, 'a striking factor of the Ukraine crisis is the absence of… a common "baseline of facts" for interpreting events. Narratives diverge in unprecedented ways'.[78] The use of alternative narratives has allowed Russia to justify to itself and its allies, the annexation of Crimea by claiming that the Helsinki Final Act 'recognized the borders of Eastern and Western spheres of influence' and that the West in fact violated this agreement first by expanding its sphere of influence into the former Soviet Union states'.[79] Within this argument, Russia is referring to the European Union's expansion eastwards, initiating and integrating former Soviet republics into its own bloc since the 1990s.[80] Whether these countries wished to join the EU is not a question addressed in Russia's narrative. In its own eyes, the EU has acted as the belligerent and was the first to break with the Helsinki Accords. As a result of this alternative narrative, Russia has developed a 'fortress mentality' and created a policy to accompany it, which has largely been supported by its own people.[81] The sincerity and effort with which Russia is expounding its alternative narrative is alarming, causing journalist Lucian Kim to claim in 2014 that Putin is 'waging an information war in Ukraine worthy of George Orwell'.[82] Indeed, as Erwan Fouéré states, there is a 'relentless propaganda war being waged by Russia's media', with a new and heightened emphasis on the use of social media to enforce the Russian narrative.[83] This clash of information is made even worse by the fact that in the War in Donbass, so much of the news coming from the region is unverifiable. Alternative narratives

[78] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 93.
[79] *Ibid.*
[80] These countries include that of Poland, Slovakia, Romania, Hungary, Lithuania and Estonia.
[81] *Ibid.*, p. 94-5.
[82] Lucian Kim, 'Putin waging information war in Ukraine worthy of George Orwell', 14 November 2014, *Reuters*, http://www.reuters.com/article/idUS57647318420141114 (accessed 30 April 2017).
[83] Fouéré, Erwan, 'Ukraine and Security Disorder in Europe – A Defining Moment for the OSCE?', 24 April 2014, *CEPS Commentary*, p.1 & Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 94.

diverge at even the most basic of levels. For example, Russia still openly denies its involvement in the conflict entirely, making any debate or discussion over more specific incidents within the conflict almost impossible. When Flight MH17 was downed in Ukrainian airspace on 17 July 2014, killing all 298 people on board, both Ukrainian and separatist sides denied any involvement. After several months of investigation, it was determined that separatist forces had accidently shot down the plane using a Russian BUK missile.[84] By this point however, this new information was not as valuable in shaping public and official governmental opinion. Aggressive media strategies had already been employed by both Russian and Ukrainian to present their own individual narratives of the event.

The information warfare that is being waged is one of the key reasons why the Special Monitoring Mission to Ukraine was established by the OSCE. Indeed, given the mission's title, monitoring, observation and reporting can be seen as the mission's primary and most important activities. In maintaining a constant presence with 24-hour observation in the conflict zone, the OSCE hope to establish a 'baseline of facts' that are lacking in the conflict. These facts, based largely on reports provided by the SMM, can then be used to challenge alternative narratives provided by both sides of the conflict, before these narratives can be used to manipulate those involved. The organization would also hope that these facts could be used by negotiators, international actors and organizations such as the UN in order to help them make well-informed decisions based on reliable information. On paper then, the gathering of information by the SMM could be seen as a useful and highly necessary activity. However, in practice, the mission has been unable to fulfil its mandate in full.

8.2 Findings

Despite its centrality and importance to the mission, gathering reliable, detailed and useful information has not been an easy task for the Special Monitoring Mission to perform. To have even a reasonable chance of achieving this mandated activity, the SMM has had to employ over 1100 staff, the majority of whom are monitors. It has also taken to using drones, thermal cameras and other advanced technology to effectively report on the situation in the Donbass. In using these resources, the mission has been able to consistently submit daily and spot reports. These reports cover a wide range of incidents that have occurred throughout each day in the conflict zone. Despite the

[84] Oliphant, Roland, 'MH17 suspects to be prosecuted in the Netherlands after Russia blocks international tribunal', 7 July 2017, *The Telegraph*, http://www.telegraph.co.uk/news/2017/07/05/mh17-suspects-prosecuted-netherlands-russia-blocks-international/ (accessed 9 October 2017).

mission's consistency in producing reports however, it can be argued that the information gathering techniques employed be the SMM are too limited in scope to be of use to the OSCE or wider international community. Examples of such limitations will be presented in the findings below.

The Practicality of Observing a Conflict

In a strictly practical sense, it has already been highlighted above that carrying out continuous observation in the conflict zone is extremely challenging. The reality is that even with its wealth of resources, the OSCE cannot maintain a presence throughout the entire conflict zone for 24 hours a day, all 365 days of the year. Although the SMM always has monitors or monitoring technology on the ground, and these monitors and monitoring technology are often spread out across wide spaces, monitoring does not occur in every single part of the Donbass region at all times. Practically speaking, this is nigh on impossible given that the Donbass region is over 52,000 km^2. In addition, the SMM is consistently denied access to certain areas of the conflict zone. These areas therefore, go unmonitored.[85]

These restrictions to monitoring activities mean that reports are never truly complete. Many incidents have and will go unobserved and therefore unreported by the SMM. Although it can report on what it does observe, the mission will never be able to provide a complete list of incidents that have occurred over time in the region and can therefore never provide a full picture. Though it could be argued that a half-picture is better than no picture at all, the usefulness of providing such a picture for the purposes of conflict de-escalation and resolution is questionable. Indeed, providing incomplete information could even lead to misunderstandings and confusion over what is really happening in the Donbass.

Identifying Ceasefire Violators

Although the SMM experience restrictions of access on a regular basis in the conflict zone, it still has unparalleled access in comparison to any other organization working in the region. Despite this fact, the mission rarely identifies the violators of ceasefires. For example, in its daily report on 10 October 2017, the SMM listed several ceasefire violations including 24 explosions near Avdiivka, 29 explosions near Yasynuvata, and gunfire near Svitlodarsk.[86] At no time in the report does the SMM attempt to identify the ceasefire violator's origins. Equally, when the SMM's access was restricted on this

[85] A more detailed analysis of the restrictions to access placed on the SMM will be discussed in Part IV, Chapter 12.3.

[86] Daily Report, 10 October 2017, OSCE e-Resources, http://www.osce.org/special-monitoring-mission-to-ukraine/348901 (accessed 11 October 2017).

day, it highlighted this in the report but failed to identify who had restricted its access. This is not an isolated phenomenon.

In another report on 5 November 2014, the SMM reported on fatalities after a series of shelling three kilometres north-west of Donetsk on 5 November 2014.[87] The report is detailed; it explains exactly what the monitors witnessed when arriving at the scene. Yet the organization makes no effort to identify the perpetrators of the incident. This is problematic and can lead to ambiguity, which can actually fuel, rather than prevent, disinformation, as indeed it did over this report. Remarking on the tragedy, Russia's OSCE ambassador, Andrei Kelin, 'said the facts in the report "proved" the shelling came from the Ukrainian military'.[88] This statement deeply upset Ukrainians who went on to accuse the OSCE of 'padding its monitoring mission with Kremlin spies to ensure its findings would "work to Russia's advantage"'.[89] In this situation, the OSCEs unwillingness to assign blame for the event, which it likely could have deduced through its constant monitoring efforts, led to ambiguity. This ambiguity was used by both sides to blame one another, and thus, the organization was unable to dispel the propaganda and disinformation that it was there to try to tackle. Commenting on this problem, Michael Bocirukiw, a spokesperson for the SMM, stated that, 'we would prefer that people not take what we've written in our daily reports as fact and perhaps then twist it to how they see things. We report as faithfully and honestly as we can.... But to start getting into who was the source or who pulled the trigger, it would be very, very tricky business indeed'.[90]

This is undoubtedly true. In an interview given in 2014, Deputy Monitor Alexander Hug explained the difficulty of determining, for example, where military hardware had come from;

'First, I have to start again with security. We are a civilian not a military observer mission. This gives us limitations as to how far we can go and how much risks we can take. Naturally that hardware that you refer to is used where the conflict is and therefore by definition access to those areas is difficult for us due to security considerations. Second, whoever has this hardware under control of course wants to avoid that we see it. So even if we are entering these areas we are prevented from certain, specific locations because those who are in control of the hardware do not want us to see it. Third, even if we see for example a tank it is very difficult to attribute it to anyone unless it is clearly marked and that is not normally the case. Therefore, unless we interview the tank driver

[87] Daily Report, 7 November 2014, OSCE e-Resources, http://www.osce.org/ukraine-smm/126474 (accessed 11 October 2017).
[88] Wannek, Lyudmyla, 'Under Fire in Ukraine, OSCE Questions Its Worth', 14 November 2014, *Radio Free Europe Radio Liberty*, https://www.rferl.org/a/ukraine-crisis-russia-osce-monitoring-mission/26690263.html (accessed 8 August 2017).
[89] *Ibid.*
[90] *Ibid.*

and check his passport, it will be very difficult to verify to whom the tank belongs because both Russia and Ukraine use the same hardware to a large extent. Often the military material used by the rebels is the one that was previously used by the Ukrainian army because the rebels have seized it from them [the Ukrainian army]. Therefore, we are in a difficult position to actually verify who is the owner or operator of the hardware'.[91]

In such situations, it is understandable that the OSCE can do little to provide concrete assertions on ceasefire violators. However, this is just one example. At other times, the SMM would undoubtedly be able to state, with almost absolute certainty, who the perpetrators of a ceasefire violation are, or at least what side they are fighting for. At such times, not to do so is irresponsible and does little to help de-escalate tensions. If violators of ceasefire agreements are not frequently exposed, then they have little to fear in continuing to violate peace agreements.

Identifying Key Players

It is not just ceasefire violators who are not identified by the SMM. The mission has also failed to confirm conclusively Russia's involvement in the conflict and the extent to which this involvement goes. 'Speaking to journalists in Kiev, spokesperson Michael Bociurkiw defended his organization's work…saying the OSCE is "not in the business of naming names and pointing fingers"'.[92] Yet the SMM is a fact-finding mission and was established, in part, to prevent the dissemination of disinformation. 'Naming names', it can be argued, is a necessary part of achieving this aim; indeed such an aim cannot be achieved without doing just that through investigation and monitoring activities. Participating states such as the United States, have expressed their disappointment at the restrictions placed on the SMM and have described the mandate as being extremely 'limited'.[93] The SMMs unwillingness, or inability, to highlight Russia as a key player in the Ukrainian Conflict is perhaps due to the Helsinki Accords and the organizations mandate to remain neutral and unbiased. But Russia's participation in the conflict is a fact, not a political opinion, and thus, it can and should be acknowledged by the OSCE.

[91] Liechtenstein, 'The OSCE Special Monitoring Mission has become the Eyes and Ears of the International Community', p. 7.
[92] D'Urso, Joseph, 'The OSCE Monitoring Mission in Ukraine remains focused, despite criticism', 26 February 2015, *Commonspace.eu* http://commonspace.eu/index.php?m=23&news_id=3186 (accessed 19 August 2017).
[93] Hopmann, 'The United States and the OSCE', p. 39.

8.3 Conclusion

It can therefore be seen that despite good intentions, the Special Monitoring Mission has been unable to fully achieve its mandated activity of gathering information and reporting on facts. There are several key reasons for this. Firstly, the mission does not have the resources required to provide 24/7 monitoring of the entire conflict zone. The result of this is that despite providing detailed and accurate reports, the SMM is only reporting on incidents it has directly observed, and not a complete picture of all incidents that have occurred in the Donbass each day. Secondly, the SMMs mandate has proven to be too limited in scope to provide helpful conclusions that can be used to de-escalate tensions. The mission's inability to identify ceasefire violators has limited its capacity to be of use to negotiators, involved sides and the international community at large which is attempting to end the conflict peacefully. Finally, the SMM has failed to make a stand in identifying Russia as a key player in the conflict. Though the OSCE would argue that the mission is just abiding by the principles of the organization, as laid out in the Helsinki Final Act, its neutrality in this particular conflict might be more damaging to resolution attempts than it is helpful, given the conflicts hybrid nature, and the innumerable ceasefire violations that continue to occur in the region every day.

9
Impartiality and Transparency

'operating under the principles of impartiality and transparency'
Decision 3, Decision 1117 of the 991st Plenary Meeting of the OSCE Permanent Council

9.1 Introduction

The principles of impartiality and transparency are of great importance to the OSCE. The organization prides itself on its ability to remain unbiased on security issues and indeed this is seen as one of the characteristics participating states value most in it. Having the guiding principle of impartiality has allowed the OSCE to gain a reputation for trustworthiness and reliability amongst the international community, as well as establishing itself as a key player in conflict negotiations. Naturally, these principles extend to all OSCE missions, including that of the Special Monitoring Mission to Ukraine. In Decision No. 1117, the mission is mandated to operate 'under the principles of impartiality and transparency'.[94]

In an effort to ensure that all monitors act impartially, the SMM subjects its entire staff to rigorous screening. They must also sign a code of conduct that calls on staff to 'refrain from any action that might cast doubt on their ability to act impartially'.[95] The requirement to stay neutral and transparent is very important to the mission and the participating states that authorised it. It is the hope that by showing impartiality, the OSCE can overlooked biases and report purely on facts that can be trusted by the entire international community. Despite its efforts and the importance of maintaining these principles, there have been accusations of OSCE bias from both sides of the conflict, ever since the mission took on a presence in the Donbass.

For example, on 24 July 2015, Eastern Ukrainians from Donetsk held a protest in which they accused the OSCE of failing to report Ukrainian army bombing of the Donbass region; 'according to participants, international monitors are not impartial in the reporting of what is going on in war-hit Donbass'.[96] In addition, the Russian foreign ministry itself has accused international SMM monitors of demonstrating bias in eastern Ukraine. In a statement the ministry released on 13 November 2014, they stated that, 'we get the impression that its efforts are directed at helping and supporting only one

[94] Decision 3, Decision No. 1117.
[95] Wannek, 'Under Fire in Ukraine'.
[96] 'East Ukrainians Protest Against OSCE Bias, Silence on Ukraine Army Shelling', 28 July 2015, *Russia Insider*, http://russia-insider.com/en/east-ukrainians-vent-anger-osce-silence-over-kievs-shelling/ri9000 (accessed 10 August 2017).

side in the conflict, the official authorities in Kiev... Such policies from the mission's leadership undermine trust in its work'.[97] Furthermore, it has argued that 'the OSCE reported rebel troop movements while ignoring ceasefire violations by Ukrainian forces'.[98] Overall, such accusations have culminated in the overriding opinion by separatists that 'the mission's members register Kiev's violations of the Minsk agreements unwillingly and insufficiently and on the contrary, constantly point to violations of these accords by the self-proclaimed Donetsk and Luhansk People's Republics'.[99]

However, it is not just pro-separatists that believe the OSCE has shown bias in its work. Ukrainians have also accused the organization of pro-Russian bias, arguing that the 'OSCE had often "acted as a cover for Russia against Ukraine"'.[100] They have even gone as far to say that it was 'impossible' to work with the organization.[101]

Overall then, it can be seen that impartiality and transparency are extremely important principles, both to the OSCE overall and more specifically when applied to the context to the Special Monitoring Mission to Ukraine. Despite this fact, it has been suggested by both sides of the conflict that the organization has not remained impartial during its work. Of course, these sides also have their own biases. It is therefore necessary to investigate their claims in more detail and determine to what extent they are true.

9.2 Findings

What cases of bias have been proven during the SMMs time in Ukraine? Has the mission ever kept information to itself that would bring into question its overall transparency? Here, a number of issues will be examined that suggest that the SMM has not always upheld the principles of impartiality and transparency that its mandate requires.

To begin with, the presence of Russian monitors and other staff members within the mission should be addressed. As of 9 August 2017, 36 Russians were acting as monitors for the SMM.[102] Given that there are a total of 625 international monitors working on the ground in Ukraine, this number is not overtly high, although it can be noted that Russia contributes the 3rd highest number of monitors to the mission, with

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[97] 'Ukraine crisis: Russia accuses OSCE monitors of bias', 14 November 2014, *BBC*, http://www.bbc.com/news/world-europe-30056604 (accessed 10 August 2017).
[98] *Ibid.*
[99] Zamyatina, Tamara 'OSCE systemic crisis caused by political bias, orientation towards US', 11 December 2015, *TASS*, http://tass.com/opinions/843435 (accessed 10 August 2017).
[100] Wannek, 'Under Fire in Ukraine'.
[101] *Ibid.*
[102] Status Report, 9 August 2017, OSCE e-Resources, http://www.osce.org/special-monitoring-mission-to-ukraine/335256?download=true (accessed 20 August 2017).

the United States and United Kingdom both contributing higher numbers. Nevertheless, when compared to the number of Ukrainians working in the mission, zero, then questions of bias arise. Officially, Ukrainians are not allowed to work for the mission, since the mission is based in Ukraine and was invited there by the Ukrainian government. This measure is enforced in certain missions to avoid personal bias from staff members within the mission. Yet, if Ukrainians are not allowed within the mission in order to avoid bias, then surely Russians, whose country is unofficially but heavily involved in the conflict, should also be denied the right to work in the mission.

Though these Russian staff members themselves might not be bias, this is not necessarily relevant. The OSCEs choice to employ them could be seen as a biased decision given the fact that Russia is clearly involved in hybrid warfare activities in eastern Ukraine. As Vasyl Budik, an advisor to the Ukrainian Defence Ministry, questioned in November 2014, 'what are Russia's representatives doing in our positions? It is not a secret that there is a war going on, and Russia is taking an active part in it. I am against Russians being a part of the mission'.[103] Bohdan Yaremenko, a diplomat who has dealt with the OSCEs monitoring work in Donbass, claims that the presence of Russian monitors in the mission is a 'direct legal consequence' of Ukraine's failure to declare war, arguing that 'if Russia was a recognized party to the conflict, then of course there wouldn't be any Russians participating in this mission, just as there aren't any Ukrainians'.[104] This might be true. The fact that Ukraine has not officially recognised a direct conflict with Russia means that Russia, officially, is not viewed as a belligerent force in the conflict and thus, need not receive specific restrictions with regards to OSCE activities. Yet evidence has shown conclusively that Russia is heavily, if unofficially, involved in the War in Donbass, and it can be argued that the OSCE should be adapting to political and military realities instead of ignoring them in favour of protocol.

To a certain extent, here it can be seen that the OSCE is restricted by its own mandate, and has little way of working outside the confines of it without changing or replacing the Helsinki Accords.[105] This was highlighted by Wolfgang Zellner and Frank Evers in a 2014 think tank on OSCE Field Operations, which recommended that, 'the participating States should discuss guiding principles and options to flexibly adjust mandates of field operations to the needs of their host countries. This should be done

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[103] 'OSCE denies allegations of pro-Russian bias in Ukraine's east', 11 November 2014, *Kyiv Post*, https://www.kyivpost.com/article/content/war-against-ukraine/osce-denies-allegations-of-bias-in-russias-favor-in-ukraines-east-371446.html (accessed 10 August 2017).

[104] Wannek, 'Under Fire in Ukraine'.

[105] More detailed analysis of the Helsinki Accords and the restrictions they place on the OSCEs activities in Ukraine will be addressed in Part IV, Chapter 13.2.3.

in agreement with host governments and in dialogue with other national partners'.[106] Here, it can be seen that flexibility in current OSCE field operations, including the SMM, is lacking. This can create many problems. If the organization is so restricted as to be deemed useless in conflict resolution activities, then surely changes to mandates must be considered. Until this point, the organization will continue to be accused of being blind to political realities, and of treating Russia with favourable bias, a claim that has its merits within the context of the SMM in Ukraine.

The OSCEs lapse in judgement in employing Russian citizens to work in the Special Monitoring Mission has had its consequences. One incident in particular, occurring in 2015, is evidence of this. At this time, a Russian monitor working for the SMM, Maskim Udovichenko, had gotten inebriated in Luhansk and was recorded on video discussing his past employment as a Russian military officer. In the video, Udovichenko claims, 'this is all rubbish, you know, your Ukraine is rubbish… This is the great Russia, you know. It stands near'.[107] He also reportedly claimed 'Don't worry. We'll fight in Syria for a while and then come back here'. This was a clear breach of the OSCEs impartiality principles, with Udvichenko's comments suggesting that he was in support of the separatist cause in the conflict. Furthermore, it was unveiled shortly later by the UNIAN newspaper, that Udovichenko was a Special Operations Officer for the Main Intelligence Directorate in Russia. [108] Indeed, he 'confessed it wasn't difficult for him to join the international mission. Neither the Ukrainian Interior Ministry nor the Security Service of Ukraine uncovered him as an infiltrator. "I got registered through the Foreign Ministry, was interviewed, coped with the document work," the man said'.[109] In a statement to the press, SMM spokesperson Michael Bokiuriw argued that it would be 'unfair if an incident with one person cast a shadow on 590 international observers'. (UNIAN). This is true, and yet this incident was not an isolated event. In another incident, occurring in the same year in June, an OSCE monitor and his translator were photographed attending the wedding of the daughter of a known pro-Russian separatist, Volodymyr Tymofeyev.[110] Photos surfaced of the monitor in an embrace with Tymofeyev, despite being employed as an impartial monitor. In a

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[106] Zellner, Wolfgang & Evers, Frank, The Future of OSCE Field Operations (Options), OSCE Network of Think Tanks and Academic Institutions (2014), p. 4.
[107] Najibullah, Farangis, 'That Time A Russian OSCE Monitor In Ukraine Got Drunk, Said Too Much', 29 October 2015, *Radio Free Europe Radio Liberty*, https://www.rferl.org/a/ukraine-russin-osce-monitor-gets-drunk-talks-too-much-gets-fired/27334144.html (accessed 19 August 2017).
[108] 'Suspended OSCE monitor confirms he's Russian GRU officer', 27 October 2015, *UNIAN*, https://www.unian.info/politics/1166116-suspended-osce-monitor-confirms-hes-russian-gru-officer.html (accessed 19 August 2017).
[109] *Ibid.*
[110] Shamanska, Anna, OSCE Expresses 'Regret' After Staff Shown At Separatist Wedding In Ukraine, 7 April 2016, *Radio Free Europe Radio Liberty*, https://www.rferl.org/a/ukraine-osce-staff-at-separatist-wedding/27660759.html (accessed 19 August 2017).

statement posted on the OSCEs Facebook page, the SMM expressed 'regret' for the incident and highlighted that those involved were no longer a part of the mission, describing their behaviour as 'unprofessional'.

Though the OSCE immediately removed the men in this incidents from the mission, these events serves as an example of the risks of employing nationals from a country that is heavily involved in the conflict being monitored. Natural bias can never be completely avoided within any mission, but it can be significantly reduced by setting appropriate restrictions where necessary. These incidents suggest perhaps that the methods used by the SMM to assess and confirm the impartiality of its employees is not rigorous enough and requires reviewing.

Other examples of bias within the organization include the use of OSCE vehicles by separatist fighters. Dymtro Tymchuck, leader of Information Resistance, a civic initiative with a mission to inform the public about the war stated that his group had 'recorded at least four cases when OSCE vehicles were used by Russia-backed separatists'.[111] He went onto claim that the OSCE had officially recognised one such incident, one that occurred in September 2014 and involved two separatist fighters getting into an SMM vehicle. However, despite issuing an apology, the OSCE stopped short of explaining how the incident could have occurred in the first place.[112] This not only hints at bias within the mission, but also a lack of transparency on the organizations part.

9.3 Conclusion

Overall, the SMM has failed in its mandated principle of acting with impartiality and transparency in its activities. This is evidenced by the several incidences examined above. Though it could be argued that these are just a series of isolated events, and are not reflective of the mission as a whole, the proven lack of transparency in certain circumstances opens up the possibility that such incidents may have occurred in the past. The OSCE is a public forum which relies entirely on donations from its member states and a variety of other international organizations. If these entities believe that the OSCE is failing in its mandate in Ukraine, they will question the efficacy of the mission. This in turn might lead to reduced levels of funding. It is therefore in the organizations interest to maintain the image of being productive, useful and reliable.[113] With this in

[111] 'OSCE denies allegations of pro-Russian bias'.

[112] *Ibid.*

[113] Evidence of this desire to maintain such an image can be seen by visiting www.osce.org. The website publishes content on a daily basis and much of this content attempts to present the organization in a particularly positive light, highlighting it as a very active and effective security group,

mind, it could be argued that the OSCE would want to avoid making public when possible, incidents that damage its reputation. Yet acting in such a way would ultimately damage the OSCEs effectiveness in its activities and in achieving its overall aims. Concerning impartiality, it can be seen that several incidents have tarnished the SMMs reputation. These incidents have damaged the mission's reputation and have made its ability to achieve its mandate in full an impossibility.

and often failing to address or explain the ways in which the organization has failed in certain missions and activities. Having worked at the OSCE, I can speak for the organizations concerted efforts in maintaining an image of relevancy and usefulness to its members states and the public.

10
Risks to OSCE monitors

'The Special Monitoring Mission members will have safe and secure access throughout Ukraine to fulfil their mandate'
Decision 7, Decision 1117 of the 991st Plenary Meeting of the OSCE Permanent Council

10.1 Introduction

It is a priority for the Organization for Security and Co-operation in Europe to keep its employees safe throughout their work. This is especially so in areas of conflict in which the OSCE is currently working, where dangers are more numerous and risks are higher. Eastern Ukraine is a prime example of such an area. As an ongoing conflict zone, the Donbass region has been host to bombing, firefights and minefields over the past three years with little sign of such dangers ending in the near future. It is therefore, particularly important that the OSCE and SMM take measures to ensure the safety of its staff and monitors.

Deputy Chief Monitor Alexander Hug made this clear in an interview he did in 2014 in which he confirmed that 'the priority of the Head of the Mission and the SMM at large is to ensure that none of our staff is jeopardized'.[114] He went on to lay out the four key measures used to ensure this safety[115]:

1) Reassessing the security situation on a daily, if not hourly, basis.
2) All SMM movements in critical or sensitive areas are negotiated beforehand with both government and rebel forces.
3) Equipment such as personal protection, armoured cars and communication equipment is used to increase safety.
4) Keeping contact with all parties in the region in order to know who to contact immediately if something goes wrong in a certain area.

Despite these measures however, the OSCE has been unable to completely guarantee the safety of its staff. This has been proven through a series of incidents that have occurred within the Special Monitoring Mission to Ukraine since its inception.

[114] Liechtenstein, 'The OSCE Special Monitoring Mission has become the Eyes and Ears of the International Community', p. 6.
[115] *Ibid.*, pp. 6-7.

10.2 Findings

The first incident that can be addressed is a hostage situation that arose between May and June 2014. During this incident, eight OSCE monitors were taken hostage by separatist forces, a team of four on 26 May in Donetsk, and another team of four on 29 May in Luhansk.[116] Both groups were eventually released in late-June, having spent almost a month in captivity.

This event came just a month after another hostage situation in which a group of seven OSCE monitors were detained in the town of Kramatorsk, south of rebel-held Slovyansk on 25 April. Alex Schneider, the leader of the team, described the events, commenting that 'anyone who hasn't gone through something like this can't imagine what it was like'.[117] Schneider recounted the fear he and his team felt at facing a 'constantly growing threat' as the situation deteriorated around them, particularly when they were forced to lie down during periods of heavy fire, when their captors shot at Ukrainian forces.[118] He went on to describe how, 'the proverbial fire of handguns and artillery came closer and closer, but we were condemned to inaction'.[119]

These two incidents were not isolated, with Arie Bloed suggesting that, 'on a few occasions rebels took mission members hostage for prolonged periods of time'.[120] This statement is supported by the SMMs own published reports on incidences of restrictions of freedom. The list of incidents listed below, for example, are all those reported by the SMM during the period between January 2016 and June 2016[121]:

1) On 7 January in Horlivka (39km north-east of Donetsk) armed "DPR" members forced SMM monitors to the ground at gunpoint and detained them temporarily;
2) on 16 January an SMM vehicle was hit by small-arms fire;
3) on 7 April a bullet hit an SMM vehicle and monitors were threatened at gunpoint;
4) on 9 April and 27 May SMM patrols came under small-arms fire;
5) on 28 May, at a "DPR" checkpoint in Shyrokyne (20km east of Mariupol), an armed man, after firing a burst of shots into the air, pointed his automatic rifle at an SMM vehicle and gestured for them to turn around; and
6) on 22 June an SMM patrol was caught in mortar shelling.

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[116] 'Second OSCE team freed in Donetsk', 28 June 2014, *BBC*, http://www.bbc.com/news/world-europe-28074788 (accessed 20 August 2017).
[117] Oltermann, Philip, 'Freed OSCE observers tell of ordeal during capture in Ukraine', 4 May 2014, *The Guardian*, https://www.theguardian.com/world/2014/may/04/freed-osce-observers-ordeal-capture-ukraine (accessed 20 August 2017).
[118] *Ibid.*
[119] *Ibid.*
[120] Bloed, 'OSCE Revitalized by the Ukraine Crisis', p. 146.
[121] Restrictions to SMM's freedom of movement and other impediments to fulfilment of its mandate: January to June 2016, OSCE, OSCE e-Resources, http://www.osce.org/ukraine-smm/261066?download=true (accessed 18 August 2017).

During all of these reported occasions, OSCE monitor's lives were put at significant risk. Such risks are perhaps best exemplified with an event that occurred on 23 April 2017. On this day, an SMM patrol member, working as a paramedic for the mission, died when the armoured vehicle he was driving in hit a mine in the 'LPR'-controlled town of Pryshyb.[122] Two other patrol members travelling with him were injured but recovered.

10.3 Conclusion

All the examples listed above can be used to conclude that the OSCE has failed in its attempts to provide secure and safe access to all regions of Ukraine for its monitors. Of course, the organization itself is not to blame for these risks. It is the responsibility of both separatist and Ukrainian forces to respect the special status of the SMM and its monitors in the region. This, they clearly have not done. However, with incidents of hostage situations and the death of a monitor having occurred during the mission's time in Ukraine, the OSCE must reassess its mandate. Evidently, the mandate concerning monitor's safety cannot be achieved; safety cannot be guaranteed. It is therefore the responsibility of the organization and its mission to either change the mandate, take additional measures to guarantee the safety of its employees, or halt their operations in Ukraine entirely until employee safety can be ensured.

[122] 'OSCE Special Monitoring Mission to Ukraine patrol member killed in explosion near Luhansk', 23 April 2017, OSCE, OSCE e-Resources, http://www.osce.org/special-monitoring-mission-to-ukraine/312951 (accessed 19 August 2017).

11
Achievement of Overall Aim

'That the aim of the said mission will be to contribute, throughout the country and in co-operation with the concerned OSCE executive structures and relevant actors of the international community (such as the United Nations and the Council of Europe), to reducing tensions and fostering peace, stability and security; and to monitoring and supporting the implementation of all OSCE principles and commitments.'

Decision 1117 of the 991st Plenary Meeting of the OSCE Permanent Council

A conclusion to this part cannot be made without addressing what could ultimately be deemed the most important question; how effective has the Special Monitoring Mission to Ukraine been in achieving its overall aims in Ukraine. As Martina Huber notes, 'the notion of effectiveness is usually linked to having a determined objective envisaged for the short to medium-term'. [123] In the case of the SMM, this objective is to reduce tensions in Ukraine and foster peace, stability and security whilst monitoring and supporting the implementation of OSCE principles and commitments. Primarily then, the OSCEs aim in maintaining a presence in Ukraine is to help resolve, or at least, deescalate the conflict situation.[124]

In judging to what extent this aim has been achieved, it is first prudent to look at the current situation in Ukraine. Since 2014, tensions between Ukrainian and separatist forces have remained high. These tensions have been responsible for an ongoing live conflict situation in eastern Ukraine that shows little sign of ending soon. Thus, it seems clear that the OSCE has failed to achieve its aim of complete conflict resolution. Has it, however, been effective in reducing tensions during its time in the country?

In assessing this, a comparison should be made of the conflict situation in 2014 and now. Overall, it can be seen that over the course of three years, the level of violence in eastern Ukraine has consistently peaked and troughed. Whilst fighting was initially concentrated, in recent years, many areas of the Donbass have experienced relative peace. At times, fighting has been only sporadic, whilst at others it has been heavy. In the past year however, the conflict situation has escalated.[125] In January and February

[123] Huber, 'The Effectiveness of OSCE Missions', p.17.

[124] To merely foster the ideals of peace, stability and security is something that anyone can do. Thus, it can be argued that with its resources, the OSCE is expected, through its fostering, to achieve the primary aim of resolving or deescalating the conflict situation; this is ultimately its main objective, and fostering these ideals are just the means to this end.

[125] More information about this conflict escalation can be found in; Olearchyk, Roman, Hille, Kathrin, & Wagstyl, Stefan, 'Fighting escalates in eastern Ukraine', 30 January 2017, *Financial Times*, https://www.ft.com/content/57fc2d60-e6d1-11e6-967b-c88452263daf?mhq5j=e6 (accessed 17

2017, fighting in the Donbass region escalated significantly, with violence spreading to cities such as Mariupol that had previously experienced relative peace and stability for the past two years. It can therefore be argued that the SMM has been ineffective in reducing tensions in Ukraine and have been unable to encourage peace, security and stability. In September 2014, Alexander Hug admitted this himself, stating that, 'I would not lean out of the window and claim that the mission has contained the conflict in the east and that it has not spread further due to its presence'.[126] Though three years have passed since this statement, it still rings true, given that the mission has failed to prevent the spread of the conflict as recently as this past year, despite an increase in resources and manpower.

This part has focussed itself on examining the mandate, and through this examination has found that the SMM is failing in many of its mandated activities and principles. Furthermore, after three years it has failed to achieve its primary objectives. Given these facts, an assessment as to why this is the case should now be made. Are the failed mandated activities to blame? Or is this more a question of the mission's suitability in the context in which it is working? Is the overall presence of the OSCE within Ukraine, flawed at the core? Only by addressing these questions, can a well-informed evaluation of the organizations presence in Ukraine be made.

March 2017) & Ayres, Sabra, 'Residents in eastern Ukraine face worst fighting in years in war with Russian-backed separatists', 15 February 2017, *Los Angeles Times*, http://www.latimes.com/world/la-fg-east-ukraine-fighting-2017-story.html (accessed 26 August 2017).

[126] Liechtenstein, 'The OSCE Special Monitoring Mission has become the Eyes and Ears of the International Community', p. 8.

Part IV
The OSCE and the Ukraine Conflict: A Question of Suitability

'As a security regime (the OSCEs) commitment to comprehensive security is more rhetorical than substantive'
Cottey, Andrew, 'The OSCE – crown jewel or talking shop?', in Smith, Martin and Timmins, Graham, *Uncertain Europe. Building a new European security order*, (New York: Routledge, 2001).

'The OSCE is ideal for preventative diplomacy, but I don't think it will be useful for crisis management situations'
Willem van Eekelen, Secretary-General of the Western European Union (WEA), 14 March 1995 in Blank, Stephen, 'Russia, the OSCE, and Security in the Caucasus', *Helsinki Monitor*, Vol. 6, 3 (1995), pp. 65-80, p. 78.

'One of the main principles of the Helsinki Final Act was territorial integrity and the inviolability of borders. Isn't that now in tatters after Russia's annexation of Crimea and invasion of eastern Ukraine?'
Judy Dempsey questioning former Secretary General of the OSCE, Lamberto Zannier, 5 March 2015.

In her own analysis of OSCE missions, Martina Huber highlights two ways in which she assessed the effectiveness of a mission. She explains that through her own analysis, 'the impact of the Missions studied has been weighed against not only their mandates…but also the broader context in which they operate.[127] In Part IV, the impact of the SMM was assessed through an analysis of its mandate. Part V will assess impact based on an analysis of the broader context in which the SMM operates. Whilst in Part IV, the question of *how* the Special Monitoring Mission to Ukraine is failing to achieve its mandate was examined. Part V will explore *why* this is the case by providing a much broader examination that assesses the overall suitability of the Mission and its Mandate within the context of the Ukrainian Conflict.

As Zellner and Evers highlighted in a 2014 study on OSCE field operations, 'the 2014 Ukrainian war has made clear that the situation [between Western and Russian sides] has shifted from a basically co-operative environment with confrontational elements to a confrontational environment with residual elements of a co-operative culture'.[128] Given this assessment, the suitability of an organization specialising primarily in soft-security issues warrants being questioned. However, this is not the only issue challenging the suitability of the OSCE in Ukraine. The OSCEs structure, its relationship with Russia and the many unique characteristics of the Ukrainian Conflict itself, all imply that the organization may not be well fitted to resolving this complex international crisis. Highlighting these problematic issues will be the focus of Part IV.

The following part will be divided into two chapters. The first, entitled 'The Nature of the Conflict in Ukraine', will examine the unique characteristics of said conflict. Such characteristics, it will be argued, make the OSCE unsuitable for assisting in the resolution of the conflict. The second chapter, entitled, 'The Nature of the OSCE', will analyse an array of features of the organization, such as its organizational structures, its principles and its strategies. As in the first chapter, it will be argued that these characteristics make the OSCE ill equipped or entirely unsuitable for dealing with the War in Donbass.

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[127] Huber, The Effectiveness of OSCE Missions, p. 17.
[128] Zellner & Evers, The Future of OSCE Field Operations, p. 8.

12
The Nature of Conflict in Ukraine

Roberto Dominguez argues that often, 'while the OSCE cooperates well with other intergovernmental organizations in the field, its institutional norms do not always match the actual preventative strategies required on the ground'.[129] It can be argued that the Special Monitoring Mission to Ukraine faces this exact problem in the Donbass region. This conflict has a series of unique characteristics which directly, and very negatively, affect the ability of the OSCE to assist in conflict resolution; 'annexation, "hybrid" warfare, the proliferation of non-recognized separatist polities, the absence of a shared baseline of facts and, therefore, the sharp divergence of narratives, and perhaps most of all, the development of fortress mentalities – all of these have challenged the "Helsinki acquis" on which the OSCE is based'.[130] This chapter will analyse four key characteristics of the Conflict in Ukraine, which challenge the theory that the OSCE can be an effective player in conflict resolution in the region.

12.1 Annexation

In March 2014, Russia annexed the Autonomous Republic of Crimea. This was particularly worrying for the OSCE and its participating States for one important reason; it challenged the most sacred principle of the Helsinki *Acquis*. The Helsinki *Acquis* recognized the current boundaries of Europe when it was signed in 1975, denying all historical claims.[131] For this reason, it can therefore be seen that 'the annexation of Crimea, which the Russian Federation justified on ethnic and historical grounds, was the first example in Europe of a state's reversion to pre-World War II nationalism to justify territorial acquisition'.[132] Hopmann confirms this, stating that Russia was 'in clear violation of the second principle in the Helsinki Decalogue'.[133] Lundin notes that, 'it is a paradox that precisely Moscow with its obsessive interest in territorial integrity after the Second World War has in addition chosen to violate the perhaps most important principle in the Helsinki Final Act, that borders can only be changed by peaceful agreement'.[134] For this reason, the annexation can be viewed as a unique event in the

[129] Dominguez, *The OSCE: soft security for a hard world*, p. 26.
[130] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 88.
[131] *Ibid.,* p. 90.
[132] *Ibid.* Though Georgia was invaded by Russia in 2008, this invasion was justified on the grounds of protecting Russian nationals and did not involve a general rejection of the inviolability of borders. The annexation of Crimea can therefore be seen as the first time this principle has been rejected outright since the Helsinki Final Act was passed in 1975.
[133] Hopmann, 'The United States and the OSCE', p. 39.
[134] Lundin, Lars-Erik, 'The Ukraine Crisis as a Challenge to Human Security in Europe', *Security and Human Rights*, Vol.25, (2014), pp. 277-86, p. 279.

post-Second World War era and one that creates many complications for the OSCE; the primary safe keeper of the Helsinki *Acquis*.

The OSCE and the Helsinki Final Act are inherently intertwined with the latter leading directly to the foundation of the former. The OSCE initially built almost entirely on the principles laid out in the act and have continued to function with these principles in mind since 1975. With this in mind, can the act still be seen as valid, if one of its signees has violated one of its most important principles? If not, then can the organization that was built entirely because of this act, be relied upon to uphold these principles anymore?

Though the Ukrainian Conflict has seen huge narrative divergences between all sides, 'Russian and Western narratives, both agree that Helsinki has been severely damaged'.[135] In addition, and due to their interconnection, the Organization for Security and Co-operation in Europe has also been damaged by Russia's actions and its reactions to the annexation of Crimea have done little to prevent this. Indeed, although the OSCE has condoned the annexation, it has done, and could do, nothing impactful to reverse it.[136] Three years have now passed since the principle of the inviolability of borders was abused by Russia, with little change to the situation. With each day that has passed, the principles of the Helsinki Final Act and the safe keeper of these principles, the OSCE, have lost more and more credibility and their reliability in ensuring peace and security throughout Europe increasingly falls under question.

12.2 Disinformation and Hybrid War

As was explored in Chapter 8, disinformation has been a significant challenge in the Conflict in Ukraine. Both sides of the conflict have issued fake news and propaganda regularly. Russia, in particular, poses the biggest problem by continuing to uphold a narrative that denies its involvement in the war. Disinformation has had a polarising effect in Ukraine, deeply entrenching certain viewpoints and making conflict resolution even more challenging. Indeed, Remler notes that 'the absence of a shared baseline of facts' has developed a 'sharp divergence in narratives' that makes mediation near-impossible.[137] For this reason, the OSCE has tried to tackle this problem. Indeed, it can be argued that the eradication of disinformation is one of the Special Monitoring Mission's main goals in the country.

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[135] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 103.
[136] Additional issues and problems surrounding the Helsinki Final Act will be addressed in Part IV, Chapter 12.2.3.
[137] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 88.

There are some theoretical arguments in favour of employing monitoring and fact-finding missions such as the SMM to conflict zones. As political scientist Andrew H. Kydd highlights, 'information provision has emerged as a central focus of conflict-resolution studies in the rationalist tradition, in part because the theory of conflict stresses asymmetrical information as a cause of conflict and because providing information is something weak actors can do'.[138] An example of such a weaker actor would include the OSCE, which has only political, and no legal, authority. As D. Lindley argues, focussing on transparency is relatively easy to do in comparison to sending forces or other high-cost, hard-security activities.[139] He goes onto claim that 'efforts to increase transparency by security regimes will work best when there is poor unilateral and ambient transparency'.[140] This is indeed the case in Ukraine, where disinformation and poor transparency are significant problems. 'By serving as forums, by monitoring, or by otherwise increasing information, regimes can increase transparency. Transparency in turn can reduce uncertainties about others' actions, intentions, and capabilities, and can help states calculate the consequences of their policies. Transparency can increase the ability to identify defectors and help states identify the payoffs from co-operation (or defection)'.[141] All of these observations provide a positive case for the OSCEs involvement in Ukraine, particularly given that the mission there is primarily tasked with carrying out monitoring and fact-finding activities.

However, there are a number of issues with monitoring, both physical and theoretical that suggest the OSCE might not be a suitable organization for dealing with conflict resolution in the specific context of the Conflict in Ukraine. Although Kydd notes that, 'providing or filtering information can also lead to peace if uncertainty is a cause of war', he goes onto explain that, 'this strategy can also suffer from credibility problems, given that the third party [in this case the OSCE] has an incentive to secure a peace deal and may be suspected of saying whatever it thinks will make the parties more likely to come to an agreement, rather than what is true'.[142] Furthermore, whilst he acknowledges that monitoring can be helpful during ceasefire and peacekeeping situations, he argues that 'injecting information about power and resolve into the bargaining process is most helpful before a conflict has broken out', and not afterwards, as is the case in Ukraine.[143]

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[138] Kydd, Andrew H., 'Rationalist Approaches to Conflict Prevention and Resolution', *Annual Review of Political Science*, Vol. 13 (2010), pp. 101-21, p. 112.
[139] Lindley D., *Promoting Peace with Information*, (Princeton, Princeton University Press, 2007), p. 20.
[140] *Ibid.*
[141] *Ibid.,* p. 19.
[142] Kydd, 'Rationalist Approaches to Conflict Prevention and Resolution', p. 107.
[143] *Ibid.*

Others have also questioned the usefulness of providing information for conflict resolution purposes. As Lindley notes, 'transparency hits hurdles when biases and misperceptions run so deep that new information can not affect attitudes or refute rumours'.[144] This is certainly the situation in Ukraine, where opinions are heavily polarised. Until now, SMM reports and the information they contain have done little to convince either side of changing their approach or attitudes. Furthermore, Lindley questions the benefit of providing information to an international forum such as the OSCE. He claims that, 'if active peacekeeping operations face the challenge of adding value to existing information, this hurdle is even higher for forums. A forum is most useful when states have few other means of communication. Given the number of forums and other means of communication available in the late twentieth century, this condition is increasingly rare – at least among the more powerful states'.[145] It can be argued that the OSCE is providing little information that its member states cannot find out for themselves, particularly given the fact that this information often does not provide the full-picture and is not detailed enough to be of use, as was concluded in Chapter 8.

Whilst many question the efficacy of the monitoring activities in conflict zones, there are others who go one step further, arguing that such activities are not only ineffective but are actually counter-productive. Indeed, 'a new wave of scholarship by Ann Florini, James Marquardt, Ronald Mitchell, Bernard Finel, and Kirsten Lord has begun to explore arguments about the potentially negative effects of transparency. They suggest that transparency may exacerbate tensions, make bargaining more difficult, and even lead to conflict. Bargaining theorists are also developing 20 arguments about the negative effects of transparency and the conditions when transparency helps or hurts co-operation'.[146] For example, some argue that 'transparency can remove peace-promoting ambiguity and encourage deadlock'.[147] Others go as far to suggest that full transparency can often escalate as opposed to deescalate tensions in conflict situations.[148] As Kydd notes, this was the case in the Cyprus Dispute:

'In Cyprus, each side would occasionally push the envelope a little, and the peacekeepers were responsible for reporting these incidents and providing information about them. However, to provide information about violations is to encourage retaliation, which can lead to further conflict. A peace-loving monitor therefore faces an incentive to let violations slide, but if it does so, of course, it loses its long-term value as a monitor. Once again, a fully strategic model with the two parties and a third monitor is necessary

[144] Lindley, *Promoting Peace with Information*, p. 268.
[145] *Ibid.,* p. 264.
[146] *Ibid.,* p. 20.
[147] *Ibid.*
[148] *Ibid.,* p. 266.

to determine when an equilibrium would be possible in which the third party provides credible information in this situation'.[149]

A similar situation is currently occurring in Ukraine with the Special Monitoring Mission. Ceasefire violations occur on a regular basis in the conflict zone and whilst the OSCE reports on these violations, as was highlighted in Chapter 9, the mission has often failed to identify ceasefire violators. Furthermore, there have been proven instances of bias and the mission has often failed to be as transparent as it could be with some even accusing it of deliberately allowing certain ceasefire violations to go unreported. This has led to a devaluation of the SMM and its usefulness and trustworthiness as a monitoring agency.

Finally, Lindley suggests that the efficacy of transparency missions is extremely varied and often depend entirely on the context and environment in which they are deployed. He claims that, in 'traditional buffer zone monitoring operations', such as that of the SMM in Ukraine, effectiveness was limited to moderate, with relatively weak levels of success.[150] Although there is a positive argument for the usefulness of a mission when it works in a conflict featuring strong information competitors with well-equipped news outlets, well-organized political parties and good intelligence such as the Conflict in Ukraine, the mission will undoubtedly face 'an uphill battle making it work'.[151] Overall, Lindley concedes that in all likelihood, such missions will have little positive impact on conflict resolution. This argument is ultimately supported by assessing the SMMs performance and usefulness in its past three years in the field. Here it can be seen, as Chapter 11 highlighted, that the mission has had little impact on conflict resolution in Ukraine since its inception.

12.3 Access and Freedom of Movement

The ability to have full and unhindered access to the conflict zone for monitoring and observation purposes is important to the full functionality of the SMM. As the OSCE highlights itself, 'freedom of movement of the OSCE Special Monitoring Mission (SMM) to Ukraine is critical to the execution of its mandated tasks and the effective fulfilment of its role foreseen in the Minsk Package of Measures of February 2015 and its Addendum of September 2015, as well as in the Protocol and Memorandum of September 2014'.[152]

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[149] Kydd, 'Rationalist Approaches to Conflict Prevention and Resolution', p. 116.
[150] Lindely, *Promoting Peace with Information*, p. 260.
[151] *Ibid.,* p. 263.
[152] Restrictions to SMM's freedom of movement: January to June 2016, p. 1.

However, as with many conflicts, those living or working in the Ukrainian conflict zone experience restrictions of movement on a daily basis. This includes those working for the Special Monitoring Mission. This characteristic of the conflict poses several problems for the mission. In 2014, Alexander Hug highlighted perhaps the most major of these when he stated that the SMM experiences 'some limitations and restrictions' to access in eastern Ukraine, with some of these restrictions being 'self-imposed' with others being 'de-facto'.[153] Examples of such restrictions are numerous and widely reported. For example, between January and June 2016 alone, the SMM encountered 700 restrictions of its freedom of movement.[154] Eighty percent of these restrictions occurred in areas not currently controlled by the Ukrainian government. In addition to these restrictions of access, the SMMs monitoring equipment, including its UAVs, drones and thermal cameras have frequently been damaged or completely destroyed by belligerents.[155] In an interview with Lamberto Zannier done in 2015, the Secretary General of the OSCE said, 'we have access on the Ukrainian side, with some limitations. On the separatists' side, we have a degree of access, but not as much as we would like. We need access to the points where the heavy weapons are collected and located, so that we can verify them'.[156] Furthermore, when asked if the SMM could access parts of the Ukrainian-Russian border not controlled by the government, Zannier replied, 'every now and then, we reach the border. But reaching the border in a sporadic manner is not good enough for us to have a firm sense of whether or not anything is passing through that border. And we are escorted by the separatists, which means we always have the sense of being guided and controlled. The monitors can't go by themselves as it's too dangerous—there are lots of minefields. We need to know where exactly we are going'.[157] This is problematic given that the SMM has been mandated to observe, monitor and report with accuracy, impartiality and transparency. If the mission is only being shown what separatist forces want it to see, then the reports made by the mission may not include these requirements.

These restrictions to observation activities can partially be explained by examining the Interpretative Statement to Decision No. 1117 by the delegation of the Russian Federation:

'In joining the consensus regarding the draft decision of the Permanent Council on the deployment of an OSCE Special Monitoring Mission to Ukraine, the Russian

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153 Liechtenstein, 'The OSCE Special Monitoring Mission has become the Eyes and Ears of the International Community', p. 9.
154 Restrictions to SMM's freedom of movement: January to June 2016, p. 6.
155 *Ibid.*
156 Interview with Lamberto Zannier, 5 March 2015, Dempsey, Judy, *Carnegie Europe*, http://carnegieeurope.eu/strategiceurope/?fa=59264 (accessed 13 September 2017).
157 *Ibid.*

Federation proceeds from the assumption that the geographical area of deployment and activities of the mission in question is strictly limited by the parameters of the mandate as adopted today, which reflects the political and legal realities existing since 21 March 2014 as a result of the fact that the Republic of Crimea and Sevastopol have become an integral part of the Russian Federation'.[158]

This statement is important, not only because it highlights Russia's view that the Republic of Crimea and Sevastopol is now an integral part of Russia, but also because it is demonstrative of the kind of political complexities and challenges that the OSCE faces in its work. The fact that the Russian Federation views what constitutes 'Ukraine' differently to the majority of the international community is problematic. In making this statement, Russia essentially threatened the organization, warning it that operating in the aforementioned region would be a rejection of 'political and legal realities'. As a result, the Special Monitoring Mission to Ukraine currently does not operate in Crimea. Although the OSCE quite rightly made this decision with safety in mind, it has had the counter-productive effect of strengthening Russia's own claim to Crimea. This is because the OSCE has essentially accepted Russia's reality. By not carrying out its monitoring activities, many would argue that the OSCE is failing to adhere to its own principle on the inviolability by allowing Russia to dictate Ukraine's borders and determine exactly where and where not, the SMM is allowed to operate. If the OSCE were to reject these terms, then it is extremely unlikely that Russia would have renewed Decision No. 1117 ever again; therefore, they were required to accept them, despite their restrictive nature.

The nature of the Conflict in Ukraine in having numerous restrictive or inaccessible zones has made carrying out its monitoring operations even harder for the SMM. Given the degree of restrictions to freedom of movement placed on the mission, it can be argued that it is not able to fulfil its mandate. Though the mission can provide some information to its member states, restrictions to access mean that this information is often incomplete. At moments when monitors are escorted through certain areas, this information might also be bias, presenting only what these military escorts want to show. Overall, limited access is a characteristic of the War in Donbass that has directly impacted on the usefulness and effectiveness of the OSCE Special Monitoring Mission.

[158] Attachment 4, Interpretative Statement Under Paragraph IV.1 (A)6 of the Rules of Procedure of the Organization for Security and Co-operation in Europe, Decision No. 1117. In total, four interpretive statements were made and attached to Decision No. 1117. They were made by the delegations of Ukraine, the United States of American, Canada, and the Russian Federation. The Russian Federation has maintained the stance shown above, with this statement having been reaffirmed during each renewal of Decision No. 1117 over the past three years.

12.4 Frozen Conflict

In 2013, Ukraine took over the OSCE chairmanship from Ireland.[159] At the time, it claimed that one of its main priorities would be to develop 'progress on the resolution of protracted conflicts'.[160] By the end of that year, the country was already witnessing violence in the Euromaidan protests, an event that would ultimately lead Ukraine into its own protracted or frozen, conflict, one with no foreseeable conclusion in-sight. The war taking place in Ukraine at present is similar to many other protracted conflicts. Citizens are often directly involved in the fighting, ceasefire agreements are frequently made and just as frequently broken, and propaganda is a popular tool for keeping tensions high. Furthermore, the Ukrainian Conflict has deep historical, social and ethnic roots, making it highly complex.[161]

Given these facts, it could be argued that the Organization for Security and Co-operation in Europe, an organization known for its soft-security strategies and adherence to impartiality, would be a suitable entity to promote a resolution to the conflict. Indeed, the OSCE has been relied upon to do just that on several occasions. Examples of these include its work in the frozen conflicts of Karabakh, Abkhazia, South Ossetia and Transdniestria.[162] Here, the OSCE has played mediatory roles to varying degrees. Yet despite its long-term presence, Alice Ackermann notes that, 'several protracted conflicts in the OSCE area continue to demand a lasting settlement', highlighting that the organization does not have a good track record, when looking at its conflict resolution activities in frozen conflicts.[163] For example, the OSCE has been an active mediatory player in the Karabakh Conflict since 1992, yet 25 years on and an average of 50 people are still killed each year due to on-going, if often sporadic, fighting.[164] With this in mind, its suitability in assisting in conflict resolution in the Ukrainian Conflict, which can undoubtedly now be characterised as a protracted conflict, must be questioned.

Specifically, regarding the Conflict in Ukraine, the OSCE faces several challenges. Firstly, it must adapt to the specific characteristics that feature in this particular conflict. As Ackermann notes in a perception paper published in 2009/10, the OSCE has asserted in the past that when dealing with protracted conflicts, 'a one

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[159] Bloed, Arie,'Ukraine at the helm of the OSCE', Security and Human Rights, Vol. 23, 4, (2013), pp. 357-60, p. 357.
[160] *Ibid.*
[161] For a more detailed explanation as to what constitutes a protracted/frozen conflict read; Remler, 'Ukraine, Protracted Conflicts and the OSCE'.
[162] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 88.
[163] Ackermann, 'Strengthening the OSCE's capacities in conflict prevention', p. 12.
[164] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 89. For a more analysis of OSCE performance in protracted conflicts, read, 'Remler, 'Ukraine, Protracted Conflicts and the OSCE'.

size fits all approach to resolution' was not possible.[165] Each one is unique, requiring specific specialists and mediators and an exclusively designed strategy for resolution. This is perhaps even more strongly required in protracted conflicts that often involve highly sensitive historical, social or ethnic issues that must be handled delicately. It is therefore, essential that the OSCE be well-informed in its operations in eastern Ukraine, employing staff that understand the conflict and are qualified to deal with it. This requirement, argues Rok Zupančič, is currently not being fulfilled, with the political scientist concluding that the organization primarily lacks 'qualified personnel for certain conflict-areas'.[166] This conclusion directly challenges the suitability of the SMM to operate in the Ukrainian Conflict zone, suggesting that the mission and the organization behind it are ill-equipped for dealing with such a complex and unique conflict.

A second challenge for the OSCE in Ukraine is the various parties it must deal with. Remler asserts that at present, many of these parties, including both the Ukrainian and Russian governments, as well as unionist and separatist forces, suffer from 'protracted conflict syndrome'.[167] This syndrome is characterised by the belief that there will be no foreseeable resolution to the conflict in the near-future. Consequently, negotiations are now almost never viewed as investments in a solution by either side, but instead only represent 'an opportunity to score cheap political points, appear strong and nationalist to the audience at home, and appeal to foreign patrons and supporters'.[168] As a result, negotiations have become less effective as a conflict resolution tool. This creates severe problems for mediatory parties such as the OSCE, which despite its efforts, may find mediation and negotiation meetings entirely useless in forming solutions. The organization cannot change the will of these actors, but only encourage it through rhetoric and dialogue. However, in the context of this specific conflict, that may prove almost impossible, given that both sides hold extreme nationalistic ideals and view the conflict in a highly emotive way.

Overall, the nature of the Ukrainian Conflict as that of a protracted conflict helps explicate why the Organization for Security and Co-operation in Europe might not be succeeding in its mandate in the region. The organization lacks the resources and qualifications to deal with such a complex conflict. Furthermore, whilst it does have experience in dealing with frozen conflicts, an analysis of the organization's performance in such situations suggests that the OSCE is unsuitable in operating in such environments.

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[165] Ackermann, 'Strengthening the OSCE's capacities in conflict prevention', p. 14.
[166] Zupančič, Rok, 'Modern "Don-Quixotism" or an Emerging Norm of International Relations?: Prevention of Armed Conflicts in the European Union and the Organization for Security and Co-operation in Europe', *Romanian Journal of Political Sciences,* Vol.1, (2010), pp. 71-94, p. 88.
[167] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 96.
[168] *Ibid.*

12.5 Conclusion

This chapter has highlighted several key characteristics of the Conflict in Ukraine. Though not always unique to this specific conflict, these characteristics are important. Annexation, disinformation and restrictions to freedom of movement, as well as this conflict's classifications as both a hybrid and frozen, all represent challenges for the organization. Until now, the OSCE has not been able to overcome these challenges and there is little evidence to suggest that this will change in the future. The various characteristics of the Conflict in Ukraine have been used to highlight that the organization is unsuitable and ineffective for conflict resolution in this region.

The OSCEs ability to carry out its mandate is hindered in many ways. Firstly, the limits and inflexibility of the organization and its mandate has prevented it from being able to adapt to highly specific and unique challenges featured in Ukraine. Secondly, it is hindered by political and physical realities of the conflict that directly or indirectly prevent the mission from carrying out its duties. Thirdly, the organization lacks the expertise, qualifications and authority to produce real and sustainable progress in the region. In conclusion, it can be seen that the Conflict in Ukraine is characterised by too many problematic features that the OSCE cannot tackle or overcome, and can therefore not be resolved by this particular organization.

13
The Nature of the OSCE

Many features of the Organization for Security and Co-Operation in Europe make it exceptional. Indeed, whilst it shares some characteristics with other international organizations such as the United Nations and the Association of Southeast Asian Nations (ASEAN), the OSCE can be viewed as unique in its organizational structure, partnerships and overall approach to security. For this reason, a comparison to other international security organizations across the world would be an inappropriate and ineffective way of analysing the organizations performance in Ukraine.

Instead, this chapter will identify a number of key characteristics of the OSCE that can be used to argue that it is an unsuitable organization for conflict resolution operations in Ukraine. Specifically, the chapter will analyse three key characteristics of the OSCE; firstly, the strategies adopted by the organization, secondly, the organizations structure, bureaucracy and founding principles laid out in the Helsinki *Acquis*, and thirdly, the relationship that the OSCE has with Russia, a key player of the conflict. Through this detailed examination, many of the Special Monitoring Mission's failings in Ukraine can be explained. Indeed, a closer analysis of the organization is an absolute requirement in order to develop a deeper understanding of why the OSCE has had little positive impact on the Ukrainian Conflict since 2014.

13.1 OSCE Security Strategies

13.1.1 A Soft Security Organization in a Hard Security Environment

Over the past 20 years, the OSCE has specialised and focussed increasingly on its 'human dimension'.[169] This dimension concerns itself primarily with human rights issues that might impact on a nation's, people's or individual's security indirectly, but cannot be regarded as 'securitized' and do not have a military element.[170] Such issues include the rule of law, democratization, ethnic minority rights, migration, human trafficking and gender equality. Overall, the OSCE claims that it's 'human dimension' looks 'beyond traditional military security, disarmament and border issues.[171] In many

[169] Nolan, Cathal J., 'The OSCE: Non-military Dimensions of Cooperative Security in Europe', in Hodge, Carl C. (ed), *Redefining European Security,* (New York, Garland Publishing, 1999), pp. 299-323, p. 302.

[170] The difference between securitized and non-securitized issues is defined in Chapter 2 of 'Security Analysis: Conceptual Apparatus', Buzan, Barry, Waever, Ole, de Wilde, Jaap, *Security: A New Framework for Analysis*, (Boulder, Lynne Rienner Publishers, 1998), pp. 21-47.

[171] What is the human dimension?, *OSCE*, http://www.osce.org/odihr/what-is-the-human-dimension (accessed 8 May 2017).

ways, focussing on this type of security has been a niche for the OSCE, and has helped it to maintain relevance in a time where organizations such as the EU, NATO and UN wield far greater power. The OSCE can be regarded as an expert and specialist on human security issues with its work helping to solidify peace and security in Europe, even if this work is often carried out in the background.[172]

Yet, whilst the OSCEs soft-security activities in the 'human dimension' could be seen as useful for long-term stability in Europe, it is difficult to understand how they could be relevant when employed in the context of the Ukrainian Conflict, an active war within a highly militarised environment. Here, it can be argued, a more direct and hard-security strategy should be utilised. Of course, human rights issues continue to be significant problem in Ukraine. However, at present, these abuses are being superseded by the War in Donbass, a very direct, military security threat that cannot be ignored. In the short-term, such a threat will not be resolved through soft-security initiatives, which are generally enacted over longer periods of time. Although some might argue that the Special Monitoring Mission to Ukraine was established to tackle issues in the 'politico-military dimension', the mission's operations are still largely 'soft' in method and do not have any significant impact on the level of violence occurring. Overall, it can be argued that the organization and its missions serve some use in conflict prevention and post-conflict reconstruction, but are not suitable within a live conflict situation such as the War in Donbass. This sentiment has been expressed often enough by many critics of the OSCE and is further supported when examining the organizations activities in Ukraine over the past three years.

13.1.2 Mediation

One of the key ways in which the Special Monitoring Mission attempts to deescalate tensions in Ukraine is through the 'facilitation of dialogue' between all parties of the conflict. The OSCE has a seat at the negotiating table, acting as one of a number of mediators. During the negotiation process that led to the Minsk Protocol signed in 2014, this mediatory role was carried out by OSCE representative Heidi Tagliavini. Given the

[172] Despite this assertion, many critics would argue that even in the 'human dimension', the OSCEs impact is limited. In Ukraine, for example, such soft-security activities have been carried out for decades, but their effectiveness in providing peace and stability in this particular country is certainly questionable. Since 1994, the OSCE has had a presence in Ukraine, until 1999 in the form of its Mission to Ukraine and since then in the form of the Project Co-ordinator in Ukraine. In addition, the High Commissioner on National Minorities has also carried out work in the region. These presences have been largely focussed on activities in the 'human dimension', including promoting the rule of law, democratization, gender equality, media freedom and good policing. Despite working in the country for 20 years however, the OSCE had little impact on securing long-term peace and stability. Ukraine remained unstable with deep social and cultural tensions that ultimately built to a stage of war in 2014. In other countries too, critics argue that the organization, though encouraging in its promotion of human rights issues, has little real influence.

organizations elevated position in negotiations, it is prudent to analyse whether such mediation is effective. In doing so, it can be seen that the nature and various characteristics that define the OSCE have been a hindrance to Special Monitoring Mission's role as mediator in the conflict, ultimately limiting its effectiveness. These various limiting factors are listed below.

Stature

In his work on conflict mediation, Kydd suggests that the more credible third-party intervention is, the more effective it will be in resolving issues.[173] Although the OSCE is a credible organization with a long history, it is not well known. Global-political organizations such as the United Nations and European Union are certainly more renowned, and their decisions carry more political and legal weight. It can be argued that the OSCEs lack of stature negatively affects its credibility. This in turn means that actors involved in the conflict and negotiations are less likely to be influenced by the organization's mediatory efforts.

Such an assertion is perhaps best supported by examining the Minsk II agreement. Despite the adoption of the Minsk Protocol in September 2014, fighting continued in eastern Ukraine. At this point, a new package of measures was drawn up. However, unlike the original Minsk Protocol, which was influenced significantly by OSCE input, Minsk II was drawn up by French President François Hollande and German Chancellor Angela Merkel. It was signed on 11 February 2015 at a summit that involved international leaders from France, Germany, Russia and Ukraine. Unlike the negotiations that led to the original Minsk Protocol however, the OSCE played a much smaller role in Minsk II.[174] Although Minsk II also failed, the direct intervention by the political leaders known as the 'Normandy Four' in drafting and signing it, suggests that the OSCEs role as mediator was not viewed as successful during the initial negotiations for the first Minsk Protocol. This is further supported by the organizations limited involvement in mediating the Minsk II agreement. Overall, it can be seen that the OSCEs lack of stature within the international community has hindered its ability to develop and ensure a lasting-peace agreement between government and separatist forces in Ukraine.

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[173] Kydd, 'Rationalist Approaches to Conflict Prevention and Resolution', p. 108-9.

[174] Bentzen, Naja, 'Briefing: Ukraine and the Minsk II agreement: On a frozen path to peace?', January 2016, *European Parliamentary Research Service*, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573951/EPRS_BRI(2016)573951_EN.pdf (accessed 10 April 2017).

Bias

The OSCE is a peace-promoting organization with a focus on impartiality. Although, Chapter 9 highlighted the SMMs failures in remaining impartial in Ukraine, it can be seen that the organization as a whole still strives to create peace in Ukraine, whilst also attempting to remaining neutral. This, however, might not be the most effective way of securing peace between actors involved in conflict. 'For Smith & Stam, a mediator is biased toward peace if it prefers peace to war but has no preferences over the issue in dispute, and biased toward a player if it prefers one side's favourite issue resolution but does not care about the cost of war. A mediator that is biased toward peace according to Smith & Stam is unbiased…both find such a mediator ineffective'.[175] Sayun too, found that, 'biased mediators with high information were more likely to be successful than less biased and less informed mediators'.[176] Although the OSCE is well-informed, Sayun's hypothesis would suggest that its mandate to remain impartial has weakened its position as a mediator in the Ukrainian Conflict.

Kydd's own analysis can be used to support this assertion. He argues that good mediation requires each side to believe that the mediator has their best interests at heart and is in fact bias towards them.[177] This will encourage them to believe what the mediator is telling them, building trust and helping inspire confidence in the mediator to bring about the best deal. Given that the OSCE is open about its neutrality and strives to ensure it, actors are unlikely to believe that the organization has their best interests at heart, and are therefore less likely to respect or trust the OSCE. Once again, this weakens the organizations effectiveness and credibility as a mediator. Ultimately, although there are certainly benefits to remaining impartial when operating in a conflict environment, this particular quality may not be beneficial during mediation.

Material Incentives

Kydd highlights that the use of material incentives can often be an effective tool for conflict resolution. Such incentives have been used in other conflicts throughout history to stimulate peace agreements. The Organization for Security and Co-operation can offer no such incentives. Indeed, it is far weaker than most states, with limited resources that's uses must be agreed upon by all member states beforehand. Although the effectiveness of using material incentives in this particular conflict is unknown, the OSCE has no option to investigate this further, given its limited resources.

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[175] Kydd, 'Rationalist Approaches to Conflict Prevention and Resolution', p. 115.
[176] *Ibid.*
[177] Kydd, Andrew H., 'Which Side Are You On? Bias, Credibility and Mediation', *American Journal of Political Science*, Vol. 47, 4 (2003), pp. 597-611, p. 597.

Overall, it can be seen that although mediation can be an effective tool for bringing about a resolution to conflicts, the OSCE and its Special Monitoring Mission cannot supply such mediation. This is due to the organization's nature. To begin with, it does not have the stature or political power required to affect real change between actors. Furthermore, the fundamental principle of impartiality with which the OSCE attempts to abide by, is an unhelpful characteristic to have with regards to resolution and can be counter-productive in conflict mediation situations. Finally, the effectiveness of mediation is often benefitted significantly by offering material incentives, of which the OSCE has none. As Cathal J. Nolan notes, the OSCE 'is most effective not when it tries to insert itself directly as a mediator into ongoing conflicts'.[178]

13.1.3 Monitoring

One of the principle methods employed by the SMM in Ukraine is observation and monitoring. As Chapters 8 and 12 explored in detail, there are problems with this strategy. Not only is the effectiveness of monitoring highly questionable but also, in specifically examining the SMMs own observation activities, it has been highlighted that the mission has faced challenges and limitations that make its work unhelpful to the international community and unlikely to have a positive impact on conflict resolution.[179] Given the prior analysis of the SMMs monitoring activities, further examination is not required. However, considering the centrality of observation and monitoring activities within the SMMs strategy in Ukraine, issues related to such activities should be briefly addressed again.

Monitoring, as a means of encouraging conflict de-escalation or resolution has had limited effectiveness in past conflicts. Although, observation activities can often aid in preventing conflict, once conflict has begun, they provide little value. This argument is supported by assessing the impact of the SMMs own observation and monitoring activities in Ukraine since 2014. Here, it can be concluded, the mission's fact-finding and reports have done little to reduce tensions between Ukrainian and separatist forces. Furthermore, such monitoring has not proven to be of use to the OSCEs member states and wider international community. Indeed, such actors have the resources to determine for themselves, what is happening in the conflict. For these reasons, as well as others provided in previous chapters, it can be seen that monitoring activities are not effective or suitable within the context of the Conflict in Ukraine. Therefore, it can be concluded that the OSCE, whose strategy monitoring is, is not a suitable organization to be working in the Donbass region at present.

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[178] Nolan, 'The OSCE: Non-military Dimensions of Cooperative Security in Europe', p. 318.

[179] For a more detailed analysis of the various issues and problems with the Special Monitoring Mission's observation operations, refer to Part III.

13.2 Organizational Mechanisms, Principles and Procedures and the Helsinki *Acquis*

As the largest global-politico security organization in the world, the OSCE has important principles, which it protects, promotes and implements through a strict series of mechanisms and procedures. These mechanisms and procedures govern the way the organization works and help to define it. However, whilst the mechanisms, principles and procedures are in place to help guide and assist the organization in doing its work, they are also often restrictive. Such rules have often limited the OSCEs ability to act on security issues or limited its effectiveness in areas it has been allowed to operate. This has certainly been the case in Ukraine with the Special Monitoring Mission. Here, restrictions have already been explored to a certain extent in previous chapters, where the guidelines the SMM has had to adhere to have limited its effectiveness in its activities in Ukraine. This chapter will differ in that it will analyse the mechanisms and procedures that govern the entire Organization for Security and Co-operation in Europe and not just the SMM. It will assess to what extent such mechanisms and procedures have restricted the organizations ability to play an effective role in Ukraine. Furthermore, it will analyse in further detail, the OSCEs relationship with the Helsinki *Acquis* and the problems and contradictions it faces in adhering to the principles laid out in this act.

13.2.1 Consensus-based Decision Making

One of the most important characteristics of the OSCE is its consensus-based decision making. This means that in the majority of cases, a consensus is required by all member states in order to implement policy. This is an important mechanism of the organization, aiming to encourage real dialogue between states. However, it has also restricted the effectiveness of the organization on many occasions. As Zupančič highlights, 'the inaction of the OSCE usually derives from the stalemate in the OSCE permanent council'.[180] This stalemate occurs whenever member states are unable to reach a consensus. This happens often enough, particularly when divisive issues such as the Ukrainian Conflict are discussed. In such situations, resolutions or decisions are often not reached at all, or have been watered down in order to gain the approval of all states, limiting their overall impact. This was the case when the member states agreed to pass Decision No. 1117 establishing the Special Monitoring Mission to Ukraine. Here, as Hopmann highlights, the mission's access, its privileges and its operational authority and abilities were restricted in order gain Russia's approval.[181] If these restrictions were not made, Russia would not have approved Decision No. 1117 and no SMM would

[180] Zupančič, 'Modern "Don-Quixotism" or an Emerging Norm of International Relations', p. 88.
[181] Hopmann, 'The United States and the OSCE', p. 39.

have been formed. Of course, it could be argued that finding a consensus requires compromising and making concessions. Whilst this is certainly true, the limitations such concessions have put on the SMM are clear and have proven to have a negative impact on the effectiveness of the mission in achieving its main aims.

13.2.2 Political Will

Given its consensus-based decision making system, it can be seen that the OSCE relies heavily on the political will of its member states. This point is made even clearer when it is highlighted that OSCE decisions and resolutions are only politically, and not legally, binding. This has severe consequences for the organization. It means that even if consensuses are reached by member states, the OSCE cannot compel or enforce actors to follow through with decisions, as it has no legal right or authority to do so. An example of the problems this can cause is evidenced by looking at the Russian interpretative statement attached to Decision No. 1117. Here, the decision clearly states that 'the Special Monitoring Mission members will have safe and secure access throughout Ukraine to fulfil their mandate'.[182] Despite being agreed upon by all member states, Russia immediately released an interpretative statement that redefined what they viewed as 'Ukraine'. Since then, it has worked alongside separatists to limit the SMMs access to parts of eastern Ukraine and the entire Crimean Peninsula.

Russia's lack of political will to follow through with Decision No. 1117 in its entirety has been met with only rhetorical resistance from the OSCE. It does not have the legal tools to enforce its right to access all of Ukraine. This is problematic and highlights the fact that, as German Minister of Foreign Affairs, Hans-Dieter Genscher claimed at the 30th Anniversary of the Helsinki Final Act, 'the OSCE cannot be better than its members want it to be'.[183] Indeed, as Zagorski observes, 'the record of practicing Cooperative Security within the OSCE is at best ambiguous. It is far below the expectations of the early 1990s when, after the adoption of the Charter of Paris for a New Europe, there was a widespread illusion that the Organization could soon become a community of values'.[184] This highlights that, whilst the organization can always strive to encourage peace, stability and co-operation through dialogue, the extent to which this is carried out by member states is entirely in the latter's hands. Ultimately, 'the major obstacle for more effective prevention is the lack of political will, and not the lack of capacities/resources'.[185] In Ukraine, viewpoints are so entrenched that OSCE

[182] Decision 7, Decision No. 1117.
[183] Fouéré, Erwan, 'Ukraine and Security Disorder in Europe – A Defining Moment for the OSCE?', 24 April 2014, *CEPS Commentary*.
[184] Zakorski, 'The OSCE and Cooperative Security', p. 62.
[185] Zupančič, 'Modern "Don-Quixotism" or an Emerging Norm of International Relations', p. 71.

rhetoric alone will not be able to change the will power of all member states. It should, therefore, reconsider its value in working in the conflict.

13.2.3 The Helsinki Acquis

The Helsinki Final Act and the principles it laid down helped to define what the OSCE became in the decades after. However, this act has also created problems for the organization. Whilst it must strive to adhere to the principles laid out in the *acquis*, the OSCE must also face political realities that sometimes contradict these principles. At no point has this been more evident than during the negotiations that led to the Minsk II agreement. On this issue, political scientist Arie Bloed provides important insights;

'The Minsk-2 agreement contains provisions which go way beyond an armistice and which basically undermine the constitutional order of Ukraine. For instance, the agreement obliges Ukraine to negotiate with the rebels about the conditions for elections to be held in the Donbas region which implicitly recognizes the Luhansk and Donetsk rebel leaders and which put a restraint on the Ukrainian electoral system. This is not in line with the Helsinki principles which guarantee that all OSCE states have the right to determine their own laws and regulations and to freely determine their own political systems (principle I). Also, the clause that obliges Ukraine to renegotiate its association agreement with the EU with the Russians sitting at the same negotiation table is in contrast with the Helsinki principles which state that all OSCE states, 'have the right to belong or not to belong to international organizations, to be or not to be a party to bilateral or multilateral treaties including the right to be or not to be a party to treaties of alliance" (principle I). Last but not least the clauses which oblige Ukraine to take responsibility for the reconstruction of the war-torn areas in the southeast saddle the country with not only unjustified, but also insurmountable financial burdens'.[186]

Naturally, the OSCE was in support of Minsk II, given that its aim was to bring peace and stability to Ukraine. Yet, as Bloed has successfully highlighted, Minsk II was written in contradiction of some of the most basic Helsinki principles. By supporting measures that ignore the principles it is trying to promote, the OSCE weakens the Helsinki Final Act and the principles that it represents. This in turn, weakens the organization itself, given that it is supposed to be the primary guardian and promoter of the Helsinki *Acquis*. The organization is responsible for setting an example to member states. Yet, clearly, it has not always done this in Ukraine.

13.3 Russia and the OSCE

'Since the break-up of the Soviet Union, the OSCE has been struggling with the problem of how to intervene constructively in trouble-spots within Russia's self-

[186] Bloed, 'OSCE Principles: Which Principles?', p. 219.

appointed sphere of influence. Conflict response in the former Soviet Union is in fact one of the greatest ongoing challenges for the organization'.[187] Although conflict only arose in 2014, tensions between Russia, Ukraine and the EU have been ongoing since the break-up of the Soviet Union. The OSCE has often had to temper Russian frustrations through its promotion of dialogue, but such a measure has frequently been inadequate. Blank notes that, 'the military and the intelligence services (of Russia), which appear to dominate policymaking on regional relations within the Russian Federation and inter-state relations in the 'near abroad', apparently aim at reunification of Soviet borders, using force and political pressure to do so'.[188] If this assertion is correct, then it presents a problem for the OSCE, an organization that attempts to protect the inviolability of borders. Certainly, there is much evidence to suggest that this is the case, when looking at various conflicts Russia has been involved in over the past two decades, including the War in Donbass. Here, Remler argues, 'Russia's main objective appears not only to be keeping Ukraine out of NATO and the European Union, but also, under the code of 'federalization', keeping Ukraine subject to heavy Russian influence in its internal decision-making'.[189]

Despite these views, there are those that argue that Russia has an alternative agenda. For instance, whilst it has largely been portrayed as the belligerent and aggressive nation in Ukraine, scholars such as Paul Paul Robinson and Hall Gardner argue that, 'Russia has been reacting to, rather than initiating events in Ukraine', and that it actually 'does not pose a serious threat to European security'.[190] They suggest that 'the typical portrayal of a "democratic" pro-European Ukraine fighting an authoritarian Russia is deeply flawed. Ukrainian society faces endemic problems that need to be addressed, not least corruption and oligarchic control of resources and even entire regions'.[191]

Overall, Russia's presence in this conflict is complex, not least because its objectives are unclear. The Organization for Security and Co-operation in Europe has had to handle Russia carefully. It does not want to lose Russia as a member state, a situation that could put the entire organization's existence in jeopardy. On the other hand, the OSCE must continue to defend its principles even when Russian actions fail to adhere to them. This careful balancing act has been troubling for the OSCE and indeed, has led to accusations on both sides; on the first, that the OSCE helped Russia

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[187] Blank, 'Russia, the OSCE, and Security in the Caucasus', p. 65.
[188] *Ibid.,* pp. 73-4.
[189] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 93.
[190] Petro, 'Ukraine in Crisis', p. 422. For a more in-depth understanding of this argument, read Gardner, Hall, 'The Russian annexation of Crimea: regional and global ramifications*, European Politics and Society*, Vol. 17, 4, (2016), pp. 490-505 & Robinson, Paul, 'Russia's role in the war in Donbass, and the threat to European security', *European Politics and Society*, Vol. 17, 4, (2016), pp. 506-521.
[191] Petro, 'Ukraine in Crisis', p. 423.

in its own aims, on the second, that the OSCE has hindered Russia. This chapter will explore these differing narratives, analysing which have merit and whether this in-turn, has had a negative impact on the effectiveness of the OSCE and its overall suitability in working in Ukraine.

13.3.1 Helping Russia

In Chapter 9, issues of bias within the Special Monitoring Mission itself were explored. However, these accusations of bias do not stop with the SMM only, but are often directed at the OSCE more broadly. Such observations have some justification.

Decision No. 1117 states that one of the SMM's aims is to support 'the implementation of all OSCE principles and commitments'.[192] Yet one of the organization's member states, the Russian Federation, is already in clear violation of some of these principles, including the inviolability of borders. As Bloed highlights, 'it is obvious to almost all independent observers that Moscow is deeply involved in the warmongering in Ukraine'.[193] How can an international security organization such as the OSCE perform effective and impartial conflict resolution activities when one of its own member states is directly contributing militarily to the continuation of war in the region, and is at least partially responsible for beginning this conflict in the first place? One can argue that the organization cannot, and that at the most basic level, the Special Monitoring Mission to Ukraine's aims are at odds with some of the aims of its very own founders and financiers. The contradictions at play between the OSCEs work and the actions of Russia in Ukraine are perhaps best represented by examining Russia's interpretative statement, which was attached to Decision No. 1117 and has already received analysis in this paper.[194] However, there are other documents and viewpoints that also highlight such contradictions.

Remler highlights, 'the fact that one powerful participating State of the Organization for Security and Co-operation in Europe has annexed part of the territory of a neighbouring OSCE partner State in obvious violation of key principles of the OSCE raises the question whether these OSCE principles, dating back to the Helsinki Final Act of 1975, are still having any relevance'.[195] Certainly, the Helsinki *Acquis* and the principles it lays out have been damaged by the ongoing conflict in Ukraine and its validity within the context of modern Europe has been questioned by more than one state. Given the fact that the OSCE has been referred to as 'a child of Helsinki', this

[192] Section 2, Decision No. 1117.
[193] Bloed, 'OSCE Principles: Which Principles?', p. 212.
[194] Attachment 4, Decision No. 1117.
[195] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 91.

damage has also spread to the organization itself.[196] It cannot function properly when its 'rule book' is no longer taken seriously by one or more of its member states. If one state can act in clear violation of the OSCE's guiding principles with relative impunity, 'the very basis of the whole Eurasian security structure is undermined'. [197] The organization is largely a victim in this situation and cannot always affect the actions of its member states. Indeed, 'the OSCE alone could hardly avert hostilities, if one of the parties is too determined to 'resolve' the conflict violently', as has been the case in Ukraine.[198] Nevertheless, it should be noted that in recent years there has been a 'much less strict interpretation of the non-intervention principle within the OSCE'.[199] Such a change in attitude within the organization could be seen as counter-intuitive given that it has led to an overlooking of Russia's actions in eastern Ukraine.

The OSCE has also faced challenges involving Russia in its mediation attempts. As was already explored in Chapter 13, the OSCE has attempted to remain unbiased in its mediation attempts. However, such an approach could become highly questionable when looking at Russia's role in Ukraine. Here, the country has clearly acted illegally, in violation of many international laws and the OSCEs own guiding principles. How can the organization remain unbiased knowing this information? And if it does, can it actually be argued that such an approach is pro-Russian, given that the organization is deliberately overlooking Russia's wrongdoings and past crimes? Here, the OSCE's attempts to remain unbiased and impartial might actually be construed as naïve, with the organization failing to accept the complex dynamics at play in the Ukrainian Conflict, and instead opting for an approach that oversimplifies the situation and attempts to create a blank page through which to work with all parties.

Finally, it has been argued that Russia has deliberately used organizations such as the OSCE since the fall of the Soviet Union in the 1990s to help achieve its own agenda. Indeed, Blank claims that, 'since 1990 Soviet and now Russian policy in Europe has stressed entry into key European military-political security organizations, perhaps in part to inhibit such agencies from acting against Russia'.[200] This has certainly been an effective strategy in Ukraine, where Russian influence in the OSCE has enabled it to curb the powers of the SMM and reduce the influence of an OSCE presence in the region significantly.[201] Russia's strategy in this regard is problematic given that, 'Russia's policy and efforts to minimize European intervention in what it considers its own affairs

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[196] *Ibid.*, p. 105.
[197] Bloed, 'OSCE Principles: Which Principles?', p. 212.
[198] Zupančič, 'Modern "Don-Quixotism" or an Emerging Norm of International Relations', p. 88.
[199] Bloed, 'OSCE Principles: Which Principles?', p. 216
[200] Blank, 'Russia, the OSCE, and Security in the Caucasus', p. 75.
[201] See Part IV, Chapter 13.2, Organizational Mechanisms, Principles and Procedures and the Helsinki Acquis.

or to manipulate the OSCE on its behalf, directly contradict Russia's programme for European security'.[202] As a member state, Russia has used its position to take advantage of the consensus-based decision making mechanism in place in the organization, and prevent the OSCE and other member states from acting in a greater capacity in Ukraine.[203] Considering this, it can be argued that the OSCE is no longer a neutral forum for dialogue and is not a reliable vehicle for resolution to the Ukrainian Conflict. Russian actions in recent years have tainted the organization's reputation and ruined its capacity to act in a meaningful way in Ukraine.

Overall, 'all these phenomena taken together raise serious questions about the viability of the OSCE and the general European conflict resolution process'.[204] The ways in which the organization has helped, or been used, to help Russian objectives in Ukraine is concerning and ultimately highlight the OSCE's counter-productive nature in helping to find a resolution to this particular conflict.

13.3.2 Hindering Russia

Whilst the above argument suggests that the OSCE has treated Russia favourably and that Russia has used the organization to advance its own political aims in the past, there is an alternative narrative. This narrative is pushed mainly be the Russian Federation, and suggests that the Organization for Security and Co-operation in Europe and the Helsinki *Acquis* are devices used by the West to reduce Russia's influence on the continent. As Remler notes, 'voices are increasingly heard that the democratic values embodied in documents, such as the Universal Declaration of Human Rights and the Helsinki Final Act, are not, in fact, universal, but are part of a system that imposes Western values on the rest of world in order to subjugate it or otherwise stack the international deck in favour of Western powers'.[205] Indeed, Russia believes fully that 'the Helsinki Final Act recognized the borders of Eastern and Western spheres of influence, that the West violated the "Helsinki consensus" after the dissolution of the Soviet Union by extending its sphere of influence through NATO and EU expansion, and that the United States and EU engineered a coup to wrest Ukraine out of Russia's rightful sphere of interest'.[206]

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[202] Blank, 'Russia, the OSCE, and Security in the Caucasus', p. 66.
[203] It should, of course, be noted that all OSCE member states have their own agenda's and priorities. Many have also used the mechanisms in place within the organization to help achieve their aims in the past. This is not unique. However, in the specific context of the Conflict in Ukraine, Russia has been the single most disruptive presence in the Permanent Council and so its actions have received greater focus here.
[204] Blank, 'Russia, the OSCE, and Security in the Caucasus', p. 74.
[205] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 96-7.
[206] *Ibid.,* p. 93.

Belief in this narrative has had several consequences. Firstly, Russia has come to mistrust the OSCE entirely, arguing instead 'that the OSCE has failed to become a forum where their concerns are discussed, security interests heard and acted upon'.[207] The organization has been 'weakened' in recent years by these repeated criticisms from Russia, 'which claims that the West is being selective in its approach and focusses too much on human rights issues at the expense of the other dimensions of the OSCE's comprehensive approach to security'.[208] Indeed, in 2008 the 'Council of the Foreign Affairs Committee of the Federation Council, Russia's Upper House of Parliament, said the OSCE had turned into Russia's major foe'.[209] Secondly, Russia has begun to take a more unilateral approach to conflict resolution and security issues, side-lining the OSCE and other mediators in favour of employing its own methods. Although Russia has not openly rejected the OSCE outright as a forum for dialogue, Russia has fought the OSCEs conflict resolution efforts on many cases, both in the Permanent Council, and on the ground in Ukraine where Russian-supported separatist forces frequently challenge and reject the SMMs right to access and monitor. It has increasingly ignored another of the OSCE's key principles, that of multilateralism and cooperative security. The 'fortress mentality' that Russia has built, in which it sees the OSCE and other actors involved in Ukraine as threats, has directly challenged the legitimacy of the organization, and has ultimately made it less relevant.[210]

13.3.3 Conclusion

It is not necessarily important which of these narratives is true. It is entirely possible that they both are to an extent. Perhaps the OSCE is both helping and hindering Russia in different ways through its tri-lateral relationship with this country and the Ukrainian Conflict. What is important is that both of these narratives exist, and are accepted by different international actors. Whilst some argue that the OSCE has assisted Russia, unwittingly or not, in its efforts in Ukraine, others view the OSCE as a hindrance to Russian aims. In both cases, the OSCE is receiving weighted criticism. This criticism, which it has done little to repel in the past four years, directly challenges the authority of the OSCE, causing it to be viewed by many actors on both sides of the Conflict in Ukraine as an irrelevant organization which is perhaps helping rather than hindering the opposition. Here, it can be concluded that whatever the OSCE's relationship with Russia, it is a relationship that is troubling and one that makes the organization entirely unsuitable to operate in Ukraine.

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[207] Zakorski, 'The OSCE and Cooperative Security', p. 62.
[208] Fouéré, 'Ukraine and Security Disorder in Europe', p. 2.
[209] Tamara Zamyatina, 'OSCE systemic crisis caused by political bias, orientation towards US', 11 December 2015, *TASS*, http://tass.com/opinions/843435 (accessed 10 August 2017).
[210] Remler, 'Ukraine, Protracted Conflicts and the OSCE', p. 103.

Part V
Conclusions

14
Conclusion

Over the course of almost four years now, the Special Monitoring Mission to Ukraine has attempted to make a positive difference in Ukraine through its various operations. In this time, it has received logistic, political and financial support from the Organization for Security and Co-operation in Europe and its member states. Indeed, it can be argued that the SMM and its activities have been a priority and focus for the OSCE since 2014. The mission itself has been active in its operations in the region, as has been evidenced through the publishing of their daily and spot reports. Yet despite this, the Special Monitoring Mission to Ukraine has had little impact on conflict resolution and the fostering of peace, stability and security in the country. This analysis has provided two overarching reasons why this is the case. Firstly, the SMM has failed to adhere to its mandated activities. Secondly, and far more importantly, the SMM and the organization it is operated by, the OSCE, are unsuitable bodies for the fostering of peace in the specific context of the Ukrainian Conflict.

Looking at the first reason for failure, Part III provided a deep examination of several key ways in which the Special Monitoring Mission is failing to achieve its mandate. In its observation and monitoring activities, the SMM provides detailed and regular reports of incidents and events occurring in eastern Ukraine. However, these reports provide only a small picture of the conflict zone, and so their usefulness is limited in assisting nations and other actors to make well-informed decisions. The mission's failure to confirm the identity of ceasefire violators and key players within the conflict also directly limits its worth to mediators of the conflict.

Though the SMM and its monitors are mandated to maintain impartiality at all times, there have been several worrying cases that prove this has not always been adhered to. This has jeopardised the OSCE's image as an unbiased mediator in conflicts, negatively impacting on its trustworthiness. Incidents of bias within the SMM have ruined the relevance of the information it provides, since actors on both sides of the conflict now question the impartiality of the mission's monitors.

The Special Monitoring Mission has also put its monitors at risk by continuing its activities in Ukraine. These risks have been evidenced many times, including through the death of a monitor, and several hostage situations involving monitors. Though these incidents might not directly impact on the aim of conflict resolution in Ukraine, they highlight the organization's unwillingness to adapt to ensure the safety of its employees. Despite the fact that Decision 7 of Decision No. 1117, concerning staff safety, is not being achieved, the OSCE has barely reacted to this, continuing to condemn violence

against its monitors with words, but not effective policy. Its judgment must therefore be questioned. Finally, the failure of the Special Monitoring Mission to achieve its primary mandated objective of securing peace and stability in Ukraine highlights the ineffectiveness of the mission as a whole. The OSCE may have fostered these ideals, encouraging them whenever possible, but this has ultimately had little impact on the situation in the conflict zone. It can therefore be argued that the mission has thus far failed to achieve the results that were expected of it.

The second reason for the overall ineffectiveness of the Special Monitoring Mission to Ukraine is far more important. Indeed, a detailed analysis of this reason, such as the one carried out in Part IV, helps to explain why the SMM has been unable to achieve many of the mandated activities and aims that were set forth in Part III. After it had been made clear just how the SMM is failing to adhere to its mandate, such an analysis has been able to establish just why this is the case.

It can be seen that the nature of both the Ukrainian Conflict and the Organization for Security and Co-operation in Europe make them incompatible. What is meant by this is that, whilst various characteristics of the conflict make it largely immune to conflict resolution activities carried out by an organization such as the OSCE, the nature of this organization also makes it unsuitable to be working within such an environment. This lack of suitability has been evidenced over the past three years in Ukraine, where the OSCE has been unable to impact positively, to a greater, or even lesser, extent on the resolution of the conflict. There are several key reasons for this.

Firstly, the Conflict in Ukraine has several problematic characteristics that the OSCE is not able to eradicate. For example, the conflict is host to continuous disinformation that is spread widely on both sides. This propaganda is detrimental to negotiation attempts and reduces the possibility of a peaceful resolution. The OSCE has attempted to tackle this issue through its fact-finding and monitoring efforts. However, many academics question the effectiveness of such techniques in helping to achieve conflict de-escalation, with some even suggesting that reporting such information can hinder, rather than help, conflict negotiations. In addition, the fact that the War in Donbass can now be viewed as a protracted conflict is problematic for the OSCE, which has been unable to effectively resolve past protracted conflicts it has been involved in.

Secondly, the restrictions on freedom of access within eastern Ukraine have directly hindered the ability of the SMM to carry out its mandated activities. Despite calls from the OSCE and various member states to allow complete access to all areas of the conflict zone, little has changed and monitors continue to be prevented from

entering certain regions. Furthermore, their monitoring equipment has often been destroyed or removed, further hindering its ability to monitor the situation. Such restrictions prevent the mission from providing complete and satisfactory information to OSCE member states and the public, making the information they do provide, far less useful. Since such restrictions are unlikely to end in the future, the SMM will continue to provide incomplete information. Its presence and usefulness in the region can therefore be questioned.

Thirdly, this analysis has shown that the OSCE can be characterised as relatively inflexible organization. This inflexibility is in part due to the stringent measures, procedures and general bureaucracy through which the organization functions. For example, as a consensus-based decision-making organization, the OSCEs ability to react effectively to issues in Ukraine has been limited by certain member states. The SMMs mandated activities and its own powers were reduced in order to gain Russia's approval, yet in doing so, the missions effectiveness was also compromised.

This problem leads directly onto a fourth issue, the OSCEs relationship with Russia. This is particularly problematic and highlights clearly why the organization is unsuitable for working in Ukraine. The OSCE has been accused of being both bias in favour of and bias against Russia. The former accusers highlight the presence of Russian monitors within the mission as well as the influence Russia has in Permanent Council decisions, arguing that the organization is deliberately ignoring Russia's clear role in the conflict and the problems of impartiality that might arise within the mission because of this. Those that argue the OSCE is only acting within the boundaries of its own protocols and cannot do anything but accept a Russian presence within the mission only succeed in highlighting the inflexibility of the organization. The latter accusers claim that the OSCE is an instrument for strengthening Western values and agendas. In both cases, a deep mistrust in the Organization for Security and Co-operation in Europe's ability to remain impartial has occurred. This has devalued the organizations impact and weakened its voice significantly on the issue of Ukraine. The organizations influence has been further weakened by Russia's annexation of the Crimea. This event significantly damaged the OSCEs own guiding principles, the Helsinki *Acquis*, as well as its reputation for being a defender of these principles. Here, once again, the organizations inflexibility is evidenced in its inability to take reasonable and effective measures to punish Russia for its actions, reverse these actions entirely, or even establish policies that prevent such actions from occurring again.

Finally, the OSCEs specialisation and value clearly lies in its human dimension and its focus on soft-security initiatives. Whilst such initiatives might have a positive

influence on emerging democracies in the long-term, they are unsuitable for implementation within the context of the Ukrainian Conflict. Here, more hard-security initiatives are required and whilst the organization has attempted to increase its usefulness through its observation and mediation activities in Ukraine, it has ultimately failed to influence events, given that these are not activities which it has demonstrated it can effectively carry out in the past.

In conclusion, the analysis made in this paper has found that the Organization for Security and Co-operation in Europe and its Special Monitoring Mission to Ukraine are failing to have a notable positive impact on the resolution or de-escalation of tensions in eastern Ukraine. The mission has been unable to completely adhere to all sections of its mandate, whilst sections that it has adhered to have had little to no influence on the conflict situation. Of course, there are measures that the organization could take to ensure the SMMs mandate is being carried out in full. Yet, even if such measures were invoked, a notable impact on the situation in Ukraine would be unlikely. This is because the OSCE is inherently unsuitable for involvement in this conflict. Its rigid structure makes it too inflexible to be working within such an environment whilst its strict adherence to procedures and protocols mean that it often overlooks political realities and can be easily weakened if even just one of its member states wills it. The organization is renowned for its work in soft-security, but the Conflict in Ukraine is a heavily militarised event and the OSCEs fostering of open dialogue, peace and stability has largely fallen on deaf ears from combatants that are extremely ideologically driven. Given these many problematic issues, only one conclusion can be drawn. The OSCE should re-examine its role within the Conflict in Ukraine, assess realistically and objectively the value it provides, and consider seriously the notion that this value is not worth the cost and, in all likelihood, never will be.

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Acronyms

ASEAN – Association of Southeast Asian Nations

EU – European Union

IGO – Inter-governmental Organization

OSCE – Organization for Security and Co-operation in Europe

SMM – Special Monitoring Mission to Ukraine

NATO – North Atlantic Treaty Organization

UN – United Nations

US – United States of America

USSR – Union of Soviet Socialist Republics

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Zusammenfassung

Als 2014 die Konflikte in der Ukraine aufkamen, etablierte die Organisation für Sicherheit und Zusammenarbeit in Europa (OSZE) die Sonderbeobachtungsmission in der Ukraine (SMM), mit dem Ziel, Frieden, Sicherheit und Stabilität in der Region zu unterstützen. Außerdem diente die Mission der Observation, dem Monitoring und der Förderung von Dialogen, Aktivitäten, die alle darauf ausgerichtet waren, den Konflikt zu lösen oder zu entschärfen. Trotz einmalig weitreichendem Zugang zu der Konfliktzone und enormen Ressourcen hat die Mission ihre Ziele jedoch verfehlt. Diese Arbeit streicht unter Verwendung zweierlei Analysemethoden heraus, wie und warum dies der Fall ist. Primärquellen wurden verwendet, um festzustellen, inwieweit die SMM an ihrem Mandat in der Ukraine festhält. Hierbei wird festgestellt, dass die SMM in einigen ihrer Mandatsaktivitäten erfolgreich ist, in vielen anderen jedoch nicht. Die zweite Analysemethode beschäftigt sich mit dem Charakter des Konfliktes in der Ukraine und der OSZE, um festzustellen, warum die Mission ihre Ziele verfehlte. Spezielle Charakteristika und Eigenschaften des Konfliktes und der Organisation analysierend, erkennt die Studie, dass die beiden unvereinbare Einheiten sind, wobei die OSZE für Arbeit in der Donbass Region eine ungeeignete und ineffektive Organisation ist. Diese Schlussfolgerung hilft nicht nur, das Versagen der SMM, in ihrem Versuch, den Ukrainekonflikt zu entschärfen und zu lösen, zu erklären, sondern streicht auch umfassendere Kernprobleme der OSZE und ihrer Funktionsmethoden heraus. Diese Probleme stellen nicht nur die Beteiligung der Organisation in der Ukraine, sondern ihre gesamte Relevanz in der europäischen Sicherheit heute, in Frage.