The Special Monitoring Mission to Ukraine in Its Second Year: Ongoing OSCE Conflict Management in Ukraine

Introduction

The Organization for Security and Co-operation in Europe (OSCE) is a soft security organization with almost 25 years’ experience in deploying and running field operations mandated to contribute to preventing, managing, and resolving conflicts and helping the affected societies to rebuild themselves in the aftermath of conflict. While OSCE field operations are usually deployed in the conflict prevention or post-conflict phase, the crisis in Ukraine was not the first time that the OSCE had to mount a field operation during the height of a crisis – the Assistance Group to Chechnya deployed in April 1995, the Kosovo Verification Mission launched in October 1998 based on UN Security Council Resolution 1199, and the expansion of the OSCE Mission to Georgia by 20 additional military observers ten years later are other examples.

However, the scope of the crisis management and the magnitude of the challenges the OSCE is facing in Ukraine are without precedent. This contribution looks into the work of the Special Monitoring Mission to Ukraine (SMM) following the signature of the Minsk Agreements in September 2015, and considers the wider implications for the OSCE.\(^1\)

The Minsk Agreements – New Tasks for the SMM

Meeting in Minsk on 5 September 2014, the Trilateral Contact Group (TCG), which at the time consisted of former Ukrainian President Leonid Kuchma; the Ambassador of the Russian Federation to Ukraine, Mikhail Zurabov; and the Special Representative of the Swiss OSCE Chairperson-in-Office, Ambassador Heidi Tagliavini, agreed on a protocol to facilitate a ceasefire and the launch of a political process to resolve the crisis. The Minsk Protocol was complemented on 19 September by a memorandum providing further guid-
ance on some of the steps agreed in the Protocol. Both documents assigned the OSCE a role in monitoring the ceasefire regime, verifying the withdrawal of artillery systems with calibres over 100 mm from the exclusion zones, and monitoring the Ukraine-Russia state border and the withdrawal of all foreign armed formations, military hardware, militants, and mercenaries from the territory of Ukraine.

The SMM’s key role in monitoring and verifying the ceasefire and the withdrawal of heavy weapons was further emphasized in the “Package of Measures for the Implementation of the Minsk Agreements”, which was adopted on 12 February 2015 following an entire night of negotiations in the “Normandy Format” between Russian President Vladimir Putin, Ukrainian President Petro Poroshenko, French President Francoise Hollande, and German Chancellor Angela Merkel.

With the establishment of four TCG working groups on political, security, humanitarian, and economic issues in May 2015, the SMM was further called upon to chair the security working group.

Thus, since September 2014, the SMM’s primary task has been to act as an international monitoring and verification body for the ceasefire agreement, while also facilitating subsequent ceasefire-related agreements, such as local ceasefires or the extension of categories of weapons to be withdrawn from the front line. While the onus of making the agreements work has remained fully on the sides, the contribution of the OSCE and the SMM through their work of monitoring, verification, and dialogue facilitation has been crucial.

These new tasks required the SMM to reconfigure its staffing, footprint, and capabilities in order to meet the changing operational dynamic. By the end of August 2015, the SMM had grown to 542 Monitors, with 405 of them deployed in Donetsk and Luhansk oblasts, with a further build-up towards 600 monitors ongoing. In accordance with its reworked mandate, the SMM has the option of expanding further up to a ceiling of 1,000 monitors, should the situation so require.

In line with the 12 February Implementation Package, which authorizes the SMM to use all technological means, the Mission is also breaking new ground in the employment of surveillance technology and other technical equipment. By the end of August 2015, the SMM had gained almost a full year’s experience in operating unmanned and unarmed aerial vehicles (UAVs) in a hostile environment, and had been working with satellite imagery for six months. The Mission has also purchased advanced night vision equipment and is preparing the deployment of static cameras to improve its capability to monitor local ceasefires in high risk areas. The SMM operates a fleet of 148 armoured cars, its own high-frequency radio network, and operates medical infrastructure that includes 14 paramedics and eight armoured ambulances. Further planning is underway on integrating add-

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itional sensors, possibly including more UAVs; adjusting the management structure at both headquarters and field level; establishing an information management cell to better integrate information received from ground patrols, UAVs, satellites, and other sensors and sources; and further improving security regulations and structures.

Verification of the Withdrawal of Heavy Weapons

The Minsk Memorandum foresees the withdrawal of artillery systems over 100 mm from the line of contact, defining clear zones of exclusion for specific weapon systems. The 12 February 2015 Implementation Package confirms this requirement, extending it to “heavy weapons” and modifying the respective exclusion zones for artillery systems. The Package also tasks the OSCE with ensuring effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons, using all technical equipment necessary, including satellites, drones, and radar equipment.

To enable the OSCE to fulfil this task, the Chief Monitor requested that both sides provide guarantees of the freedom of movement, safety, and security of SMM monitors as well as relevant data, such as detailed information about the military hardware subject to withdrawal, withdrawal routes, and assembly areas outside the exclusion zones. While the SMM has never received the requested baseline information, it has been given access to a number of holding areas for heavy weapons outside the exclusion zones and has been able to revisit them. In addition, the SMM has been patrolling the conflict zone with ground patrols and has used UAVs and satellite-based information to detect heavy weapons inside the zones. SMM staff have been provided with targeted training and materials to support weapons identification and verification.

Nonetheless, the Mission does face a number of limitations, most of which are outside its control. The first and most crucial concerns the above-mentioned lack of baseline information, which makes it impossible for the Mission to put its observations into context. Second, despite ongoing training activities, inherent limitations remain with regard to the expertise within the SMM. In accordance with its mandate, SMM monitors are civilians from a range of professional backgrounds. Although many are former military officers, the Mission does not have units of specialist arms control inspectors to undertake verification tasks. Third, the SMM has to cover an area approximately 100 km deep along the 420 km long line of contact – a total area roughly the size of Switzerland. At the same time, its movement within this area is restricted. The danger stemming from mines, unexploded ordnance (UXO), and other explosive remnants of war (ERW) prevents the SMM from undertaking night patrols and places unpaved roads and fields off limits for SMM patrols. In addition, both sides have at times restricted the movement
of SMM patrols and have denied the Mission access to holding areas for heavy weapons. While the use of UAVs and satellites can address the issue of access to some extent, it is important to acknowledge that the SMM is currently operating only one UAV system, while daily satellite analysis provided by the EU, Germany, and France since spring 2014 covers only three areas amounting to a total of some 120 square kilometres – a tiny fraction of the total area the SMM is mandated to monitor. Moreover, jamming and adverse weather conditions have frequently limited the use of UAVs.

These limitations notwithstanding, the SMM has been hugely successful in its verification activities. In its publicly accessible daily reports, the SMM has regularly reported on the presence and use of heavy weapons within the exclusion zones as well as on discrepancies with regard to the weapons recorded in the holding areas outside the exclusion zones, making it clear that neither side has fully met its obligations under the Minsk Agreements in this respect. At the same time, the Mission has been careful not to disclose any sensitive information, such as the number and type of weapons held in the assembly areas or the location of these storage sites. While improved compliance by both sides might make the verification work of the SMM more challenging, it would be welcome in itself and would potentially open the way to extending the current third-party verification mechanism to create a confidence- and security-building mechanism.

Alongside the SMM, another key actor with regard to the withdrawal of heavy weapons is the Joint Centre for Control and Co-ordination (JCCC). The JCCC was established in late September 2014 as a bilateral initiative between the Ukrainian and Russian general staffs, and also includes representatives of the self-proclaimed People’s Republics of Donetsk and Lugansk (DPR, LPR). The JCCC was the main format within which the sides negotiated the practical terms and timelines for the withdrawal of heavy weapons following the Minsk Agreements. However, it plays no role in the implementation and verification of the withdrawal regime itself. The reasons for the non-involvement of the JCCC and the involvement of the SMM and its strict confidentiality are obvious: As military exchanges continue despite the ceasefire agreements reached in Minsk in September and February, any information on the location and the number and types of heavy weapons is regarded by both sides as intelligence the other side could use for military purposes. Therefore, neither side is prepared to authorize a mechanism that would allow the other to acquire such sensitive information.

While a verification regime that would not only involve the OSCE as a third party, but would also include the sides – as any arms control mechanism intended to increase transparency and build confidence would have to – is not implementable under the current conditions, a verification mechanism of this kind should remain the ultimate goal. Whether such a mechanism would,

however, involve the JCCC or would be structured in a different way is another question.

**Ceasefire Monitoring**

Another key task for the SMM with regard to the implementation of the Minsk Agreements is monitoring the ceasefire regime, understood as monitoring the non-use of weapons by the sides. Similar to the verification of heavy weapons withdrawal, both the JCCC and the SMM fulfil a monitoring role in this respect. The SMM operates independently of the JCCC, but keeps in daily contact with it and collects information on ceasefire violations from this body. Unlike the JCCC, which records ceasefire violations as reported by both sides in separate logs kept by the Russian and Ukrainian officers, but does not verify them, the SMM includes in its daily reports only ceasefire violations it has directly and verifiable observed itself. The only things that qualify as direct observations are reports from its monitors who have heard or visually observed the firing of weapons or the results of shelling such as craters or destroyed infrastructure and images from the UAVs operated by the OSCE. SMM monitors have become adept at determining the calibre, direction, and approximate distance of shelling from the sound. In many cases, they have also performed crater analysis to determine the direction from which shelling has occurred and the type of weapon used. All this information is reflected in the publicly available SMM reports, which, thanks to the OSCE’s acknowledged impartiality, have become the most important and best trusted source of information on ceasefire violations. While the SMM reports function as an effective seismograph on the actual intensity of the conflict, one has to recognize that they do not provide a full account of ceasefire violations.

For security reasons, SMM patrols are still prevented from patrolling or manning static observation points during hours of darkness. The SMM has also refused requests by both sides to establish a permanent presence in hotspots that are under regular shelling, such as Horlivka or Shyrokyne. Ground patrols continue to be restricted in their patrolling pattern by the danger of mines, UXOs, and other ERW, and continue to face restrictions to their freedom of movement imposed by both sides – as reported by the SMM in a separate section of its daily reports. On various occasions, SMM patrols have been stopped at gunpoint or by warning shots fired in the air by armed personnel. Such incidents have occurred on both sides of the line of contact. In parallel to an upsurge in fighting in mid-August 2015, the SMM also experienced a remarkable series of incidents in which its monitors were verbally assaulted and threatened by civilians. Lacking any force protection of its own and thus being fully dependent on the security provided by the sides, the SMM was forced to abort patrols when faced with such threats.
some particularly serious incidents, the SMM has at times had to suspend its entire operation in certain areas. These incidents included a case where an SMM patrol came under direct mortar, machine gun, and howitzer fire when attempting to cross a bridge to Ukrainian controlled territory at Schastya (Luhanskiy oblast) on 26 July 2015, and one where four SMM cars were destroyed and three more damaged in an arson attack at the SMM’s car park in Donetsk on 9 August 2015. On previous occasions, the question of intent was unclear. This included the two most serious incidents involving SMM personnel so far: one where an SMM armoured vehicle was completely destroyed in crossfire, and the incident on 27 July in Shyrokyne in which an SMM monitor was slightly injured by debris produced by a projectile from an automatic grenade launcher. However, the arson attack on the SMM car park clearly targeted the SMM deliberately, particularly when seen against the background of an obviously staged demonstration against the SMM in Donetsk two weeks earlier on 23 July, and a series of incidents in July and August in which SMM patrols were harassed by organized groups of civilians who accused them of bias. These incidents were a strong reminder of the SMM’s vulnerability and the fragility of the OSCE’s engagement in the conflict zone. Because of its dependence on the security provided by the sides, the SMM is increasingly struggling to carry out as many patrols as it would like. It is also hard for the SMM to be truly objective and unbiased in its reporting when it is receiving mounting threats and attempts to manipulate or limit its monitoring efforts. The 2015 OSCE Chairperson-in-Office, Serbian Foreign Minister Ivica Dačić, has condemned these incidents and underlined that security and freedom of movement is crucial for the SMM to fulfil its mandate, reminding the sides of their duty to respect the ceasefire agreement and to protect the SMM.4

In the light of these various restrictions on SMM ground patrols, the SMM UAVs represent a critical asset for the conduct of ceasefire monitoring activities at night or in areas inaccessible to monitors. In addition, the UAVs have also been deployed to provide coverage for ground patrols entering especially dangerous areas. This was done in particular in Shyrokyne in spring 2015.

However, the UAVs are not a panacea. At the time of writing, the SMM operates only one UAV system, consisting of four UAVs with a maximum endurance of six hours and a range of 150 km. While this enables the SMM, from its current launch site close to Mariupol, to cover the entire line of contact up to Donetsk airport, it still leaves most of Luhanskiy oblast out of reach. Moreover, this technology is limited by adverse weather conditions such as strong winds or ice – both of which severely limited UAV operations between October 2014 and March 2015.

the daylight camera of the UAV largely useless. While the SMM could in theory fit the UAVs with a synthetic aperture radar (SAR), which can also produce images through clouds, the mission currently lacks the capacity to process and properly interpret SAR images.

Alongside these inherent limitations, the UAVs face also direct threats. The SMM has experienced heavy jamming of both the video signal link and the GPS system of its UAVs on both sides of the line of contact. SMM UAVs have also been shot at east and west of the line. Due to such interference, the OSCE has so far lost three UAVs, including their payloads, leading to further interruptions of OSCE UAV operations.

Given the current limitations on SMM ground and aerial patrols, the SMM cannot and will not be able to detect each and every ceasefire violation. In fact, the Mission is not necessarily in a position to monitor, independently verify, and report on especially significant or grave ceasefire violations, as these often happen during the night or at other times when the SMM cannot patrol for security reasons, or in areas it is not allowed to access. For instance, the SMM did not have access to Debaltseve during the intense fighting there in mid-February 2015 or to Marinka during the “DPR” attack there on 2/3 June 2015. At the same time, the SMM has been able to provide a good account of the intensive and continuing shelling around Donetsk Airport and the heavy fighting over the village of Shyrokyne to the east of Mariupol between February and July 2015, publishing valuable reports on both. In both cases, the SMM was able to use static observation posts close to the respective areas and in some instances was also able to patrol in or close to these hotspots under appropriate security guarantees. The Mission was also able to provide first hand reports on other incidents such as the shelling of Luhansk City with cluster ammunition on 27 January 2015 and the intensive shelling of the eastern outskirts of Mariupol on 24 January 2015 with multiple launch rocket systems (MLRS), which left at least 20 people dead and 75 injured.

The ability of the SMM to provide regular reports on such incidents and hotspots helped to fuel international efforts to stop the fighting. This is especially true of Shyrokyne, which has caught the particular attention of the Normandy Format, and has been also one focus of the SMM’s attempts to facilitate a local ceasefire.

Mediation and Dialogue Facilitation

Permanent Council Decision No. 1117 tasked the SMM not only with gathering information and reporting on the security situation, but also with actively facilitating dialogue on the ground to reduce tensions and promote the normalization of the situation. The SMM’s explicit role in respect to the ceasefire regime was laid down in the Minsk Agreements, while the later decision
to entrust the Chief Monitor with the role of facilitator for the TCG working group on security further expanded the SMM’s mandate with regard to dialogue facilitation.

Within the TCG working group on security, the SMM concentrated its efforts on reaching agreement on the demilitarization of Shyrokyne (see further below) and on the withdrawal of tanks and mortars and artillery with calibres below 100 mm. These efforts were based on the observation, especially following the February 2015 Implementation Package, that tanks and mortars with calibres of 82 mm and below rather than heavy artillery and MLRS were being used by both sides in their continued exchanges of fire. Negotiations on such an agreement came very close to being finalized on 3 August and even closer on 27 August. However, as not all details could be sorted out, further talks had to be held.

Based on its mandate, the SMM also repeatedly tried to facilitate local ceasefires between the sides, and to stop the fighting in particular hotspots or for humanitarian reasons. For instance, in late 2014, the SMM developed proposals for a local ceasefire around Donetsk Airport and managed to facilitate several shorter ceasefires around that hotspot. Another focus was on Shyrokyne, a village 20 km east of Mariupol, which became a hotspot in February 2015. Following a call by the deputy foreign ministers/political directors of the Normandy Format on 25 March for rapid de-escalation of the fighting in Shyrokyne, the SMM was able to facilitate a local ceasefire and establish a 24/7 observation post in the village. However, the ceasefire collapsed after two days, and the SMM had to withdraw once more. In the following weeks, with the support of the Normandy Group at the highest political level, the SMM continued its efforts to facilitate a durable local ceasefire and the demilitarization of the village.

While the area around Donetsk Airport (which has been totally destroyed) has remained one of the main conflict hotspots, fighting in Shyrokyne largely ceased following the unilateral withdrawal of the “DPR” from the village on 2 July. However, after weeks of fighting, the village is utterly devastated and heavily contaminated with unexploded and abandoned explosive ordnance (UXO/AXO), mines, booby traps, and other explosive hazards. All civilians have left the village, with no immediate prospect for return.

The case of Shyrokyne highlights the complexity of mediating ceasefires. While the SMM based its efforts mainly on humanitarian and political considerations, attempting to safeguard civilians who were initially still living in the village and to stabilize the overall fragile ceasefire regime, the fighting parties took a different view. The Ukrainian side, in particular, was not ready to agree to the demilitarization of Shyrokyne, as it was afraid that “DPR” forces would make use of a Ukrainian withdrawal to occupy the abandoned positions. Given that the Ukrainian push towards Shyrokyne back in February was aimed at preventing the shelling of Mariupol with MLRS and heavy artillery from those positions, this prospect was not acceptable to
Ukrainian forces there. As an unarmed mission of civilian observers, the SMM could not provide sufficient guarantees to the Ukrainian side that such a scenario would not happen.

While the SMM’s attempts to achieve further-reaching agreements on the withdrawal of weapons and to stabilize the situation around particular hotspots of greater military and symbolic importance were less successful, it did manage to facilitate a series of local ceasefires aimed at allowing the removal of casualties, the clearance of mines, and the repair of critical infrastructure, such as damaged water pipes or electricity installations. Such attempts were carried out by monitoring teams as well as senior management from Kyiv.

Monitoring beyond the Politico-Military Dimension

The continuous military exchanges along the line of contact have required the SMM to focus heavily on politico-military aspects of the conflict and, in particular, on monitoring the ceasefire regime and reporting on violations. This focus is reflected clearly in the daily reports of the SMM and in this contribution. However, the impression that the SMM is engaged only in these aspects and only in the Donetsk and Luhansk oblasts is not correct. Through its human dimension unit, the SMM has co-operated continuously with the ten monitoring teams across Ukraine to follow issues related to the human dimension of security. The hardships the conflict inflicts on the civilian population, and particularly the difficulties they have in crossing the lines – SMM reports indicate long queues at checkpoints with waiting times of several hours under dire conditions including shelling – and/or securing access to food, healthcare, and pensions, have been regularly covered in SMM daily reports. In publicly available thematic reports, the SMM has, over the past year, also addressed issues such as gender, displacement, the impact of the crisis on western Ukraine, freedom of movement, and civil society. The SMM participates regularly in humanitarian co-ordination meetings in Kyiv and keeps in close contact with international humanitarian actors on the ground. The Mission has developed a particularly close co-operative relationship with the United Nations High Commissioner for Refugees (UNHCR) in reporting on issues concerning displaced persons, and has become the first OSCE field operation to roll out and widely use the OSCE/UNHCR protection checklist on displacement. It also remains the only OSCE field operation with a dedicated gender advisor and a dedicated dialogue facilitation officer.


The SMM’s geographical spread across the country continues to matter, too. The SMM has covered explosions and incidents in Odessa, Kharkiv, and other localities. In Odessa, in particular, the SMM has worked closely in facilitating local dialogue processes in close co-ordination with the OSCE Project Co-ordinator in Ukraine (PCU). When a violent incident between Ukrainian law enforcement agencies and an armed group of the “Right Sector” occurred in Muckacheve in the Transcarpathian region, the SMM was immediately able to deploy monitors to this locality to provide first hand reports on the situation there.

Conclusion

Looking back on the past year of OSCE crisis management in Ukraine, the involvement of the Organization focused mainly on two pillars: monitoring, and facilitating dialogue on the implementation of the Minsk Agreements. The SMM, in particular, focused on monitoring the ceasefire regime and stabilizing it by facilitating additional agreements on localized ceasefires and further weapons withdrawals. These tasks were not only new to the SMM but also to the OSCE itself. While the Helsinki Document 1992 first raised the possibility of OSCE peacekeeping, and the High Level Planning Group established in 1995 was tasked with planning a potential peacekeeping operation for Nagorno-Karabakh, the OSCE has never carried out or even prepared for a major ceasefire monitoring mission. Active ceasefire mediation is something the OSCE has just not engaged in over the past two decades.

Against this backdrop, the SMM’s achievements in the current political and security environment are remarkable. The facilitation of local ceasefires through SMM monitors has not ended the conflict, but it has helped to keep critical civil infrastructure working. SMM reports on ceasefire violations, including the presence and use of heavy weapons in the defined exclusion zones, have become an important and trusted source for the international media and decision makers at the highest level. As pointed out, for reasons of security and due to technical limitations the SMM will not be able to report on and analyse every ceasefire violation. But its presence is sufficiently large and technically sophisticated enough to ensure that major trends and military movements are captured and reported. This increases transparency and helps to attach certain political costs to ceasefire violations – an important factor in the larger political process for the management of this crisis. At the time of writing, not only does the SMM remain the only international actor mandated and able to monitor the ceasefire agreement on the ground, it is also difficult to see who else could do this job under the current circumstances. Further political support for the OSCE and its efforts in Ukraine is therefore crucial.

The learning curve that both the SMM and the OSCE as a whole have had to negotiate to enable the SMM to achieve these results has been incred-
ibly steep. The OSCE has built up a mission that represents a 60 per cent increase of the entire Organization’s budget and a 35 per cent expansion of its staff size. The OSCE deployed UAVs for the first time and did so in record time, largely profiting from the experience of the UN. The OSCE has also deepened its contacts with the UN Departments for Political Affairs and Peacekeeping Operations. It has contracted a specialized consultancy company to analyse which surveillance technologies might be of use for the SMM and to develop the parameters for appropriate tendering processes.

Based on its experience in the field and its existing network, the OSCE Conflict Prevention Centre (CPC) was able to quickly mobilize national experts on weapons identification and verification to train SMM monitors as well as an expert to conduct an assessment of how best to clear Shyrokyne of explosive hazards such as mines, improvised explosive devices (IEDs), and UXO, and to prepare documents needed to tender the clearance operation. Through its Mediation Support Team and its contacts with the UN Mediation Support Unit, the CPC mobilized quick expert support for the SMM relating to ceasefire monitoring and verification, including specialized training on local cease-fires for key SMM staff. The OSCE has further refined its regulations on dealing with casualties and hostage situations and, following a lessons-learned exercise and an external assessment of the security of the SMM, has also identified additional needs to develop and refine relevant operational instructions and policies in areas such as human resources, security, and information security.

Finally, the OSCE is considering new strategies to improve its reaction to these new challenges and to better prepare the Organization to run multidimensional field operations in a high-risk environment. The SMM is mandated as a civilian operation, and all its monitors are civilians. It cannot therefore easily mobilize some of the capabilities needed in such situations, as they are usually found with the military or police. At the same time, the SMM has managed to integrate some of these capabilities, such as UAVs, through commercial solutions, and the OSCE has gained knowledge from this. Learning further from the first 18 months of crisis management experience in Ukraine and continuing the process of professional and technological enhancement of the entire Organization will only bring benefit to the OSCE – including in terms of its capabilities to prevent, manage, and resolve conflicts elsewhere.

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7 The current annual budget of the SMM is 88.7 million euros; by 31 August 2015 it had a staff of 852. The entire OSCE budget for 2015 without the SMM is 141.1 million euros, with a total staff of 2,401.