

ABSTRACT

Title of Document: OSCE PRINCIPLES IN PRACTICE:
TESTING THEIR EFFECT ON SECURITY
THROUGH THE WORK OF THE HIGH
COMMISSIONER ON NATIONAL
MINORITIES 1993–2001

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This study extracted from official OSCE documents a set of basic principles designed to regulate the security relationships among the participating States, including their behavior toward their own populations. The study then assessed the practical effects on security of the implementation of the principles by tracing their detailed application to highly contentious situations in Ukraine, Estonia, and Macedonia by Max van der Stoep, the organization's first High Commissioner on National Minorities (HCNM).

The study identified and articulated twenty Organization for Security and Cooperation in Europe (OSCE) security principles that addressed *international security* through principles guiding the relations between participating States; *security within States* through principles guiding how governments would fulfill their responsibility to establish and maintain the conditions in which all members of the State could exercise

their human rights and fundamental freedoms; and the *processes* by which the States would apply the principles to specific circumstances, review and measure their implementation, and develop them further. The principles addressed State sovereignty; a comprehensive, cooperative, and common security concept; conflict prevention and the peaceful resolution of issues; the State's responsibility to protect and promote the individual rights and freedoms of State members through the use of democracy, the rule of law, and the market economy; minority rights and responsibilities; the development of shared values; and processes.

From 1993 to 2001, the HCNM directly applied the OSCE principles in fourteen intervention cases. In the three cases analyzed, the implementation of the principles had a significant effect on security by reducing national and international tensions involving minority issues. This effect was seen within each State, between States, and in the region, and reduced the potential for conflict within and between OSCE States. The results were particularly significant in view of the instability, conflicts, and tensions of the post-Cold War period; the OSCE's ongoing institutionalization; and the limited resources and tools available to the OSCE and HCNM.

The OSCE principles, the Helsinki process, and the HCNM's methods merit further examination, development, and application to national security policy and practice.

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1993–2001

By

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Chapter 1: Introduction and Methodology

Chapter outline

Statement of the Problem

Methodology

Significance of the Study

Statement of the Problem

*The Security Problem and the Organization for Security and Cooperation in Europe (OSCE).*¹ The problem of achieving national and international security has been a compelling concern of governments for a very long time, and many approaches and theories have been tried. One new approach began in 1975 when the Heads of State or Governments of thirty-five North American and European States signed the Helsinki Final Act and thereby established the OSCE.

The Act contained a number of commitments to which all of the participating States had agreed; however, two aspects were particularly significant. First, by signing the Act, the States committed themselves to follow the Helsinki Decalogue, a set of ten principles intended to guide governments in their relations with each other and with their own populations. Second, the States agreed to the “Helsinki process,” a process in which they would meet periodically to evaluate their implementation of these principles and other commitments, and to negotiate new ones, which would then be expressed in OSCE documents adopted by consensus.

From 1975 to 1988, the participating States implemented the Helsinki Decalogue principles to varying degrees—the then-communist States consistently violated the

¹ Organization for Security and Cooperation in Europe (OSCE). Prior to January 1, 1995, the OSCE was called the Conference on Security and Cooperation in Europe (CSCE). This study uses “OSCE” for clarity.

human rights provisions, and no State implemented all of the principles perfectly. During this period, the States made slow progress in developing new commitments, for the States were hampered by the deep political divide that existed between the Soviet and Western blocs in Europe. However, during the 1989–1991 period at the end of the Cold War, the States were able to reach unprecedented agreements regarding core values pertaining to human rights, democracy, the rule of law, and the market economy. The States’ commitments in these and other areas were reflected in key OSCE documents during this period of great change (often called the “*Wende*”), in particular the 1990 Copenhagen Document, the 1990 Charter of Paris, and the 1991 Moscow Document.

A review of these documents revealed that a number of the new commitments also appeared to be new OSCE security principles, but were not reflected as such. In 1990, for example, the States agreed that democracy would be their only form of government, an agreement that had significant security implications but was not incorporated into the Helsinki Decalogue. Also in 1990, the States began to establish organizational structures in the OSCE to help put the new commitments into practice. As examples, in 1990 the participating States established the Office for Free Elections to help the new democracies develop election processes, in 1992 established the office of the OSCE High Commissioner on National Minorities (HCNM) to prevent tensions involving minority issues from escalating into conflict, and in 1995 changed the OSCE from a conference to an organization.² The States used these structures to assist in implementing the new commitments; however, a review of the security literature did not reveal any studies on the effect on security when OSCE principles are implemented.

² The Office for Free Elections became the Office for Democratic Institutions and Human Rights (ODIHR) to reflect the expansion of its mandate to include human rights, democracy, and the rule of law.

This study contributes to remedying the lack of knowledge in two areas. The study first identified, synthesized, and articulated the security principles contained in primary OSCE documents from 1975 through 1992 (Chapter 3), and then uses the work of the first HCNM to assess the effect on security when these principles were implemented, as shown in three case studies (Chapters 4, 5, and 6).

The HCNM and Assessing the Effectiveness of OSCE Security Principles. The High Commissioner on National Minorities was a conflict prevention instrument, appointed by the OSCE States to prevent interethnic tensions from developing into security threats that would endanger the peace, stability, or relations between OSCE States. The incumbent's mandate was to monitor the entire OSCE region for signs of tensions involving minorities that in his judgment might lead to tensions between OSCE States, and then work in proactive ways to reduce or resolve these tensions before they escalated into crises or conflict. The region for which the first HCNM was responsible consisted of over fifty participating States in Europe, Central Asia, and North America.

The OSCE States created the position of the HCNM in July 1992 in response to conflicts that had broken out in Azerbaijan, Georgia, Moldova, Yugoslavia, and elsewhere as the Soviet Union dissolved. These conflicts all had an interethnic dimension and were very difficult to end, and the States believed it was essential to prevent minority tensions in other situations from erupting. The States, therefore, desired to appoint an independent and impartial individual of high stature who could look into minority-related problems confidentially, and work quietly to address problems before they became crises.

The OSCE States appointed an experienced statesman, Max van der Stoep, as the first HCNM on December 15, 1992. He held the position from January 1993 to June

2001, and his work consisted of essentially four parts. First was the continuous monitoring of all OSCE States for tensions involving minority issues; second was crisis intervention if these tensions threatened to erupt into violence; third was to issue an early warning to the OSCE leadership if he believed he could not contain a situation with the tools available to him; and fourth was to work with governments to resolve minority issues that were causing tensions between OSCE States, or might cause a serious crisis within an OSCE State.

The work of the HCNM provided a means to assess the effect on security when OSCE principles were implemented. The HCNM used a number of methods in his work, one of which was to issue formal recommendations to governments regarding minority situations in their countries, usually in the form of a letter to the foreign minister of the State concerned. OSCE principles provided a basis for these recommendations, and therefore, by identifying the principles contained or implied in them, the extent to which they were implemented, and any observed effects on security, the following research questions could be addressed:³

What OSCE security principles were in effect during the first High Commissioner on National Minorities' 1993–2001 tenure?

Did the implementation of the OSCE security principles contained in the first High Commissioner on National Minorities' recommendations have any meaningful effect on security?

³ The HCNM also relied on other international standards, in particular the Council of Europe conventions (especially the Framework Convention for the Protection of National Minorities), and other standards such as UN conventions.

Methodology

Phases of the Study. The study was conducted in three phases: identification of the OSCE security principles, case criteria and selection, and data collection and analysis.

Phase I: Identification of the OSCE security principles. In Phase I the OSCE security principles were identified, articulated, and documented. This step was necessary because the principles were not stated explicitly in any one document, but were contained in a series of documents that the States negotiated and adopted through the Helsinki process.

OSCE documents from 1975 to 1992 were selected as the potential data sources for the principles, and the documents selected for analysis were the six “summit documents” adopted or signed at meetings of Heads of State or Government, the three documents adopted at the end of the three “follow-up conferences” held during the 1977–1989 period, and the two documents adopted from the three-meeting Conference on the Human Dimension of the CSCE held during 1989–1991 (See Appendix A for the list of documents analyzed). The summit and follow-up documents were analyzed because they were adopted or signed at the highest political level, that of Heads of State or Government. The two documents adopted from the Conference on the Human Dimension (the 1990 Copenhagen Document and the 1991 Moscow Document), were analyzed because they expressed new and significant agreements regarding individual civil and political rights, democracy, the rule of law, and the market economy, and because the HCNM drew extensively from them in his recommendations.

Content analysis was used to determine the principles that were in effect when the HCNM began his work on January 1, 1993, and subsequent documents were analyzed

until June 2001 to identify any changes to the principles that might have occurred during his tenure (no changes were identified).

Phase II: Case criteria and selection. The two primary criteria used in case selection were the seriousness of the threat to security caused by tensions involving minority issues, and data availability and verifiability. Other considerations included the scope of issues involved, geographic location, and types of threats. To evaluate data availability and verifiability, the levels of HCNM involvement with all OSCE States were analyzed and organized into four categories as shown below.

Table 1.1 Levels of HCNM Involvement with the OSCE States 1993–2001

Levels	OSCE States
I. The HCNM monitored for signs of minority tensions that could pose international security threats.	55 countries (all OSCE States)
II. The HCNM discussed issues with a government and/or visited a country, but did not issue any formal recommendations.	6 countries: Georgia, Greece, Tajikistan, Turkey, Uzbekistan, and Yugoslavia
III. The HCNM issued one formal recommendation then ceased direct involvement.	2 countries: Lithuania and Russia
IV. The HCNM issued formal recommendations, and his involvement was sustained.	12 countries: Albania, Croatia, Estonia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Macedonia, Moldova, Romania, Slovakia, and Ukraine

The group of countries in Level IV was identified as the dataset from which the case studies would be selected (see Appendix B for an analysis of the Level-IV States). This group contained the countries for which data were most available and verifiable in terms of formal recommendations.

To evaluate the seriousness of the threats to security from tensions involving minorities, each Level-IV country was analyzed as shown below.

Table 1.2 Security Threats from Tensions Involving Minority Issues 1993–2001

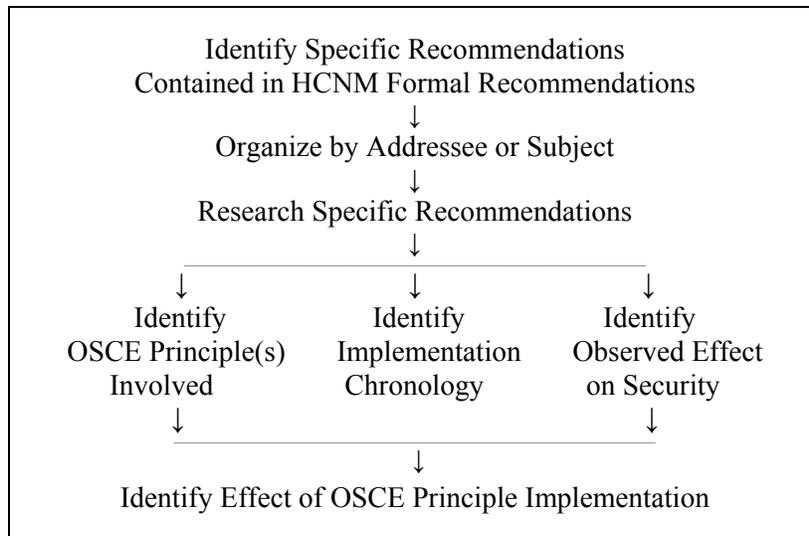
Threats	Occurrences in Level-IV States
1. Interstate war or armed intervention between OSCE States	None
2. Armed conflict within OSCE States	Macedonia 2001
3. Crises resulting in HCNM intervention	Estonia 1993; Ukraine 1995; Macedonia 1995, 1997
4. Ethnic clashes	Macedonia 1995, 1997

The three countries from which case studies would be selected were Estonia, Macedonia, and Ukraine. In all three cases sufficient data were available in terms of formal recommendations. In terms of security threats, Macedonia experienced intrastate conflict and clashes involving minority issues, and situations occurred in Estonia, Macedonia, and Ukraine that resulted in HCNM crisis intervention. In Estonia the HCNM was primarily involved in the interethnic relations between Estonians and Russians, and in Macedonia was primarily involved in interethnic relations between Macedonians and Albanians.

The HCNM's work in Ukraine involved three primary issues: Crimean autonomy and separatism, the Tatars and other formerly deported peoples in Crimea, and language and culture regarding ethnic Russians. Of the three situations, Crimea was selected as the issue that prompted HCNM crisis intervention, and as an issue that involved a potential conflict between Russia and Ukraine, both of which possessed nuclear weapons at the time.

Phase III: Data collection and analysis. The HCNM’s formal recommendations were obtained from the OSCE website, and numbered chronologically. Each formal recommendation contained specific recommendations, and content analysis was used to identify and number these. A process tracing model was developed to track the implementation of the recommendations, the OSCE principles involved, and observed effects on security as shown below.

Table 1.3 HCNM Recommendation Process Tracing Model



A data collection instrument was developed on which to record the findings for each specific recommendation. This instrument was a form containing the following elements: Subject, HCNM specific recommendation(s), OSCE security principle(s) involved, Implementation chronology, Observed effect(s) on security, and Notes (see Appendix C).

Each specific recommendation was analyzed to identify the OSCE security principle or principles involved, and relevant material was researched to identify the implementation chronology by year for each specific recommendation, any observed effects on security, and any applicable notes. Codes were developed to indicate the

degree to which each specific recommendation was implemented, and for any observed effect on security, as shown below.

Table 1.4 Implementation Status

Degree of Implementation	Code
The specific recommendation was implemented in total.	Yes
Some part of the specific recommendation was implemented, but was not implemented in its entirety.	In part
No part of the specific recommendation was implemented.	No
No implementation data were identified.	Not observed

Table 1.5 Effects on Security

Observed Effect on Security	Code
An effect on security was observed from implementation or non-implementation of a specific recommendation.	Yes
No effect on security was observed.	Not observed

A number of sources were used to collect data on implementation and observed effects. Publications produced by international organizations included documents from the OSCE, European Union (EU), Council of Europe, and United Nations (UN). Media sources included the BBC Summary of Broadcasts as found on the Minorities at Risk (MARS) project, newspaper accounts from the Lexis Nexis database, and Keesing's Record of World Events. Government sources included statistical reports, survey results, and statements by government officials. Academic journals and published case studies were used. Content analysis was used to analyze material regarding the countries

concerned, articles, and speeches by HCNM Max van der Stoep, and articles and books written about his work as HCNM.

The findings on each specific recommendation were recorded on the data collection instrument. These findings were then analyzed for any observed effects on national and international security as a result of the implementation or non-implementation of the HCNM's recommendations, and the OSCE principles contained therein.

The primary types of observed effects on security sought were those directly attributable to the implementation or non-implementation of the HCNM recommendations regarding specific issues. In particular, evidence was sought regarding reduced or increased tensions pertaining to a specific issue referenced in the HCNM's recommendations.

Definitions. For the purpose of this study, the following definitions were used:

- An “effect” is an observable change.
- A “formal recommendation” is an official letter that the HCNM issued to a government, or an official HCNM press release/statement that contains recommendations.
- An “HCNM intervention case” is an instance in which the HCNM issued a formal recommendation to the government of an OSCE State.
- The “Human Dimension” is a category consisting of those commitments made by the OSCE participating States to ensure full respect for individual rights and fundamental freedoms; abide by the rule of law; promote the principles of democracy; and build, strengthen, and protect democratic institutions.
- “Human rights” and “individual rights” are, in general, civil and political rights.
- “Implement” is “to put into practice.”
- “International security” is the protection of a State, including its population, from major external threats to its territorial, political, or economic well-being.
- A “kinstate” is a country in which the majority of the population belongs to a group that is a minority in a neighboring country.

- A “minority” is a collection of individuals who share linguistic, ethnic, or cultural characteristics that distinguish them from the majority.⁴
- “National security” is the protection of a State, including its population, from major threats to its territorial, political, or economic well-being.
- “OSCE principles” are those principles agreed to by the OSCE participating States and expressed in OSCE documents, whether or not specifically identified as a principle.
- “Security” is the state of feeling or being free from fear, danger, anxiety; a sense of safety.
- A “specific recommendation” is a recommendation contained within a formal recommendation.

Limitations of the Study. Data for some HCNM intervention cases were more available than for others; for example, more data were available from the Estonian government than from the Ukrainian or Macedonian governments. The accuracy and availability of population and economic statistics were limited because of the unsettled conditions during the period being studied, which often prevented accurate statistics from being collected. The identification of the OSCE principles was limited to primary OSCE documents from 1975 to 2001, and therefore did not account for any possible changes after that period. Time was a constraint, in that it was not feasible to conduct more than three case studies, or to visit the individual countries.

Significance of the Study

This study has significance in several areas. The articulation of the OSCE principles contributes to the security and international relations fields. These principles may have particular value because they are based on the practical experience of most of the world’s democracies, almost all of which are OSCE participating States. In addition, the OSCE documents as a whole comprise a significant repository of the thoughts and

⁴ Van der Stoel, address, “The Relevance of International Standards for the Protection of Minorities,” Sept. 20, 2000. Van der Stoel also stated that these individuals, acting alone or together, usually seek to maintain their identity *and* give a stronger expression to those ethno-cultural and linguistic characteristics that give them a sense of individual and collective identity.

practices of these States on achieving security and respect for individual rights. The principles are also significant because they have advanced international security in the past: the ideas embodied in the 1975 Helsinki Final Act stimulated the formation of many nongovernmental organizations (NGOs) and human rights groups that helped to overthrow totalitarian governments in Eastern and Central Europe during the 1989–1991 period, and establish liberal democratic governments. Of particular significance is that these groups followed OSCE principles while pressing their governments to implement and abide by the principles, and therefore, in most cases used nonviolent methods in their efforts to achieve peaceful change.

The study findings add to the policy debate regarding the means to achieve international security, and have practical significance for future studies on the OSCE and other security organizations. The research goes beyond the current international security literature: while there have been extensive studies on international relations theories, few studies have been done on the effectiveness of security principles.

The study adds to policy research methods. The process tracing model, data collection instrument, and data analysis methods developed are methodological adaptations that provide an advance in empirical methodology.

Chapter 2: Background of the OSCE and the HCNM

Chapter outline

- Introduction
- The OSCE and the Cold War
- The OSCE 1990–1992
- The HCNM 1993–2001

Introduction

This chapter traces the emergence of the Organization for Security and Cooperation in Europe (OSCE) as an organization with political and moral authority, and the creation of the position of the OSCE High Commissioner on National Minorities (HCNM) in response to the reemergence of ethnic tensions as a source of conflict in Europe. The chapter then addresses the position of the HCNM, including the selection of the first incumbent, the tools available to him in fulfilling his responsibilities as HCNM, his working methods, and accomplishments.

The OSCE and the Cold War

Europe after World War II. After World War II, Europe was essentially divided into three groups of States: the Western bloc, Soviet bloc, and the neutral or nonaligned States. Most of the Western bloc States had liberal democratic governments and were members of the North Atlantic Treaty Organization (NATO); most of the Soviet bloc of Eastern European States had communist governments and were members of the Warsaw Pact (the Warsaw Treaty Organization (WTO)); and most of the neutral or nonaligned States had liberal democratic governments, but did not belong to either military alliance.

From the late 1940s to 1990, the two blocs confronted each other in a “Cold War” as shown below.⁵



Very large numbers of military forces were stationed in both East and West—U.S. forces alone in the mid-1980s included four Army divisions (two mechanized infantry and two armored). The borders between East and West (the “Iron Curtain”) were heavily fortified and guarded, and the Berlin Wall separating East and West Berlin came to symbolize the division of Europe. The photograph below shows a wreath on the west side of the Wall where an individual had been shot while trying to escape to the West.⁶



⁵ United States Department of State, *Atlas of NATO*, 1985, 3.

⁶ Author’s photo, West Berlin, 1980.

During the 1950s and 1960s, communication between the two blocs was limited, and tensions were often very high: the 1962 Cuban missile crisis brought the world to the brink of nuclear war between the United States and the Soviet Union. Though the two countries avoided this catastrophe, the potential consequences were too devastating to risk another crisis, and the idea of *détente*—the relaxation of tensions between East and West—gained ground.

The Negotiation and Adoption of the Helsinki Final Act. During the 1950s and 1960s, the Soviet Union proposed a pan-European security conference several times, and *détente* in the late 1960s led to an agreement to hold such a conference. Preparatory talks were held at the foreign minister level in Helsinki from November 1972 to June 1973, during which the participants worked out the agenda, rules of procedure, organizational structure, and arrangements for a three-stage Conference on Security and Cooperation in Europe.⁷ The three stages would be a meeting of foreign ministers, a second stage for the actual drafting of the final document, and a concluding stage to adopt the document.

The agreements from the preparatory talks were published as the Final Recommendations of the Helsinki Consultations. These Recommendations outlined the framework for the Conference, and the agenda—the four “baskets”—to be negotiated:⁸

- I. Questions relating to security in Europe:
 - Principles of international relations between participating States, and
 - Confidence-building measures;
- II. Cooperation in the fields of economics, of science and technology, and of the environment;
- III. Cooperation in humanitarian and other fields; and
- IV. Follow-up to the conference.

⁷ The issues discussed ranged from minor details to fundamental questions, such as the titles of the ten principles whose texts were to be negotiated.

⁸ “Basket” in the OSCE sense meant “a group of related subjects.” The States adopted the term in order to group diverse subjects together under broad headings without prejudicing the importance of any single subject. See Maresca, *To Helsinki*, 16. The OSCE later used the term “dimension.”

The objective was to promote better relations among the participating States, and to provide the conditions in which their people could live in peace free from any threat to their security. The work would proceed from the premise that the strengthening of security in Europe was not directed against any State, and should contribute to world peace and security.⁹

Stage I. Stage I of the Conference on Security and Cooperation in Europe took place in July 1973 in Helsinki, and was a meeting of foreign ministers of the participating States. The ministers first adopted the Final Recommendations of the Helsinki Consultations, and then, in accordance with Final Recommendations, each minister stated his government's views on problems relating to European security and cooperation.¹⁰

Stage II. Stage II took place in Geneva from September 1973 to July 1975, and was the actual negotiation of the Helsinki Final Act. Experts and delegates appointed by the States carried out the work in committees and subcommittees, and a committee of representatives met periodically to coordinate the work, and to review the final document.

The States had different interests in negotiating the Act. The Soviet Union's objectives were to gain acceptance of the post-World War II borders (there had been no comprehensive treaty after the war), obtain increased economic relations with the West, and keep international relations in Europe relatively stable while continuing the ideological struggle between East and West. The Eastern European countries desired increased Western economic and cultural contacts, and more flexibility in their relationships with the Soviet Union and the West. The neutral and nonaligned States, which were directly affected by East-West relations but had limited means to influence

⁹ Final Recommendations of the Helsinki Consultations, 1973, 6.

¹⁰ See the verbatim records, *Conference on Security and Cooperation in Europe: Stage I-Helsinki*, 1973.

these relations, sought reduced tensions between the two blocs, and a way to participate in the European security system on an equal basis with the members of military alliances.

The Western European countries' objectives were to initiate a long-term process that would reduce tensions, develop cooperation and lower barriers between East and West, and obtain respect for human rights. A number of Western European governments believed that the OSCE should be used to obtain liberalization of the Eastern regimes and thereby provide a means for peaceful change. The United States wanted to support its European allies, but "stayed a half step behind" them throughout the process.¹¹

The different countries' objectives can be seen in an exchange of communiqués regarding the conference. The Warsaw Pact proposed two agenda items: European security, and the expansion of economic, scientific, and technological cooperation. NATO replied that the conference should deal with "(a) The principles which should govern relations between States, including the renunciation of force, and (b) The development of international relations with a view to contributing to the freer movement of people, ideas, and information and to developing cooperation in the cultural, economic, technical and scientific fields as well as in the field of human environment."¹²

Given the States' different aspirations and often antagonistic views, the negotiations were protracted and difficult, but there were no internal deadlines—discussions continued until the item on the agenda was agreed to by consensus, at which time the talks moved on to the next item.¹³ Despite the obstacles, after twenty-two months of negotiations, the Helsinki Final Act was completed in July 1975, and Stage III,

¹¹ Henry Kissinger, in "Memorandum of Conversation," Aug. 8, 1975, Gerald Ford Cabinet Meeting.

¹² Maresca, *To Helsinki*, 6.

¹³ Consensus was "understood to mean the absence of any objection expressed by a Representative and submitted by him as constituting an obstacle to the taking of the decision in question." See the Final Recommendations of the Helsinki Consultations, 1973, para. 69.

a summit at which the Heads of State or Government would sign the document was scheduled for July 30–August 1, 1975.

All of the European States, East and West, strongly supported the Helsinki Final Act. The Soviet Union reportedly “reacted triumphantly” to the end of Stage II, and the top commentator of the official Soviet Tass press agency stated, “Political observers around the world note the positive results of the peace-loving Socialist foreign policy.”¹⁴

However, the text of the Final Act provoked an almost universal wave of criticism in the United States, focusing in particular on the perception that through the Act the United States would accept the division of Europe and “sell out” Eastern Europe without any reciprocal advantage. The *Wall Street Journal* compared the Final Act to the agreement at Yalta and questioned whether the American President was becoming the “chief apologist for the Soviet Union”; Soviet dissident Aleksandr Solzhenitsyn said that the Act betrayed the Eastern European countries and would result in their “slavery forever”; and former California Governor Ronald Reagan stated that he was against the Act and thought all Americans should be against it, and urged President Gerald Ford not to sign the document.¹⁵

However, the Act did not, as alleged, ratify the division of Europe; recognize the Soviet annexation of the Baltic States; or change U.S. support for the aspirations for freedom of peoples everywhere, including those in Eastern Europe. No borders were agreed to that had not been accepted by previous presidents or governments: for example,

¹⁴ Reuters, “Moscow Sees New Phase,” Moscow, July 14, 1975.

¹⁵ “Jerry, Don’t Go,” *Wall Street Journal*, July 23, 1975, 14; James M. Naughton, “White House Says Pact Won’t Settle Borders in Europe,” *New York Times*, July 23, 1975, 7; and James M. Naughton, “Ford Sees 35-Nation Charter as a Gauge on Rights in East Europe,” *New York Times*, July 26, 1975, 2. See also “European ‘Security’ and Real Détente,” *New York Times*, July 21, 1975, 20; Bernard Gwertzman, “Solzhenitsyn Says Ford Joins in Eastern Europe’s ‘Betrayal,’” *New York Times*, July 22, 1975, 1; “Ford vs. Solzhenitsyn: II,” *New York Times*, July 24, 1975, 28; and “Symbolic Journey into the Future,” *New York Times*, July 27, 1975, 16.

the treaty between West Germany and the Soviet Union had accepted the existing European boundaries as inviolable without conditions.¹⁶ In contrast, the Final Act included the principle that borders could be changed by agreement and peaceful means in accordance with international law.

Furthermore, by signing the Act, the Soviets were in principle renouncing the Brezhnev Doctrine that asserted the right of military intervention to prevent deviation from socialism (the basis for the 1968 invasion of Czechoslovakia). Though the Act was denounced by many Americans of Eastern European descent, the populations of the Eastern European countries described as the principal victims were, in fact, strong supporters.

Both Secretary of State Henry Kissinger and President Ford defended the Final Act. Kissinger said that the objective was to manage a fundamental conflict of moral purposes and interests while preventing nuclear war—to preserve peace while defending essential U.S. values and ideals.¹⁷ He also emphasized that the potential consequences of nuclear war between the Soviet Union and the United States were so devastating that the easing of tensions between East and West was the only responsible policy that any administration could pursue. Ford said that the Act was a forward step for freedom for Eastern Europe, and that even if the goals were partly achieved, the people in Eastern Europe would be that much better off, and the cause of freedom would advance at least that far.¹⁸ In his remarks on signing the Act, Ford stated his reasons for doing so:

¹⁶ The Federal Republic of Germany (FRG) is referred to in this study as “West Germany,” and the German Democratic Republic (GDR) is referred to as “East Germany.” The GDR ceased to exist in 1990.

¹⁷ “Excerpts from Kissinger Speech Backing Lisbon’s Anti-Red Forces,” *New York Times*, August 15, 1975, 2.

¹⁸ “Statement by President,” *New York Times*, July 27, 1975, 5; James M. Naughton, “Ford Sees 35-Nation Charter as a Gauge on Rights in East Europe,” *New York Times*, July 26, 1975, 2.

We have learned from the experiences of the last 30 years that peace is a process requiring mutual restraint and practical arrangements.... The documents produced here represent compromises, like all international negotiations, but...they affirm the most fundamental human rights: liberty of thought, conscience, and faith; the exercise of civil and political rights; the rights of minorities. They call for a freer flow of information, ideas, and people; greater scope for the press, cultural and educational exchange, family reunification, the right to travel and to marriage between nationals of different states; and for the protection of the priceless heritage of our diverse cultures. They offer wide areas for greater cooperation: trade, industrial production, science and technology, the environment, transportation, health, space, and the oceans. They reaffirm the basic principles of relations between states: nonintervention, sovereign equality, self-determination, territorial integrity, inviolability of frontiers, and the possibility of change by peaceful means. The United States gladly subscribes to this document because we subscribe to every one of these principles.¹⁹

Stage III. The final stage of the Conference took place in Helsinki from July 30 to August 1, 1975, and was a summit of leaders of the thirty-five participating States—the United States, Canada, and all of the European States except for Albania. The actual signing of the Helsinki Final Act took place on August 1, 1975, and was the first time so many Heads of States or Governments had gathered around a table to sign a document.

During the Summit, there was general agreement regarding the document's historic character; however, in their remarks upon signing, many Heads of State or Government noted that the Act was only a beginning and that a great deal of work would be needed to turn the commitments into reality. As Ford said in his remarks, "History will judge this Conference not by what we say here today, but by what we do tomorrow—not by the promises we make, but by the promises we keep."²⁰

The Helsinki Final Act. The Helsinki Final Act was an unusual document that combined a statement of principles of international security, general and specific

¹⁹ "President Gerald R. Ford's Address in Helsinki Before the Conference on Security and Cooperation in Europe," August 1, 1975.

²⁰ "President Gerald R. Ford's Address in Helsinki," August 1, 1975.

commitments, and a framework for further development. These areas were addressed by the four original “basket” topics, and one additional topic: Questions Relating to Security and Cooperation in the Mediterranean.

Basket I: The political-military aspects of security. The section on “Questions Relating to Security in Europe” addressed political and military matters. The *political aspects of security* consisted of a set of ten principles guiding relations between States (the Helsinki Decalogue), as below.²¹

Declaration on Principles Guiding Relations between Participating States

- I. Sovereign equality, respect for the rights inherent in sovereignty
- II. Refraining from the threat or use of force
- III. Inviolability of frontiers
- IV. Territorial integrity of States
- V. Peaceful settlement of disputes
- VI. Non-intervention in internal affairs
- VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief
- VIII. Equal rights and self-determination of peoples
- IX. Cooperation among States
- X. Fulfilment in good faith of obligations under international law

The text elaborated on each principle in lengths ranging from two to eight paragraphs. The States also declared that they considered all ten principles to be of primary significance, would apply them equally and unreservedly, and interpret each in light of all of the others.²²

The principles formed an agreement regarding how States should behave towards each other, and to their own citizens. The acceptance of standards regarding the internal governance of States was a milestone in the development of security practice: through Principle VII (respect for human rights and fundamental freedoms) and the eight paragraphs that articulated the principle, the Helsinki Final Act was the first international

²¹ Helsinki Final Act, 1975, 3–8.

²² *Ibid.*, 8.

agreement that considered respect for human rights to be a core principle of international relations, and the first to recognize a relationship between international security and how a State treats its citizens. By including Principle VII in the Decalogue, the States placed respect for human rights on the same level as such security principles as State sovereignty and territorial integrity. In the comprehensive approach to security adopted in the Helsinki Final Act, the States placed the human rights aspects of security on the same level as the political, military, and economic aspects.

The *military aspects of security* were addressed through confidence-building measures. Specific measures included the advance notice of major military maneuvers exceeding 25,000 troops, and the exchange of observers.

Basket II: The economic, scientific and technological, and environmental aspects of security. The “Cooperation in the Field of Economics, of Science and Technology and of the Environment” section dealt with matters such as economic and technical cooperation, trade promotion, the harmonization of standards, and environmental protection. The Basket II measures contained fewer commitments for specific action than the other baskets, reflecting the desire of the States to avoid duplication with other international organizations such as the UN Economic Commission for Europe (which had almost the same membership as the OSCE).²³

Basket III: The human rights aspects of security. The “Cooperation in Humanitarian and Other Fields” section addressed a wide range of subjects such as facilitating human contacts, including family visits, family reunification, and freedom of travel; the improvement of conditions for tourism; greater access to information; and increased exchanges in the fields of culture and education. These measures were intended

²³ Lehne, *The Vienna Meeting*, 8.

to “facilitate freer movement, contacts, travel, information flows, and cultural exchanges among the participating States”—but particularly between East and West, which at the time was very limited and controlled.

Basket IV: Process. In the “Follow-up to the Conference” section, the States declared their resolve to continue the conference by subsequent meetings in which they would thoroughly exchange views on the implementation of the provisions of the Final Act, and by which they would deepen their relations and improve security and the development of cooperation in Europe (a process that came to be known as the Helsinki process). The Act scheduled the first follow-up meeting for 1977 in Belgrade.

Mediterranean issues. The Act also addressed Mediterranean issues, for during Stage II, six nonparticipating Mediterranean States (Algeria, Egypt, Israel, Morocco, Syria, and Tunisia) made contributions and statements on various agenda items. (This area reflected the States’ view that European security had to be considered in the broader context of world security.)

The Political Status of the Helsinki Final Act. The Helsinki Final Act was a politically binding document—not legally binding—and was referred to as an “Accord” because it did not establish any direct obligations under international law.²⁴ Unlike a treaty or agreement, the States’ intent was not to make law, but to find effective political means to strengthen security and cooperation in Europe, and the Final Act created the political and moral obligation for the States to implement the commitments contained in the document—and in all subsequent documents.

²⁴ The participating States specifically excluded the Helsinki Final Act from registration as a treaty or international agreement under Article 102 of the Charter of the United Nations. See Helsinki Final Act, 1975, 59; Maresca, *To Helsinki*, 285. However, formal treaties concluded through the OSCE, such as the Treaty on Conventional Armed Forces in Europe (CFE), are legally binding.

The Effect of the Helsinki Final Act. The signing and publication of the Helsinki Final Act had immediate and unexpected consequences. Two particularly important consequences were first, that the Final Act stimulated the formation of the Commission on Security and Cooperation in Europe (the United States Helsinki Commission), and second, acted as a catalyst for involving individuals, groups, populations, and governments in achieving the purposes of the OSCE.

The establishment of the Helsinki Commission. Because of concerns about the Helsinki Final Act, in August 1975 Speaker of the House Carl Albert led a congressional delegation to the Soviet Union and Romania. During their visit, dissenters and representatives of religious communities pleaded with members of the delegation to press for the implementation of the human rights commitments in the Act. Impressed by the need to support the provisions of the Final Act, Congresswoman Millicent Fenwick returned to the United States and introduced legislation to create a bipartisan commission to monitor and encourage compliance with the Act.

Ethnic and religious groups in the United States quickly saw in the proposed Commission a way to help their Eastern European brethren, and inundated Congress with appeals. Many members of Congress represented Americans of Eastern European descent, and both Houses overwhelmingly passed the bill. The administration objected to the legislation as encroaching on the executive branch's prerogative to conduct foreign policy; nevertheless, on June 3, 1976, President Ford signed the bill creating the Helsinki Commission as an independent U.S. Government agency.

The Commission was comprised of senators and representatives; one member each from the Departments of State, Defense, and Commerce; and a staff. The

Commission monitored and encouraged compliance with the Final Act and other OSCE commitments, contributed to the formulation of U.S. policy on the OSCE, and took a leading role in the planning and conduct of U.S. participation in the Helsinki process.

The Commission held public hearings, conducted and published research, and prepared reports. During the Cold War, the Commission became a major source of information about Soviet and Eastern European violations of the human rights provisions of the Final Act and other OSCE documents, and helped to resolve hundreds of family reunification cases across the Iron Curtain. The Commission also examined how well the United States was living up to the OSCE commitments: one major study published in 1977, *Fulfilling Our Promises: The United States and the Helsinki Final Act*, identified many shortfalls.

The Commission's activities provided NGOs and individual citizens with a means to play a greater role in the Helsinki process; for example, the law establishing the Commission required the President to submit periodic reports on the implementation of the provisions of the Act. These reports put the record into the public domain, gave more visibility to OSCE activities, and provided organizations with the means to increase their leverage to press for human rights.

The establishment of human rights organizations. A second—and crucial—effect was that the Helsinki Final Act stimulated the formation of human rights groups within the Soviet Union, Eastern Europe, and elsewhere in the world. The Soviet Union considered the signing of the Final Act as a foreign policy victory that legitimized the post-World War II borders (and therefore Soviet hegemony over Eastern Europe), and published the entire text in the leading Soviet newspapers and magazines, and as a

brochure translated into the languages of all Soviet republics.²⁵ As a result, citizens throughout the Soviet Union and Eastern Europe read that their governments had recognized human rights and fundamental freedoms, including the freedoms of thought, conscience, religion, and belief, and that their countries would act in conformity with the purposes and principles of the Universal Declaration of Human Rights (this was significant because the Soviet bloc countries had abstained from the Declaration, but *had* signed the Helsinki Final Act).

Soon after the signing of the Final Act, dissidents in the Soviet Union and Eastern Europe began to base their demands for internal reform on provisions in the Act, particularly the human rights provisions of Basket III, and established groups to promote compliance with the Act. “Helsinki Watch” groups formed in Moscow, Ukraine, Lithuania, Georgia, Armenia, and elsewhere to press for the implementation of all of the provisions of the Final Act. Czechoslovakia formed “Charter 77,” aimed at the first follow-up meeting scheduled for 1977 in Belgrade, and other movements such as Solidarity in Poland justified their reform programs by referring to the Final Act. Helsinki Watch groups also formed in the West in the United States, Canada, Norway, the Netherlands, and elsewhere, and in 1982 the International Helsinki Federation for Human Rights was formed as an umbrella organization to support the national groups.²⁶

The Act provided a platform on which these groups could base their claims (and which their governments had approved) and from which they could work for peaceful change. The Act had included the right of individuals to know and act on their rights, a statement that justified the existence and activity of these groups; however, members in

²⁵ Ghebali, *Proceedings*, 4.

²⁶ This organization was still active with over forty-five groups in 2006, and published the *Helsinki Monitor*. In addition, Human Rights Watch was founded as Helsinki Watch in 1978.

the Soviet Union and the Warsaw Pact countries were often persecuted, imprisoned, and exiled. Nevertheless, their actions raised human rights to a higher level of prominence on the agenda of East-West relations.

The Working of the “Helsinki Process.” Unlike many treaties and agreements, the Helsinki Final Act included a framework for further development. This difference was noted on the evening after the signing of the Act, when one diplomat at a farewell dinner said that now that the Act had been signed it would be buried and forgotten, to which another diplomat answered, “No...we have started something.”²⁷

What the States had started was a process by which the participating States would periodically meet to measure progress and review the implementation of their commitments, expand areas of cooperation, and develop new standards and commitments. As agreed to in the Final Act, the first follow-up meeting began in Belgrade in 1977. Though the meeting itself resulted in little progress, the discussion regarding the implementation of the Basket III issues was significant. President Jimmy Carter had directed the U.S. delegation to strongly support the human rights provisions in the Act, and during the meeting, the United States (and France, Canada, and other countries) cited specific examples of Principle VII violations.²⁸

At that time diplomats traditionally refrained from directly criticizing what other countries did concerning their internal affairs, and a number of States, particularly the Soviet Union, strongly objected to the idea that other countries had the right to monitor their human rights. These States invoked Principle VI (nonintervention in internal affairs) to support their position; however, the Soviet delegation in turn raised questions about

²⁷ Maresca, *To Helsinki*, 198.

²⁸ Mastny, *Helsinki, Human Rights, and European Security*, 167–169; Lehne, *The Vienna Meeting*, 16. The promotion of human rights was a primary component of President Jimmy Carter’s foreign policy.

alleged political prisoners in the United States—a step towards accepting the international discussion of respect for human rights within States. The meeting also set the precedent that during the implementation review sessions, States could expect direct discussion of how well each was doing in implementing the OSCE commitments—and in front of the representatives of all of the other States.

The Madrid follow-up meeting, held from November 1980 to September 1983, had more tangible results. In Basket I, the States agreed to hold a Conference on Confidence- and Security-building Measures and Disarmament in Europe (which began in Stockholm in January 1984). The Basket III discussion was again notable: delegates from many States cited and discussed over 300 specific Principle VII violations, which helped to personalize cases of human rights abuse, and gave dissident leaders some stature and protection through international attention.²⁹

The States held a number of expert meetings during the 1980s on specific topics such as democratic institutions, the peaceful settlement of disputes, the environment, the media, economic cooperation, human contacts, and human rights. The 1985 OSCE Meeting of Experts on the Progress on Human Rights was particularly notable in that the Soviet and Eastern European delegations departed from their position that Principle VI forbade detailed discussion of respect for human rights in other countries. The Soviet delegation came to the meeting with files on human rights problems in each Western country, and in response to Western criticisms such as the denial of religious freedom, brought up problems in Western countries such as racial discrimination, homelessness, unemployment, and laws on *lèse-majesté* as a restriction on freedom of speech. This

²⁹ Korey, “The Unanticipated Consequences of Helsinki,” 12.

discussion was a further step in the acceptance of the idea that a government's respect for human rights was a legitimate subject for diplomatic discourse.

In Basket I the States adopted the 1986 Stockholm Document, which expanded the arms control provisions in the Helsinki Final Act, and was the first international document under which the Soviet Union accepted other States' inspections on its territory. Basket II measures such as industrial and scientific cooperation between governments, and the creation of joint ventures between companies, resulted in increased East-West economic and business contacts.³⁰

Basket III measures resulted in increased cultural contacts and information flows through the Iron Curtain: in 1985 U.S. Secretary of State George Shultz noted that because of the Final Act, journalists could travel more easily between East and West, and that large numbers of citizens in some Eastern European countries had been reunited with their families in the West.³¹ Developments in information technology such as faxes, computers, copy machines, and television assisted these contacts and information flows; for example, East Germans watched West German TV; Hungarians watched Austrian TV; and people in northern Estonia watched Finnish TV, which as Estonian President Lennart Meri said later, allowed Estonians to see how they would have been living.³² Discussions in OSCE meetings reached millions of listeners, and public attention to the issues encouraged citizens in Eastern Europe to press for internal reform.

The involvement of individuals, groups, and NGOs in OSCE meetings increased the effect of the Helsinki process by such means as organizing events, generating debate

³⁰ Evers, *The Culture of Dialogue*, 26–27.

³¹ “Address by U.S. Secretary of State George Shultz on the Tenth Anniversary of the Signing of the Helsinki Final Act,” Aug. 1, 1985.

³² Lehne, *The Vienna Meeting*, 47; Quester, *The International Politics of Television*, 125–130.

on reform, and providing information to Western delegations. During the 1985 OSCE Meeting of Experts on the Progress of Human Rights, the International Helsinki Federation organized a parallel forum that brought together leading Western and Eastern individuals.³³ During the 1986 Bern Meeting of Experts on Human Contacts, Western and neutral delegations passed lists of unresolved cases of family reunification, family visits, and bi-national marriages to their East European counterparts, lists that were sent back to the capitals and resulted in positive decisions on a number of cases.³⁴

During this period, a particular method of the Helsinki process exerted a steady pressure for reform. Often a document would stipulate a general principle or commitment that was then further elaborated on in subsequent documents. The issue of family reunification can illustrate this process regarding the rights of human contacts.

During the Cold War, the Iron Curtain separated many families, and the Warsaw Pact countries did not recognize the right of freedom of movement. In the 1975 Helsinki Final Act, the States declared “their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States,” and made commitments in the areas of “Contacts and Regular Meetings on the Basis of Family Ties,” “Reunification of Families,” “Marriage between Citizens of Different States,” and “Travel for Personal or Professional Reasons.”³⁵

In the area of “Reunification of Families,” the States first agreed in 1975 to the general principle that they would deal in a “positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family” and

³³ Lehne, *The Vienna Meeting*, 31.

³⁴ *Ibid.*, 32.

³⁵ Helsinki Final Act, 1975, 38–40.

process applications in this area “as expeditiously as possible.”³⁶ However, in the 1983 Madrid Document, “as expeditiously as possible” was defined as normally within six months, and in the 1989 Vienna Document, the States recognized the right of freedom of movement, stating that “everyone shall be free to leave any country, including his own, and to return to his country.”³⁷

Changes in Europe 1986–1989 and the End of the Cold War. Crucial changes began during the second half of the 1980s when Mikhail Gorbachev became president of the Soviet Union and initiated a program of “new political thinking” that included political and economic reforms, in particular as expressed by the terms “glasnost” (openness) and “perestroika” (restructuring). During this period, the idea gained ground in Europe that security had to be achieved with others, not against them. As Gorbachev expressed in 1987:

The nations of the world resemble today a pack of mountaineers tied together by a climbing rope. They can either climb on together to the mountain peak or fall together into an abyss.³⁸

At the Vienna follow-up meeting, held from November 1986 to January 1989, the Soviet leadership instructed their delegates to strive for the deepening of the Helsinki process in the spirit of the “new political thinking,” strengthen the disarmament process, overcome confrontation regarding the Basket III issues and develop humanitarian cooperation, and adopt a broad program for subsequent follow-up meetings.³⁹ At the beginning of the meeting, the Soviet foreign minister, Eduard Shevardnadze, surprised

³⁶ Ibid., 39.

³⁷ Madrid Document, 1983, 17; Vienna Document, 1989, 25.

³⁸ Gorbachev, *Perestroika*, 140.

³⁹ Ghebali, *Proceedings*, 5.

the delegations by proposing a conference on the development of Basket III human rights measures, a proposal that was accepted by the other participating States.⁴⁰

The Vienna follow-up meeting resulted in significant new agreements in all “Baskets.” In the political area, the States reconfirmed that they would respect each other’s right to freely choose and develop their political, social, economic, and cultural systems, but added that they would bring their laws, regulations, practices, and policies to conform with the Helsinki Decalogue and other OSCE commitments. A second notable agreement was the establishment of a mechanism to monitor the implementation of human rights commitments, a step that recognized the legitimacy of international discussion of human rights. In the military area, the States decided to begin a second round of negotiations on Confidence- and Security-Building Measures (CSBMs).⁴¹

The Basket III section, “Cooperation in Humanitarian and Other Fields,” was renamed the “Human Dimension,” and new agreements included greater freedom to practice religion, a ban on jamming foreign radio broadcasts, and acceptance of the right of individuals to leave and return to their country.⁴² This latter right had significant consequences: Hungary began to allow thousands of East Germans to cross into Austria despite a bilateral treaty that required the return of any citizens caught trying to escape to the West. East Germany accused Hungary with breaking the treaty, conspiring with West Germany, and receiving “30 pieces of silver” for each refugee, accusations to which

⁴⁰ This conference was the three-meeting Conference on the Human Dimension of the CSCE, and was held in Paris in 1989, Copenhagen in 1990, and Moscow in 1991. The conference’s purpose was “to achieve further progress concerning respect for all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character.” See the Vienna Document, 1989, 34. The conference resulted in two landmark documents: the 1990 Copenhagen Document and the 1991 Moscow Document.

⁴¹ This round resulted in the Treaty on Conventional Armed Forces in Europe (CFE).

⁴² Vienna Document, 1989, 34, 8–9, 29, 25.

Hungarian Prime Minister Miklos Nemeth replied, “I can only answer: Hungary has opened the borders according to the principles of the Helsinki Agreement.”⁴³

The Soviet Union did not intervene—the foreign ministry spokesman said that though the Hungarian action was unexpected, unusual, and of some concern, the situation did not directly affect the Soviet Union.⁴⁴ The stream became a flood: from September to October 1989, 55,000–60,000 East Germans escaped to West Germany through Hungary, Poland, and Czechoslovakia, and another 50,000 during the first week of November.⁴⁵

Huge demonstrations involving hundreds of thousands of people took place in East Berlin and every major city in East Germany, demanding political and civil liberties, especially free elections: slogans shouted included “The wall must go,” and “No one can hinder the people’s will for democratization any more.”⁴⁶ On November 8 the entire East German Cabinet of Ministers and the Politburo resigned, and on November 9, 1989, the Berlin Wall fell. The following day the Bulgarian regime fell, a week later the “Velvet Revolution” began in Czechoslovakia, and in December Romania’s government fell. As regime after regime crumbled, a wave of euphoria swept Europe.

The OSCE 1990–1992

New Agreements on Individual Rights, Democracy, the Rule of Law, and Economic Liberty. With the fall of the Berlin Wall and the opening of the borders dividing Europe, the States capitalized on the readiness for change, and during the 1990–1991 period reached agreement on core values and principles for international behavior

⁴³ Daniel Johnson, “Refugee Exodus Threatened by War of Words,” *Daily Telegraph*, Sept. 13, 1989, 15; Ian Murray, “Hungary Keeps Door Open as Prague Stems the Flow,” *Times*, Sept. 18, 1989.

⁴⁴ Serge Schmemmann, “East Berlin Tells Budapest to Halt Aid to Emigration,” *New York Times*, Sept. 13, 1989, A1.

⁴⁵ Magstadt, *Ethics and Emigration: The East German Exodus*, 1.

⁴⁶ Keesing’s, “Krenz’s Visit to Moscow and Warsaw Dismissals and Demonstrations,” Nov. 1989.

and domestic governance, particularly pertaining to individual rights, democracy, the rule of law, and the market economy. The States expressed these values and principles in a number of key documents: the April 1990 Bonn Document, June 1990 Copenhagen Document, November 1990 Charter of Paris, and October 1991 Moscow Document.

In these documents, the States agreed that the protection and promotion of individual rights was the first responsibility of governments, and that democracy would be the States' only form of government—a decision based on the belief that pluralistic democracy based on the rule of law was the only system able to effectively guarantee individual rights. A definition of pluralism and the rule of law was adopted as encompassing regular free elections; the separation of party and State; an independent judiciary; and political and civil rights that included the rights of free expression, association, and assembly. Other new commitments included the market economy as the economic systems for all of the participating States; recognition of the rights of persons belonging to national minorities; and provisions regarding states of emergency, particularly “that any derogation from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation.”⁴⁷

The States explicitly declared that matters concerning human rights were a legitimate concern of all other OSCE States and did not belong exclusively to a State's internal affairs.⁴⁸ By accepting this *droit de regard*, or right of oversight, by the OSCE

⁴⁷ Moscow Document, 1991, 41.

⁴⁸ *Ibid.*, 29.

community in the area of individual rights, the States ended their debate over the balance between Principle VI (nonintervention in internal affairs) and Principle VII (respect for rights and freedoms).

The acceptance of common values was reflected in Gorbachev's remarks at the 1990 Paris Summit: "We are entering into a world of new dimensions, in which universal human values are acquiring the same meaning for all and in which human freedom and well-being and the unique value of human life must become both the foundation and basis for universal security and the supreme criterion by which we measure progress."⁴⁹

The Shift to Implementation and Institutionalization. During the Cold War, the OSCE focused primarily on reducing tensions, preventing conflict between States, and setting and developing standards and values. However, during the early post-Cold War period, the focus shifted to two areas: implementation of the new principles and values, and responding to the new threats arising in Europe. The situation was not stable: the former Warsaw Pact countries faced formidable challenges that included transitioning to liberal democratic governments; establishing a rule of law based on individual rights; the massive restructuring of their economies; and the emergence of old—and new—ethnic tensions and rivalries, which in a number of cases erupted into violence. New countries emerged from the breakup of the Soviet Union, often with no experience of statehood, and the number of OSCE participating States grew to over fifty. In 1992 the States described the difficulties of the period as follows:

This is a time of promise but also a time of instability and insecurity. Economic decline, social tension, aggressive nationalism, intolerance, xenophobia and ethnic conflicts threaten stability in the [O]SCE area. Gross violations of [O]SCE commitments in the field of human rights and

⁴⁹ "Speech by Soviet President Mikhail Gorbachev to the Second Summit of CSCE Heads of State or Government," Nov. 19, 1990.

fundamental freedoms, including those related to national minorities, pose a special threat to the peaceful development of society, in particular in new democracies.⁵⁰

The States perceived the need for the OSCE to have operational capabilities, and began to establish institutions to translate principles into practice, and to respond to the new threats. The States established a Council of Ministers of foreign ministers from the participating States; a Committee of Senior Officials (CSO) to assist the Council and manage day-to-day business; the Chairman-in-Office, a foreign minister who, in addition to being the foreign minister of his or her own country, would have overall responsibility for the executive action of the OSCE for a year; and regular summit meetings of Heads of State or Government.

The States established institutions such as a Secretariat to provide administrative support, a Conflict Prevention Center, and a Forum for Security Cooperation. Particularly important was the establishment of the Office for Democratic Institutions and Human Rights (ODIHR) to help develop and monitor national electoral institutions, local and central government and parliamentary structures, the judiciary, and ombudsman institutions. The OSCE also began to work out concepts and methods for conflict prevention and crisis management, such as “OSCE Missions” that would provide an international presence and facilitate political processes in States.

The Reemergence of Ethnic Conflict. In November 1990 the Heads of State or Government met in Paris for their first summit meeting since 1975, a meeting that formally ended nearly half a century of East and West confrontation. The Summit marked the high-water point of the 1989–1990 political watershed in Europe, and in that spirit of

⁵⁰ Helsinki Document, 1992, 7.

optimism, the Heads of State or Government signed the Charter of Paris for a New Europe, a document that embodied the new common values of the OSCE community.⁵¹

However, ethnic tensions were rising as the Soviet Union dissolved, and in the Charter of Paris the States decided to convene a 1991 meeting of experts to address the issue of national minorities and the rights of persons belonging to them. The States discussed these issues at the July 1991 CSCE Meeting of Experts on National Minorities and the October 1991 Moscow Meeting of the Human Dimension; however, that same year new conflicts broke out in Croatia, Georgia, and Moldova.

The Creation of the Position of the HCNM. The OSCE States perceived the need to prevent any additional ethnic conflicts from starting, but when conflict broke out in Bosnia in early 1992, the need for preventive measures became imperative. During the follow-up meeting from March to July 1992, the Netherlands put forth a proposal for a High Commissioner for National Minorities to provide early warning and promote the peaceful settlement of disputes.

During the meeting, there were extensive negotiations regarding the position, for a number of States had serious concerns. The majority of OSCE States recognized only the rights and duties of individuals, not groups, and there was concern that the appointment of an HCNM could be a step towards recognizing group rights and thereby contradict the principle of equal rights and duties for all. These States also feared that one group could claim rights and privileges not available to other groups, which could lead to inequality and increased interethnic tensions.

⁵¹ The Treaty on Conventional Armed Forces in Europe (CFE) was also signed. The CFE treaty set ceilings on tanks, armored combat vehicles, artillery pieces, attack helicopters, and combat aircraft in the area between the Atlantic and the Ural Mountains, and provided for verification through the exchange of detailed information and a system of on-site inspections.

Some States did not recognize the existence of national minorities and were not willing to acknowledge any special rights, duties, or institutions for any segment of their populations. Other States were concerned that an HCNM might become an advocate for minorities and thereby exacerbate interethnic tensions *within* States by emphasizing differences between minorities and majorities, or by supporting the demands of one minority group over another. There was also fear that HCNM advocacy might cause tensions *between* States by taking sides between different ethnic groups among neighboring States, particularly regarding issues of secession or irredentism.

There was concern that minorities might “use” a High Commissioner to bypass their governments or to voice grievances and demands publicly, in particular regarding increased autonomy or secession. A serious objection concerned the HCNM’s potential involvement with minority groups that engaged in terrorist activities. Other issues concerned the working of the HCNM such as how he would decide to become involved in a minority issue, his freedom to travel, with whom he would have contact, to whom he would be accountable, and the level of confidentiality he would maintain.

The States worked out these issues and achieved consensus on a mandate for an HCNM. He would be a High Commissioner *on* National Minorities, not *for* them, a distinction that addressed a number of concerns such as advocacy. He would act under the aegis of the Council of Senior Officials, would consult the Chairman-in-Office (CiO), and would provide a strictly confidential report to the CiO after a visit.

The mandate allowed the HCNM to collect and receive information regarding the situation of national minorities from any source except people or organizations practicing or publicly condoning terrorism or violence. He would be free to travel anywhere in the

OSCE area to assess national minority issues, and during these visits could discuss questions with parties directly concerned, and where appropriate, promote dialogue, confidence, and cooperation between them. These parties included governments; regional and local authorities; and representatives of national minorities, associations, nongovernmental organizations, and religious or other groups.

The HCNM would be independent regarding which situations he would become involved in, and once involved, would act independently of all parties directly involved, and would work in confidence. If at any time he concluded that there was a *prima facie* risk of potential conflict, he would issue an early warning to the Chairman-in-Office, who would promptly inform the Committee of Senior Officials.

There were several restrictions on the position. The two major restrictions were that the High Commissioner would not consider national minority issues in situations involving organized acts of terrorism, and would not consider violations of OSCE commitments with regard to an individual person belonging to a national minority.

The mandate allowed the HCNM to request assistance from up to three experts on specific matters in which brief, specialized investigation and advice were needed. These experts would be selected by the HCNM from a resource list maintained at the Office for Democratic Institutions and Human Rights.

The States formally established the position in July 1992 at the third Summit meeting of the OSCE Heads of State or Government. The HCNM's official mandate specified that his function was as follows:

The High Commissioner will provide "early warning" and, as appropriate, "early action" at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the

potential to develop into a conflict within the [O]SCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO.⁵²

The Selection of the First HCNM. The mandate stated that the High Commissioner would be an “eminent international personality with long-standing relevant experience from whom an impartial performance of the function may be expected,” and in September 1992, the Netherlands nominated Max van der Stoel, an experienced statesman whose career had included serving as a member of the Dutch Parliament, the Netherlands foreign minister, Rapporteur on Greece for the Council of Europe, Ambassador to the United Nations, and Special Rapporteur on Iraq for the United Nations Commission on Human Rights.

He had been involved in the OSCE as the Netherlands foreign minister from 1973 to 1977, and as such had participated in negotiating the Helsinki Final Act. From 1989 to 1991 he headed the Netherlands delegation to the three-meeting Conference on the Human Dimension of the CSCE that resulted in the 1990 Copenhagen Document and 1991 Moscow Document. He was also an individual for whom the promotion of peace, security, and individual rights had been a constant theme during his career: he had been instrumental in ensuring the inclusion of the human rights provisions in the Helsinki Final Act, and in recognition of his outspoken support for human rights, had been selected to be the first recipient of the Freedom of Speech Award of the Roosevelt Foundation’s Four Freedoms Awards.⁵³

⁵² Helsinki Document, 1992, 8.

⁵³ The basis for this award included “his courageous and independent voice which has spoken effectively and eloquently in the defense of human rights.” Roosevelt Study Center, <http://www.knaw.nl/rsc/1982.htm> (March 10, 2001).

The HCNM 1993–2001

The First HCNM's Appointment and Methods. The States appointed Max van der Stoep on December 15, 1992, and he began work on January 1, 1993. He was given an initial budget of about \$400,000, a staff of four people, and a small office in The Hague.⁵⁴ A private nongovernmental organization, the Foundation on Inter-Ethnic Relations (FIER), was set up to support his work through means that included research, expert consultations, publications, and projects that addressed the particular needs of countries in which he was involved.⁵⁵ With these resources (which increased to \$2 million per year and a staff of sixteen by the time his tenure ended in 2001), the tools provided by his mandate, and his personal experience and skills, for the next eight years he worked to reduce interethnic tensions and prevent conflict in the OSCE area.

He had four primary responsibilities. His first responsibility was to continuously monitor the entire OSCE area for signs of tensions involving minorities that in his judgment might lead to tensions between OSCE States. This area consisted of over fifty participating States in Europe, Central Asia, and North America as shown on the NATO-OSCE map (the areas in light and dark green):



His second responsibility was to engage in crisis intervention if he perceived that these tensions threatened to erupt into violence, and he did this several times. His third

⁵⁴ Kemp, *Quiet Diplomacy in Action*, 19.

⁵⁵ Examples were creating low-cost textbooks for ethnic minorities in Crimea, and information pamphlets to explain citizenship requirements to minorities in Latvia and Estonia. FIER was incorporated into the HCNM's office in 1999.

responsibility was to issue an early warning to the OSCE leadership if a situation developed to the point that he did not believe he could contain it with the tools available to him, and he took this action regarding Macedonia. His fourth responsibility was to work with governments to resolve minority issues that were causing tensions between OSCE States, or that might cause a serious crisis in an OSCE State. In these instances, the HCNM used particular methods.

He first examined a situation and identified all of the factors that were causing tensions, and tried to understand why the situation had developed to the point that it had. In this analysis, he was aided by the OSCE's comprehensive security concept, for he often found that ethnic tensions had their origin in economic issues or the violation of individual rights. He then identified what issues needed to be addressed, to include the political processes involved.

His next steps were to analyze the possible solutions that could be reached through dialogue and negotiation, and develop an integrated strategy to deal with all aspects of the problem. In doing so, he did not use any general solutions, believing that each situation was unique and had to be assessed in light of its own particular circumstances, and that what worked in one State might be entirely inappropriate for another. The only set guidelines he used were OSCE principles and commitments, international norms, and legal standards.

He would then prepare a formal written recommendation to the government concerned, usually in the form of a letter to the foreign minister.⁵⁶ In this recommendation, he provided his overall analysis of the situation, taking into account all of the legitimate interests involved, and offered specific recommendations for the

⁵⁶ These recommendations often contained recommendations for minorities and other groups as well.

resolution of the issues. The recommendations generally included practical steps such as increasing the availability of language instruction or the establishment of a council to further dialogue and the consideration of specific problems. As his involvement with a country progressed, he followed up his first recommendation with others as needed.

His recommendations were not legally binding, had no enforcement mechanism, and the extent to which they were implemented was entirely the decision of the recipient State. However, as an instrument of the OSCE, the HCNM represented all OSCE States, which gave a degree of “weight” to his recommendations, and the OSCE leadership, organizations such as the European Union, and other OSCE States reinforced them.

In working with the parties involved, he searched for “concrete” solutions, promoted dialogue, encouraged parties to be specific and avoid generalities, and emphasized the requirement for mutual respect. In particular, he proposed solutions and tried to bring parties to a consensus based on convincing arguments rather than coercion. He maintained confidentiality in that his reports to the Chairman-in-Office were private; his formal recommendations were usually withheld from the public for months while States considered and responded to his recommendations; his meetings were restricted; and he seldom talked to the press.

His initial goal was to help governments and minorities come up with solutions that were politically possible, lasting, and in keeping with OSCE principles and international standards. However, his long-term goal was to help parties create a pattern of cooperative interaction, and the processes and institutions needed so that they would be able to deal with contentious issues in a constructive way on their own.

The HCNM's Effectiveness. Van der Stoel fulfilled his mandate, for during his tenure, no new conflicts involving minority tensions broke out in the OSCE area except for Macedonia in 2001, and he issued an “early warning” regarding that situation.⁵⁷ It is pertinent to consider his accomplishments in light of the ongoing institutionalization of the OSCE, the overall state of ethnic tensions in the OSCE area, and the cost of his work.

From 1975 to 1989 the OSCE had no permanent institutional structures—the beginnings of institutionalization were initiated in 1990, with the first major steps taken during the July 1992 Helsinki Summit meeting. During his first years, the HCNM was operating at the same time that the OSCE was trying to institutionalize and simultaneously respond to the security situation in Europe. (The OSCE did not formally become an organization until January 1, 1995.)

The overall situation of ethnic tensions in Europe was a second significant factor. In 1992 the participating States expressed the security situation in Europe as follows:

For the first time in decades we are facing warfare in the [O]SCE region. New armed conflicts and massive use of force to achieve hegemony and territorial expansion continue to occur. The loss of life, human misery, involving huge numbers of refugees have been the worst since the Second World War. Damage to our cultural heritage and the destruction of property have been appalling.⁵⁸

In all of these ongoing conflicts, ethnic tensions were a primary or major contributing cause, and rising tensions elsewhere increased the expectation that additional conflicts were likely, particularly as economic conditions in Eastern Europe worsened, resulting in growing hardships and insecurity for large segments of populations.

The HCNM expended very few resources, particularly when compared to the consequences and costs of conflict. The consequences of the 1991–1992 conflicts in

⁵⁷ Note that Yugoslavia was suspended from the OSCE during most of the HCNM's tenure.

⁵⁸ Helsinki Document, 1992, 7.

Europe included thousands of lives lost; widespread suffering; massive refugee flows; regional instability; new waves of hatred; the destruction of irreplaceable cultural heritage; and large economic costs for the countries directly involved, neighboring countries, and the international community. As an example, during the five-year period from 1992 to 1996, the conflict in Bosnia alone cost the international community \$54 billion: in contrast, the HCNM's eight-year tenure cost a total of less than \$8 million—less than \$1 million per year.⁵⁹ In this context, if the HCNM prevented even one conflict, his work was very cost-effective.

Van der Stoel also made contributions beyond the fulfilling of his mandate, such as advancing conflict prevention concepts, and contributing to the implementation of international standards on minority rights, particularly regarding political participation, education, and language. For example, a number of minority-related international standards were established in the 1990s, most notably the 1990 Copenhagen Document and the Council of Europe's Framework Convention for the Protection of National Minorities. However, in order to provide some guidelines on how to put these standards into practice, Van der Stoel commissioned a group of international experts to draw up recommendations on issues that he felt needed further clarification. These experts developed three sets of recommendations: *The Hague Recommendations Regarding the Education Rights of National Minorities*, 1996; *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities*, 1998; and *The Lund Recommendations on the Effective Participation of National Minorities in Public Life*, 1999. Though the

⁵⁹ Brown, *The Costs of Conflict*, 48; *OSCE Handbook*, 2000, 34; and Kemp, *Quiet Diplomacy in Action*, 19–20.

Recommendations were not binding on participating states, they had a significant impact, for example, by being incorporated into national legislation.⁶⁰

His work was widely recognized as having been effective, though he was often criticized by extreme nationalists on both sides of an issue, and sometimes by the governments of the States in which he was involved. The Commission on Security and Cooperation in Europe (the United States Helsinki Commission) repeatedly recognized the effectiveness of his work in its reports, as did the U.S. presidents' reports on the OSCE. Many governments bestowed awards and recognition on him, and at the end of his tenure, the OSCE Permanent Council held a special meeting at which the first agenda item was "Homage to Mr. Max van der Stoel, OSCE High Commissioner on National Minorities."⁶¹

The Focus of the Study. The HCNM's methods and skills contributed to his effectiveness as HCNM; however, this study did not focus on these aspects of his work, but on his use of the OSCE principles. Chapter 3 shows the derivation of the principles that Van der Stoel used in his work as HCNM, for not all of the principles he relied on had been clearly articulated as principles. The study then examined his application of the principles in three intervention cases, and the effect on security when these principles were implemented.

⁶⁰ Kemp, *Quiet Diplomacy in Action*, 63.

⁶¹ "Special Meeting of the Permanent Council (343rd Plenary Meeting), June 22, 2001. The only other agenda item was "Any other business."

Chapter 3: The OSCE Security Principles

Chapter outline

Introduction

The OSCE Security Principles 1993–2001

The List of OSCE Principles 1993–2001

Introduction

This chapter presents the results of Phase I of the study: the identification, articulation, and documentation of the OSCE security principles. This step was required because the High Commissioner on National Minorities (HCNM) relied on these principles when making his recommendations; however, the principles were not stated explicitly in any one document, but in a series of documents adopted by the States.

The OSCE Security Principles 1993–2001

The OSCE Principles. Content analysis of selected OSCE documents revealed twenty security principles in effect from 1993 to 2001, the period of the first HCNM's tenure. These principles can be divided into three groups: principles guiding relations between OSCE States; guiding relations between the government and the people who comprise the State; and guiding implementation, review, and development processes.

Group I: Principles Guiding Relations Between OSCE States. Analysis revealed eight security principles in Group I. These principles can be grouped into four categories:

- One general principle regarding the overall necessity for principles guiding international relations;
- Three principles recognizing that each State possessed all sovereign rights except for those that the States had explicitly agreed to limit;
- Three principles relating to the States' approach to security, which would be "comprehensive," "cooperative," and "common"; and
- One principle focusing on the prevention of security threats, and the peaceful resolution of disputes and conflicts.

Principle 1: Achieving security requires that the participating States develop agreed-upon principles guiding international relations. Principle 1 expressed the idea that States benefit from, and need, consistency in their relations. The participating States expressed their commitment to principles guiding international relations as below:

We reaffirm the validity of the *guiding principles* and common values of the Helsinki Final Act and the Charter of Paris, *embodying responsibilities of States towards each other* and of governments towards their people.⁶²

That the OSCE States believed that agreed-upon principles guiding international relations were necessary to achieve security is shown by the negotiation of the Helsinki Decalogue, and also by statements that the principles have been effective in increasing international security. One example refers to the role that the OSCE played in bringing about the end of the Cold War: “The Ten Principles of the Final Act...lighted our way towards better relations.”⁶³ A more explicit example is below:

We have witnessed the end of the cold war, the fall of totalitarian regimes and the demise of the ideology on which they were based. [The OSCE] has played a key role in these positive changes.⁶⁴

The States also declared that abiding by OSCE principles would benefit all countries, and expressed their “determination fully to respect and apply these principles, as set forth in the present Declaration, in all aspects, to their mutual relations and cooperation in order to ensure to each participating State the benefits resulting from the respect and application of these principles by all.”⁶⁵

Principle 2: Achieving security requires that the participating States respect the sovereign rights of other participating States, in particular their juridical equality,

⁶² Helsinki Document, 1992, 5 (italics added).

⁶³ Charter of Paris, 1990, 3.

⁶⁴ Helsinki Document, 1992, 4.

⁶⁵ Helsinki Final Act, 1975, 8.

external and internal political independence, and territorial integrity. Principle 2 addressed the requirement to mutually respect the sovereign rights of States. These rights included equality under international law (juridical equality); territorial integrity; and the right to external and internal political independence, in accordance with international law and the spirit of the Helsinki Final Act.⁶⁶

“External political independence” included the right to neutrality; to belong, or not belong, to international organizations; and to be, or not be, a party to alliances or treaties. “Internal political independence” included the right of States to determine their own laws and regulations, and for each State to freely choose and develop its political, social, economic, and cultural systems. External and internal political independence included the responsibility to refrain from intervening in affairs, internal or external, that fell within the domestic jurisdiction of another participating State.

The States made a number of commitments pertaining to territorial integrity, expressed in three general areas: State frontiers and borders; the nonuse of force, or the threat of force; and activities aimed at the violent overthrow of one regime by another:

- The States agreed that they would not demand, seize, or usurp part or all of the territory of any participating State; would regard all frontiers as inviolable; and would not assault any frontiers.
- The States agreed that they would refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or act in any manner inconsistent with the purposes of the United Nations and OSCE commitments.
- The States agreed that they would refrain from providing any direct or indirect assistance to terrorist activities, or to subversive or other activities aimed at the violent overthrow of another participating State’s regime.⁶⁷

Principle 3: Achieving security requires that the participating States agree to limit their political independence in regard to their OSCE commitments. In Principle 3,

⁶⁶ Helsinki Final Act, 1975, 4.

⁶⁷ Helsinki Final Act, 1975, 4–6.

the States agreed to limit their political independence as it pertained to international law and their OSCE commitments. As of January 1993, particular areas in which the States had accepted specific limits pertained to their form of government, respect for individual rights and fundamental freedoms, and economic systems.

— *Form of government.* The States agreed to limit their political independence regarding the form of government that each participating State would use, and declared that democracy would be their only form of government: “All our countries now take democracy as the basis for their political, social and economic life.”⁶⁸

— *Individual rights and fundamental freedoms.* The States explicitly agreed that respect for human rights and freedoms was a legitimate area of international relations:

[The States] categorically and irrevocably declare that the commitments undertaken in the field of the human dimension of the [O]SCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.⁶⁹

— *Economic systems.* The participating States agreed to limit their sovereignty in the area of economic systems. As shown below, the States committed themselves to the market economy and adherence to the rules involved:

Economic cooperation based on market economy constitutes an essential element of our relations. [We] underline the necessity of...increased integration, involving the acceptance of disciplines as well as benefits, into the international economic and financial system.⁷⁰

⁶⁸ Helsinki Document, 1992, 4. Democracy included a representative form of government in which the executive is accountable to the elected legislature or the electorate; the government and public authorities are not above the law and comply with their constitutions; a clear separation between the State and political parties is maintained, in particular, political parties are not merged with the State; military forces and the police are under the control of, and accountable to, the civil authorities; judges are independent and judicial services operate impartially; and periodic, free, and fair elections are held, for which individuals and groups have the right to freely establish political parties and organizations able to compete with each other on a basis of equal treatment before the law and the authorities, and with governmental and nongovernmental observers present for national elections. See Copenhagen Document, 1990, 3–4; Charter of Paris, 1990, 24.

⁶⁹ Moscow Document, 1991, 29.

⁷⁰ Charter of Paris, 1990, 9.

Principle 4: Achieving security requires that the participating States accept their mutual involvement with, accountability to, and assistance to each other regarding the implementation of their OSCE commitments. State responsibilities in three areas follow:

— *Mutual involvement.* The Helsinki process involved periodic detailed reviews and discussion of the States’ implementation of their OSCE commitments, reviews that necessarily involved all of the States with each other. Mutual involvement also included the right for all States to follow the internal developments in all other participating States, and through the OSCE to influence these developments: the States decided “to improve their capability to gather information and to monitor developments, as well as their ability to implement decisions about further steps.”⁷¹

— *Mutual accountability.* The States accepted that they were responsible to each other for the implementation of their commitments: “We recognize our accountability to each other for complying with...the guiding principles and common values of the Helsinki Final Act and the Charter of Paris.”⁷²

— *Mutual assistance.* The States accepted the responsibility of mutual assistance in the implementation of their OSCE commitments. An example is below:

The transition to and development of democracy and market economy by the new democracies is being carried forward with determination amidst difficulties and varying conditions. We offer our support and solidarity to participating States undergoing transformation to democracy and market economy.... In order to ensure full participation and cooperation by recently admitted participating States we are initiating a program of coordinated support.⁷³

As a second example, the States created organizational structures to assist in establishing, strengthening, and defending the liberal democratic form of government,

⁷¹ Helsinki Document, 1992, 15.

⁷² Ibid., 5.

⁷³ Ibid., 5, 13.

including the democratic and legal institutions required.⁷⁴ Below is an example of the States' commitment to mutually defend the democratic form of government:

[The participating States] recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.... Our States will cooperate and support each other with the aim of making democratic gains irreversible.⁷⁵

Principle 5: Achieving security requires that the participating States use a comprehensive approach to security that enables them to address all areas that cause tensions between States (comprehensive security). The States' commitment to a comprehensive approach to security was based on the idea that tensions between States could arise from a wide range of issues beyond the traditional political and military areas, and also that these issues were interrelated. That the States took a comprehensive view of security, and believed that this view was essential to security is shown below:

Our approach is based on our comprehensive concept of security as initiated in the Final Act. This concept relates the maintenance of peace to the respect for human rights and fundamental freedoms. It links economic and environmental solidarity and cooperation with peaceful inter-State relations.⁷⁶

The OSCE States believed that this approach would increase their security by helping to identify and resolve tensions between them: the States were “desirous of eliminating the causes of tension that may exist among them and thus of contributing to the strengthening of peace and security in the world.”⁷⁷

⁷⁴ The Office for Democratic Institutions and Human Rights (ODIHR) was an example.

⁷⁵ Charter of Paris, 1990, 24, 4.

⁷⁶ Helsinki Document, 1992, 10.

⁷⁷ Helsinki Final Act, 1975, 10.

The States also adopted this approach on the basis that the different elements of security were interrelated. For example, they agreed to the idea that respect for human rights, democracy, and the rule of law were necessary for economic prosperity:

The free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development.... Freedom and political pluralism are necessary elements in our common objective of developing market economies towards sustainable economic growth, prosperity, social justice, expanding employment and efficient use of economic resources.... Economic liberty, social justice and environmental responsibility are indispensable for prosperity.⁷⁸

The OSCE used different constructs in expressing its comprehensive, cooperative, and common security concept; however, the most usual construct consisted of four categories: the three “Dimensions” of security—the political-military; the economic, scientific/technological, and environmental; the human rights aspects (the “Human Dimension”); and the area of process (such as the continuation of the Helsinki process).⁷⁹ The OSCE States considered the three dimensions to be equal in principle. This construct can be shown as below.

Table 3.1 The OSCE Dimensions of Security

I. Political-Military Dimension	II. Economic, Scientific & Technological, and Environmental Dimension	III. The Human Dimension ⁸⁰
&		
IV. Process		

⁷⁸ Charter of Paris, 1990, 4.

⁷⁹ From 1975 to 1992 the States used as many as seven categories: the political, military, economic, scientific, technological, environmental, and human rights aspects of security.

⁸⁰ The Human Dimension consisted of those commitments made by the OSCE participating States to ensure full respect for individual rights and fundamental freedoms; abide by the rule of law; promote the principles of democracy; and build, strengthen, and protect democratic institutions. In the 1989 Vienna Document, the participating States renamed the “Cooperation in Humanitarian and Other Fields” basket as the “Human Dimension,” and the OSCE later adopted the term “dimension” for the first three baskets.

Principle 6: Achieving security requires that the participating States use a cooperative approach to security (cooperative security). That the States committed themselves to a cooperative approach to security is shown in many ways including the name of the organization itself, and the title of Helsinki Decalogue Principle IX:

IX. Cooperation among States. The participating States will develop their cooperation with one another and with all States in all fields in accordance with the purposes and principles of the Charter of the United Nations.⁸¹

The Charter of Paris showed that the States believed a cooperative approach was essential to security:

With all the rich diversity of our nations, we are united in our commitment to expand our cooperation in all fields. The challenges confronting us can only be met by common action, cooperation and solidarity.⁸²

*Principle 7: Achieving security requires that the participating States respect the right of each participating State to equal security (common security).*⁸³ The States declared that each had an equal right to security, that they would have equal respect for the security interests of all, and that respect for these security interests was inherent in their sovereign equality.⁸⁴ They further recognized that the security of States was “linked” or “indivisible,” in that insecurity in one State decreases the security of others, and also that they face common threats and have common interests:

Security is indivisible and the security of every participating State is inseparably linked to that of all the others.... The destiny of our nations is linked to that of all other nations.⁸⁵

⁸¹ Helsinki Final Act, 1975, 7.

⁸² Charter of Paris, 1990, 6.

⁸³ OSCE documents also refer to “common security” as “indivisibility security.”

⁸⁴ Helsinki Document, 1992, 4; Madrid Document, 1983, 7–8; Vienna Document, 1989, 12.

⁸⁵ Charter of Paris, 1990, 5, 6.

The States expressed their commitment to the principle of equal security: “No State in our [O]SCE community will strengthen its security at the expense of the security of other States.”⁸⁶ The States also recognized their mutual responsibility to contribute to security, acknowledging “the close link between peace and security in Europe and in the world as a whole” and “the need for each of them to make its contribution to the strengthening of world peace and security and to the promotion of fundamental rights, economic and social progress and well-being for all peoples.”⁸⁷

Principle 8: Achieving security requires that the participating States prevent security threats from arising, and use peaceful means to resolve disputes and conflicts that do arise. The States declared that the peaceful settlement of disputes was “an essential complement to the duty of States to refrain from the threat or use of force,” and that both were “essential factors for the maintenance and consolidation of international peace and security.”⁸⁸ Therefore, the States declared that they would “seek effective ways of preventing, through political means, conflicts which may yet emerge,” and to use peaceful means to resolve disputes and conflicts that might arise.⁸⁹ The example below shows the States’ determination to resolve disputes, prevent security threats from developing, and provide early warning of cases in which threats might arise:

The participating States have decided to strengthen the structure of their political consultations and increase their frequency, and to provide for more flexible and active dialogue and better early warning and dispute settlement, resulting in a more effective role in conflict prevention and resolution, complemented, when necessary, by peacekeeping operations. The participating States...have also decided to improve their capability to gather information and to monitor developments, as well as their ability to implement decisions about further steps. They have recommitted

⁸⁶ Helsinki Document, 1992, 10.

⁸⁷ Helsinki Final Act, 1975, 3.

⁸⁸ Charter of Paris, 1990, 8.

⁸⁹ *Ibid.*, 8–9.

themselves to cooperating constructively in using the full range of possibilities within the [O]SCE to prevent and resolve conflicts.⁹⁰

The States agreed to try to reduce the potential for misunderstanding through openness and predictability, such as through military constraints, confidence-building measures, transparency, the control of dangerous technologies, and arms control:

[The participating States recognize] the need to contribute to reducing the dangers of armed conflict and of misunderstanding or miscalculation of military activities which could give rise to apprehension, particularly in a situation where the participating States lack clear and timely information about the nature of such activities. [Strengthening confidence among the States will] contribute to increasing stability and security in Europe.⁹¹

If problems did arise, the States committed themselves to using peaceful means to settle disputes and resolve conflicts; to endeavor in good faith and a spirit of cooperation to reach a rapid and equitable solution on the basis of international law; and to act in a manner that would not endanger international peace, security, and justice. The participating States—whether or not parties to a dispute among them—committed themselves to refrain from any action that might aggravate a situation and thereby make a peaceful settlement more difficult.⁹²

The States specified the particular means that they would use to settle differences and disputes, to include negotiation; mediation; arbitration; judicial settlement; early warning; conflict prevention; preventive action; fact-finding and rapporteur missions; peacekeeping; good offices; and independent advice and counsel from experts, institutions, and international organizations. In the event of a failure to reach a solution by any of these means, the States committed themselves to continue to seek a mutually

⁹⁰ Helsinki Document, 1992, 15.

⁹¹ Helsinki Final Act, 1975, 10.

⁹² Helsinki Final Act, 1975, 6.

agreed way to settle disputes peacefully, and also authorized the OSCE leadership to take action to settle disputes and conflicts.⁹³

Group II: Principles Guiding Relations Between the State and the People Who Comprise the State. Analysis showed eight principles in Group II, and can be grouped into four categories: one general principle regarding the overall necessity for principles guiding relations between a State and its population, two principles relating to the purpose and form of governments, three principles relating to national minorities, and two principles relating to the requirement for respect as a basis for relations.

Principle 9: Achieving security requires that the participating States develop agreed-upon principles guiding relations between the State and the people who comprise the State. The States' commitment in this area was stated in the 1992 Helsinki Document:

We reaffirm the validity of the *guiding principles...of the Helsinki Final Act and the Charter of Paris, embodying responsibilities of...governments towards their people.*⁹⁴

The States established principles of intrastate relations on the belief that they were required in order to achieve international security, and identified that the observance and full exercise of individual rights was a foundation for freedom, justice, and well-being:

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States.⁹⁵

Principle 10: Achieving security requires that the participating States create and maintain the conditions in which all members of the State are able to fully exercise their individual rights and fundamental freedoms. The participating States accepted that their

⁹³ Helsinki Final Act, 1975, 5; Helsinki Document, 1992, 15–17.

⁹⁴ Helsinki Document, 1992, 5 (italics added).

⁹⁵ Helsinki Final Act, 1975, 6.

duty included the responsibility to create and maintain the conditions in which all individuals were able to fully exercise their individual rights and freedoms. This commitment included the declaration that the protection and promotion of human rights and fundamental freedoms was the “first responsibility of government.”⁹⁶

The States identified the individual as their primary focus: “[The States recognize and fully accept] the supreme value of the human personality.”⁹⁷ The States acknowledged that individual rights and fundamental freedoms are inalienable and derive from the inherent dignity of the human person:

Civil, political, economic, social, cultural and other rights and freedoms...derive from the inherent dignity of the human person and are essential for his free and full development.⁹⁸

Human rights and fundamental freedoms are the birthright of all human beings [and] are inalienable.⁹⁹

The States acknowledged the relationship between international security and respect for human rights, declaring that “respect for these rights and freedoms constitutes one of the foundations of the international order.”¹⁰⁰ The States further declared that the protection and promotion of human rights and fundamental freedoms is “a vital basis for our comprehensive security” and that “their observance and full exercise are the foundation of freedom, justice and peace.”¹⁰¹

Principle 11: Achieving security requires that the participating States use democracy, a rule of law based on human rights, and a market economy as the means to ensure that all individuals are able to fully exercise their rights and freedoms. Principle

⁹⁶ Charter of Paris, 1990, 3.

⁹⁷ Copenhagen Document, 1990, 3.

⁹⁸ Helsinki Final Act, 1975, 6.

⁹⁹ Charter of Paris, 1990, 3.

¹⁰⁰ Moscow Document, 1991, 29.

¹⁰¹ Helsinki Document, 1992, 5; Charter of Paris, 1990, 3.

11 states that democracy, the rule of law, and a market economy is the framework that the participating States would use to create and maintain the conditions in which all individuals would be able to exercise their rights and freedoms. The States indicated their belief that fully implementing these principles was essential for lasting security: “Full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for a lasting order of peace, security, justice and cooperation.”¹⁰²

— *Democracy*. The States identified democracy as the source of government legitimacy and authority: “The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government,” and therefore declared that democracy would be their “only system of government.”¹⁰³ The States also addressed the importance of democracy to security: “We are convinced that in order to strengthen peace and security among our States, the advancement of democracy, and respect for and effective exercise of human rights, are indispensable.”¹⁰⁴

— *The rule of law*. That the rule of law protects and enforces individual rights and fundamental freedoms was stated in the Charter of Paris: “Human rights and fundamental freedoms...are guaranteed by law.”¹⁰⁵ That the States believed that the rule of law itself must be based on respect for human rights is shown below:

Principles of justice...form the basis of the rule of law.... The rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value

¹⁰² Moscow Document, 1991, 28.

¹⁰³ Charter of Paris, 1990, 24, 3.

¹⁰⁴ Charter of Paris, 1990, 5.

¹⁰⁵ *Ibid.*, 3.

of the human personality and guaranteed by institutions providing a framework for its fullest expression.¹⁰⁶

— *Democracy and the rule of law*. The States declared that a democratic political framework, based on the rule of law, provided full respect for rights and freedoms; equal rights and status for all citizens; the free expression of all their legitimate interests and aspirations; political pluralism; and rules that constrain the abuse of governmental power:

Pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms.... A democratic political framework based on the rule of law, with a functioning independent judiciary...guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.¹⁰⁷

The States declared that “democracy is an inherent element of the rule of law,” and that “democracy has as its foundation respect for the human person and the rule of law,” thus further linking the two means, and focusing on the individual.¹⁰⁸ The statement, “Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person,” also shows that the States believed that democracy supports individual rights.¹⁰⁹

— *Market economy*. A market economy (economic liberty) was a third element of this framework, as a basic right, and because of the importance of freedom to the effective functioning of markets and economies. This commitment is shown below:

Economic cooperation based on market economy constitutes an essential element of our relations.... We underline the necessity of...increased integration, involving the acceptance of disciplines as well as benefits, into the international economic and financial system.... Democratic institutions

¹⁰⁶ Copenhagen Document, 1990, 3.

¹⁰⁷ Ibid., 2, 18.

¹⁰⁸ Copenhagen Document, 1990, 3; Charter of Paris, 1990, 3.

¹⁰⁹ Charter of Paris, 1990, 3.

and economic liberty foster economic and social progress, as recognized in the Document of the Bonn Conference on Economic Cooperation, the results of which we strongly support.¹¹⁰

Principle 12: Achieving security requires that the participating States make provisions as needed to ensure that national minorities are able to exercise their equal rights. The States recognized that general respect for individual rights was not always sufficient to ensure that persons belonging to national minorities had full equality with other citizens in exercising their individual rights and freedoms, and that sometimes special measures were needed:

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.¹¹¹

In particular, the States committed themselves to the right of minorities to participate fully in public affairs, to equality under the law, and to develop their cultures:

The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.... Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.... Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will.¹¹²

The States also accepted the responsibility to protect the ethnic, cultural, linguistic, and religious identity of national minorities on each State's territory and create conditions for the promotion of that identity.¹¹³ The States recognized that respecting the

¹¹⁰ Ibid., 9.

¹¹¹ Copenhagen Document, 1990, 18.

¹¹² Ibid., 20, 18.

¹¹³ Ibid., 19.

rights of persons belonging to minorities was essential to security, stating that respect for these rights was “part of universally recognized human rights [and] an essential factor for peace, justice, stability and democracy in the participating States.”¹¹⁴

The States recognized the “rich contribution of national minorities” to the life of their societies, and stated their determination to foster this contribution, and in turn, recognized the contributions of culture to security.¹¹⁵

We recognize the essential contribution of our common European culture and our shared values in overcoming the division of the continent. Therefore, we underline our attachment to creative freedom and to the protection and promotion of our cultural and spiritual heritage, in all its richness and diversity.¹¹⁶

The States did not define a national minority, but stated that to belong to one was a matter of “individual choice” and that “no disadvantage may arise from the exercise of such choice.”¹¹⁷ By emphasizing that each person had the right to decide whether or not to belong to a national minority, the States in effect agreed not to impose a definition. The OSCE stressed individuals rather than groups, on the basis that all groups consist of individuals acting in community, and therefore, OSCE documents usually referred to “persons belonging to national minorities” rather than to “national minorities.”

Principle 13: Achieving security requires that the participating States balance the interests of majorities and national minorities. In Principle 13 the States acknowledged their responsibility to protect the identity of minorities and to create the conditions in

¹¹⁴ Ibid., 18.

¹¹⁵ Charter of Paris, 1990, 7.

¹¹⁶ Ibid., 11. The States also declared that they would implement their cultural commitments in the *Cracow Document* (the Document of the Cracow Symposium on the Cultural Heritage of the CSCE Participating States). See the Moscow Document, 1991, 44.

¹¹⁷ Copenhagen Document, 1990, 18.

which they could promote their identities, but without discriminating against others, including the majority:

The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organizations or associations of such minorities, in accordance with the decision-making procedures of each State. *Any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.*¹¹⁸

The participating States therefore committed themselves to the principle that they must balance the interests of majorities and national minorities.

Principle 14: Achieving security requires that national minorities fulfill their responsibilities. The responsibilities of minorities included the responsibility to participate in public affairs; integrate into the wider society to a certain degree, particularly by learning the State language or languages; and to be responsible in general. The fact that the State had the responsibility to ensure that minorities can participate in public affairs also implied that minorities have the corresponding responsibility to participate. This implication was further supported by the fact that the States recognized the importance of democracy and the rule of law, and the involvement of the wider society, in balancing competing interests:

The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary.... They also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities.¹¹⁹

¹¹⁸ Ibid., 19 (italics added).

¹¹⁹ Ibid., 18.

One minority responsibility was to integrate into the wider society to a certain degree, to include learning the State language or languages: the participating States “will endeavour to ensure that persons belonging to national minorities, *notwithstanding the need to learn the official language or languages of the State concerned*, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation.”¹²⁰

An implied duty was for minorities to be responsible: the States declared that none of the commitments regarding the rights of national minorities could “be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes and principles of the Charter of the United Nations, other obligations under international law or the provisions of the Final Act, including the principle of territorial integrity of States.”¹²¹

Principle 15: Achieving security requires that the participating States promote a climate of respect. Principle 15 recognized the State’s responsibility to promote a climate of mutual respect, understanding, cooperation, and solidarity among all persons living on the State’s territory, without distinction as to ethnic or national origin or religion, and to encourage the solution of problems through dialogue based on the principles of the rule of law. The States acknowledged this responsibility as below:

Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law [and will] take effective measures, in conformity with their constitutional systems, at the national, regional and

¹²⁰ Ibid., 19 (italics added).

¹²¹ Ibid., 20.

local levels to promote understanding and tolerance, particularly in the fields of education, culture and information.¹²²

A second example follows: “The participating States will...foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”¹²³

Principle 16: Achieving security requires that all individuals and groups respect all others and their equal rights. The commitment of States to promote a climate of respect implied a corresponding responsibility for all members of the State to respect all others and their equal rights. A further implication was that respect is necessary among individuals and groups, whether the groups are based on race, ethnicity, religion, age, gender, or however else formed. The States declared as follows:

We reject racial, ethnic and religious discrimination in any form. Freedom and tolerance must be taught and practiced.¹²⁴

A second reference was the States’ declared intention to base their relations on respect: “Our relations will be founded on respect and cooperation.”¹²⁵

Group III: Principles Guiding Implementation, Review, and Development

Processes. Analysis revealed four principles in Group III. These principles were intended to guide the interpretation and implementation of OSCE principles and commitments, and the processes of reviewing their implementation and further development.

Principle 17: Achieving security requires that the participating States apply all OSCE principles equally and unreservedly, each of them being interpreted taking into account the others. In the Helsinki Final Act, the States agreed that each of the Helsinki

¹²² Ibid., 20, 21.

¹²³ Vienna Document, 1989, 8.

¹²⁴ Helsinki Document, 1992, 7.

¹²⁵ Charter of Paris, 1990, 3.

Decalogue principles were of equal importance, and that all of them had to be applied whole-heartedly and as a group, to include taking all of the principles into account when interpreting and implementing them: “All the principles...are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others.”¹²⁶ This commitment implied that the same standards would apply to any future principles adopted.

The emphasis on the equality of the principles was very significant, for by that agreement the States acknowledged that Principle VII of the Helsinki Decalogue, “Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief,” was as important to security as other principles such as those regarding territorial integrity.¹²⁷ A second emphasis on the equality of the principles was the States’ commitment to making “balanced progress covering all sections of the Final Act,” a commitment that supported the equality of the political-military; economic, scientific/technological, and environmental; and human rights aspects of security.¹²⁸

Principle 18: Achieving security requires that individuals, groups, NGOs, and governments at all levels make good faith and continuous efforts to fully implement their OSCE commitments. In Principle 18 the States recognized that the full implementation of their OSCE commitments would take time and continuous effort, and that progress towards shared objectives required the active involvement of all parties, to include persons, groups, organizations, institutions, and governments:¹²⁹

¹²⁶ Helsinki Final Act, 1975, 8 (italics added).

¹²⁷ Helsinki Final Act, 1975, 6.

¹²⁸ Vienna Document, 1989, 3.

¹²⁹ Helsinki Final Act, 1975, 7–8; Copenhagen Document, 1990, 2.

[The OSCE is] a process whose activities go far beyond formal relations among governments to involve citizens and societies of the participating States. Successful efforts to build a lasting peaceful and democratic order and to manage the process of change require more structured and substantive input from groups, individuals, States and organizations outside the [O]SCE process.... Encouragement of this sense of wider community remains one of our fundamental goals.¹³⁰

That the States desired the involvement of individuals was identified in the Helsinki Final Act when the States confirmed “the right of the individual to know and act upon his rights and duties” in the field of human rights.¹³¹ The States also looked for synergy between the different participants, to include international organizations:

We are convinced that a lasting and peaceful order for our community of States will be built on mutually reinforcing institutions, each with its own area of action and responsibility. [Work] should be so structured as to avoid duplication of the work of international organizations and overcommitment of scarce resources.¹³²

The States recognized that they are not perfect and may not always live up to all of their OSCE commitments. For example, the States acknowledged that they needed “to improve the implementation of their [O]SCE commitments and their cooperation in [the areas of] respect for all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character.”¹³³ However, the States did not think that failing to meet standards meant that the standards were invalid, but rather that the States had to continue to try, and perhaps try harder: the States recognized that “the implementation of the relevant provisions of the Final Act and of the Madrid Concluding Document requires continuous and intensified efforts.”¹³⁴

¹³⁰ Helsinki Document, 1992, 25, 5.

¹³¹ Helsinki Final Act, 1975, 7.

¹³² Helsinki Document, 1992, 10, 59.

¹³³ Vienna Document, 1989, 34.

¹³⁴ *Ibid.*, 25.

The States identified the relationship between security and the involvement of all parties and their good faith efforts, referencing the “major role that non-governmental organizations, religious and other groups and individuals [had] played in the achievement of the objectives of the [O]SCE.” When the OSCE began to institutionalize in the 1990 Charter of Paris, the States said that organizations, groups, and individuals needed to be involved in the OSCE’s activities and new structures in order to fulfill important tasks.¹³⁵

Principle 19: Achieving security requires that the participating States find and build on shared values. The States recognized the existence of shared values in a number of OSCE documents, such as in the statement, “We welcome the commitment of all participating States to our shared values [and reaffirm the] common values of the Helsinki Final Act and the Charter of Paris.”¹³⁶ These shared values pertained to both international and intrastate relations.

A primary basis on which the States would conduct their international relations was adherence to the shared values of respect for individual rights and fundamental freedoms, democracy, the rule of law, and the market economy. The general commitment was stated in the Charter of Paris: “Our relations will rest on our common adherence to democratic values and to human rights and fundamental freedoms.”¹³⁷ The commitment to the rule of law was implied by the references to international law in Principle X of the Helsinki Decalogue, to include that the States would “fulfil in good faith their obligations under international law, both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties or

¹³⁵ Charter of Paris, 1990, 12.

¹³⁶ Helsinki Document, 1992, 5.

¹³⁷ Charter of Paris, 1990, 5.

other agreements, in conformity with international law, to which they are parties.”¹³⁸

Regarding the economy, the States declared that “economic cooperation based on market economy constitutes an essential element of our relations and will be instrumental in the construction of a prosperous and united Europe.”¹³⁹

In the area of intrastate relations, the States agreed that shared values would guide the relationship between the State and the people who comprise the State. They declared that their common aims were “respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice and environmental responsibility.”¹⁴⁰

The States recognized that shared values and norms develop over time, for the Helsinki process began with the search for agreement on common values, and the process continued for decades. The need for progress was also reflected in the fact that the States recognized that principles, standards, values, and norms sometimes need advancement, declaring that they were “determined to support and advance those principles of justice which form the basis of the rule of law,” and that they would “consider new steps to further strengthen norms of behavior on politico-military aspects of security.”¹⁴¹

The States recognized that the development of OSCE commitments was related to international security. As an example, they considered that the ideas in the Final Act were powerful, and had played a significant role in bringing about the end of the Cold War:

We recognize the essential contribution of our common European culture and our shared values in overcoming the division of the continent.... The courage of men and women, the strength of the will of the peoples and the

¹³⁸ Helsinki Final Act, 1975, 8.

¹³⁹ Charter of Paris, 1990, 9.

¹⁴⁰ Helsinki Document, 1992, 5.

¹⁴¹ Copenhagen Document, 1990, 3; Helsinki Document, 1992, 10.

power of the ideas of the Helsinki Final Act have opened a new era of democracy, peace and unity in Europe.¹⁴²

Principle 20: Achieving security requires that the participating States use processes to develop standards and commitments, review their implementation, and respond to State requirements.

— *Standards and commitments, and their implementation.* The fact that the States included “Follow-up to the Conference” as a section of the Helsinki Final Act showed the initial importance that the States attributed to processes. The States further demonstrated their commitment to process by executing what came to be known as the Helsinki process, in which they met to review the implementation of OSCE agreements, expand areas of cooperation, and set new standards and norms. The States recognized a relationship between processes and security, declaring “that the exchange of views constitutes in itself a valuable contribution towards the achievement of the aims set by the [O]SCE.”¹⁴³

— *Responsiveness to State requirements.* The States recognized that processes needed to be flexible and responsive to their requirements, problems, and situations. To illustrate, for its first fifteen years, the OSCE itself was a process and had no permanent organizational structures. However, beginning in 1990 with the Charter of Paris, the States expanded this process to include institutional structures through which they would work in practical and sustained ways to implement their commitments: “Our common efforts to consolidate respect for human rights, democracy and the rule of law, to strengthen peace and to promote unity in Europe require a new quality of political dialogue and cooperation and thus development of the structures of the [O]SCE,” and the

¹⁴² Charter of Paris, 1990, 11, 3.

¹⁴³ Belgrade Document, 1978, 2.

OSCE “has been instrumental in promoting changes; now it must adapt to the task of managing them.”¹⁴⁴ Another example follows:

We reaffirm our commitment to settle disputes by peaceful means. We decide to develop mechanisms for the prevention and resolution of conflicts among the participating States.¹⁴⁵

As an example, the States took a number of actions in response to the outbreak of ethnic conflict in Europe in the early 1990s. When they perceived an “urgent need for increased cooperation on, as well as better protection of, national minorities,” they decided to, and did, convene a meeting of experts on national minorities, and later created the position of the High Commissioner on National Minorities.¹⁴⁶

The States recognized the connection between achieving international security and agreed-upon processes and mechanisms. The example below refers to the effectiveness of the Helsinki process, in which principles of international and intrastate relations played a major role:

The participating States welcome with great satisfaction the fundamental political changes that have occurred in Europe since the first Meeting of the Conference on the Human Dimension of the CSCE in Paris in 1989. They note that the [O]SCE process has contributed significantly to bringing about these changes and that these developments in turn have greatly advanced the implementation of the provisions of the Final Act and of the other [O]SCE documents.¹⁴⁷

The States intended for the implementation of these principles to increase their security, and in Chapters 4, 5, and 6, the effect on security when these principles were implemented is examined. A list of the OSCE principles follows.

¹⁴⁴ Charter of Paris, 1990, 12; Helsinki Document, 1992, 9.

¹⁴⁵ Charter of Paris, 1990, 5.

¹⁴⁶ Ibid., 7.

¹⁴⁷ Copenhagen Document, 1990, 2.

Table 3.2 The List of OSCE Principles 1993–2001

I. Principles Guiding Relations Between OSCE States. *Achieving security requires:*

1. That the participating States develop agreed-upon principles guiding international relations.
2. That the participating States respect the sovereign rights of other participating States, in particular their juridical equality, external and internal political independence, and territorial integrity.
3. That the participating States agree to limit their political independence in regard to their OSCE commitments.
4. That the participating States accept their mutual involvement with, accountability to, and assistance to each other regarding the implementation of their OSCE commitments.
5. That the participating States use a comprehensive approach to security that enables them to address all areas that cause tensions between States (comprehensive security).
6. That the participating States use a cooperative approach to security (cooperative security).
7. That the participating States respect the right of each participating State to equal security (common security).
8. That the participating States prevent security threats from arising, and use peaceful means to resolve disputes and conflicts that do arise.

II. Principles Guiding Relations Between the State and the People Who Comprise the State. *Achieving security requires:*

9. That the participating States develop agreed-upon principles guiding relations between the State and the people who comprise the State.
10. That the participating States create and maintain the conditions in which all members of the State are able to fully exercise their individual rights and fundamental freedoms.
11. That the participating States use democracy, a rule of law based on human rights, and a market economy as the means to ensure that all individuals are able to fully exercise their rights and freedoms.
12. That participating States make provisions as needed to ensure that national minorities are able to exercise their equal rights.
13. That the participating States balance the interests of majorities and national minorities.
14. That national minorities fulfill their responsibilities.
15. That the participating States promote a climate of respect.
16. That all individuals and groups respect all others and their equal rights.

III. Principles Guiding Implementation, Review, and Development Processes. *Achieving security requires:*

17. That the participating States apply all OSCE principles equally and unreservedly, each of them being interpreted taking into account the others.
18. That individuals, groups, NGOs, and governments at all levels make good faith and continuous efforts to fully implement their OSCE commitments.
19. That the participating States find and build on shared values.
20. That the participating States use processes to develop standards and commitments, review their implementation, and respond to State requirements.

Chapter 4: OSCE Principles and Ukraine

Chapter outline

Introduction

Background of Ukraine and the Crimean Peninsula

The HCNM's Intervention and Recommendations

OSCE Principles, Implementation, and Effect on Security

Introduction

This chapter presents a case study of the implementation of the OSCE security principles contained in the first High Commissioner on National Minorities' (HCNM) recommendations regarding Crimean autonomy within Ukraine from 1994 to 2001.¹⁴⁸

The case study then analyzes the effect on security as the result of the implementation of the HCNM's recommendations and the OSCE principles contained therein.

Background of Ukraine and the Crimean Peninsula

Background of Ukraine. In 1992 Ukraine was the second largest country in Europe in terms of area (604,000 square kilometers), and the fifth largest in terms of population (52 million). Ukraine had significant natural resources, and during the Soviet era had produced about half of the total



Soviet output of coal and iron ore, and over a quarter of the agricultural output. Ukraine was also highly involved with the Soviet military, industrial, and space complex, and maintained the third largest number of nuclear weapons in the world.¹⁴⁹

¹⁴⁸ Autonomous Republic of Crimea (ARC); however, this study uses the term “Crimea” for clarity.

¹⁴⁹ Ukraine did not have operational control over the weapons, however, was widely believed to be capable of overcoming this obstacle, and of developing their own nuclear weapons program.

After having been part of Russia for two centuries, Ukraine declared its independence in December 1991 after very high support (over 90 percent) in a referendum on independence.¹⁵⁰ With independence, the Ukrainian government faced a number of challenges, which included integrating with Central Europe and the West; maintaining satisfactory relations with Russia; addressing issues pertaining to nuclear weapons; managing the transition from a command economy to a market economy; finding an acceptable balance between the central government and Crimean authorities regarding Crimean autonomy; strengthening the Ukrainian national identity; and addressing environmental problems, particularly industrial pollution and the continuing aftereffects of the 1986 Chernobyl nuclear power station accident.

The first HCNM, Max van der Stoep, was involved in three primary issues in Ukraine: the relationship between the Ukrainian government and the Crimean administration; the integration of returning Crimean Tatars and other minorities that Stalin had deported to Central Asia during World War II; and language and culture, particularly concerning ethnic Russians. These three issues were distinct in most respects, but complicated the overall situation; for example, tensions between ethnic Russians and Tatars in the Crimean peninsula increased the volatility in that area. This study addresses the case of Crimean autonomy within Ukraine.

Background of Crimea. The Crimean peninsula had belonged to Russia from 1783 to 1954, at which time the Soviet Union transferred it to the Ukrainian Soviet Socialist Republic.¹⁵¹ Crimea was important for its historical associations, climate, and strategic location on the Black Sea, and contained the city of Sevastopol, where the main

¹⁵⁰ Simonsen, *Conflicts in the OSCE Area*, 98.

¹⁵¹ A frequent reason given for this transfer was to commemorate the 300th anniversary of the “friendly union” between the Russian and Ukrainian peoples.

headquarters of the Black Sea Fleet was located.¹⁵² Sevastopol was also a city with a special status—called by tradition a “city of Russian glory”—and during the Soviet era had been administered directly from Moscow.

On the eve of independence, the population of Crimea consisted of about 67 percent ethnic Russians; 26 percent ethnic Ukrainians, many of whom spoke Russian; and 7 percent other minorities. In the 1991 referendum, 54 percent of the voters in Crimea favored Ukrainian independence.¹⁵³

After independence, the Ukrainian government granted a degree of autonomy to Crimea, and in March 1992, negotiations between Ukrainian and Crimean representatives resulted in a draft Ukrainian law in which Crimea would be a constituent part of Ukraine, but autonomous and with its own constitution. The Ukrainian parliament (the Verkhovna Rada) adopted the law in April, but did not promulgate it because in May 1992 the Crimean parliament took a number of separatist actions. The parliament declared Crimea to be a sovereign State, introduced a new constitution, claimed the right to separate citizenship, called for a treaty between the “States” of Crimea and Ukraine, and announced a projected referendum on independence.

The Ukrainian government annulled the independence decree, but as a compromise passed a second law in June that gave Crimea greater autonomy and a special economic status. The Crimean leaders agreed to cancel the referendum, which ended the immediate crisis; however, because this second law was also not promulgated, the relationship between the central government and Crimea remained unclear.

¹⁵² The Black Sea Fleet (BSF), which had consisted of 300 vessels manned by both Russian and Ukrainian crews, had been the Soviet Union’s major naval fleet in the Black Sea region, and was a major source of tension between Russia and Ukraine—issues included the division of assets and costs, servicing arrangements, and liability for pollution. See Simonsen, *Conflicts in the OSCE Area*, 102.

¹⁵³ Drohobycky, *Crimea: Dynamics, Challenges, and Prospects*, xxvii.

In 1992 the Ukrainian economy declined significantly—GDP and exports fell by about 20 percent while inflation increased over 1000 percent.¹⁵⁴ In 1993 fuel shortages contributed to further economic decline as Russia—on which Ukraine was dependent for most of its oil and natural gas—raised prices and cut deliveries, causing rolling brownouts in the major cities and further reductions in industrial production. As conditions continued to deteriorate, a number of ethnic Russians in the highly industrialized eastern sections—where economic dislocation had hit the hardest—began to consider seeking closer ties with Russia. Separatist sentiment also grew in Crimea.

Actions of Russian nationalists in Russia and Crimea further increased tensions between Ukraine and Russia, and within Ukraine. In May 1992 the Russian parliament passed a resolution declaring that the 1954 transfer of Crimea to Ukraine had been illegal and that talks between Russia and Ukraine were necessary to settle the “question” of Crimea, and later declared Sevastopol to be a Russian city. Tensions increased regarding the Black Sea Fleet as Russian and Ukrainian naval servicemen attempted to “nationalize” their respective vessels, and in July 1993 demonstrators in Sevastopol demanded that the fleet, and the city, be returned to Russian control. Ukraine appealed to the United Nations, after which the UN Security Council issued a statement (S/26118) supporting Ukraine’s territorial integrity.

Russian foreign policy became more nationalistic after a significant number of ultranationalists were elected in December 1993, and by early 1994 many OSCE States, including the United States, feared that tensions in Ukraine could escalate into a situation that might result in Russian military intervention. A U.S. national intelligence estimate (NIE), leaked in January 1994, warned that without international assistance, Ukraine’s

¹⁵⁴ Keesing’s, “Economic Reform Package,” Nov. 1992.

worsening economic problems could result in ethnic Russians in the eastern region pressing for secession and unification with Russia, actions that the Ukrainian majority would seek to prevent by force if necessary.¹⁵⁵ The NIE warned that any attempt at secession might lead the government to retain some nuclear weapons—which Ukraine had agreed to give up—to deter Russian involvement.

Also in January 1994, Crimea held elections for its first president, who after taking office began working on economic agreements with Ukrainian President Leonid Kravchuk. Shortly thereafter the HCNM became involved.

The HCNM's Intervention and Recommendations

1994. The HCNM began his intervention in Ukraine with his first visit in February; however, he did not issue any formal recommendations at that time. A week later, the Ukrainian parliament passed a decree that recognized extensive Crimean rights in areas that included economics, natural resources, and culture, but also outlined the limits of Crimea's autonomy. In particular, the decree reaffirmed that the Crimean Republic, as an autonomous constituent part of Ukraine, had no State sovereignty, and as such could not have independent foreign, military, and financial policies; separate citizenship; or a constitution that contradicted that of Ukraine. The decree gave Crimea one month to bring its constitution and legislation in line with Ukrainian law.

The Crimean administration did not comply, and a “battle” of laws and decrees ensued, with the Crimean authorities issuing laws and decrees, and the Ukrainian authorities annulling or countermanding them. When the Crimean president, Yuri

¹⁵⁵ Daniel Williams and R. Jeffrey Smith, “U.S. Intelligence Sees Economic Plight Leading to Breakup of Ukraine,” *Washington Post*, Jan. 25, 1994, A7; Simon Tisdall, “Leaked US Report Warns Ukraine's Economic Crisis Could Spark Civil War and Scupper Nuclear Arms Deal,” *Guardian*, Jan. 26, 1994, 10.

Meshkov, issued a decree requiring Crimean residents to perform military service only on the peninsula, the Ukrainian government declared the act to be illegal. When Meshkov issued decrees dismissing the heads of the ministry of the interior and the security service, the Ukrainian president annulled the decrees, whereupon the Crimean authorities established parallel offices. In an act that the Ukrainian government interpreted as emphasizing Crimea's ties to Russia, the peninsula adopted Moscow time, one hour ahead of Ukraine's capital, Kiev.

Tensions increased, and the HCNM made a second visit in early May, after which he issued his first formal recommendation on May 15, 1994. In this recommendation, he outlined that the status of Crimea would need to be resolved in accordance with the OSCE principle of territorial integrity, writing as follows:

In the Trilateral Agreement between Ukraine, the Russian Federation and the United States concluded in February of this year, the parties reaffirm their commitment, in accordance with the [O]SCE Final Act, to respect the independence and the sovereignty and the existing borders of the [O]SCE member states, and recognize that border changes can be made only by peaceful and consensual means. In my view this text is highly relevant in considering the problem of Crimea, even more so because as far as I am aware no [O]SCE state has expressed opinions deviating from it.¹⁵⁶

The disagreements between the Ukrainian government and the Crimean administration were significant, and included issues regarding the ownership of real estate and natural resources; taxation; citizenship; foreign relations; symbols; language of administration; and military, judicial, and security functions. Nevertheless, the HCNM wrote that though these "considerable differences" would not be easy to resolve, he believed they were, in fact, solvable. In this regard, he pointed out the willingness to compromise that the president of Ukraine had expressed:

¹⁵⁶ HCNM letter to Foreign Minister Anatoly Zlenko, May 15, 1994.

It is...of great importance that President Kravchuk has repeatedly expressed the view that the autonomous Republic of Crimea ought to have considerable latitude in the economic field. For instance, in the spring of 1992, he expressed his willingness to leave to Crimea the control of all “territorial property” on the peninsula. He also stated that Crimea ought to have “all the necessary political and legal opportunities to realize its special potential.”¹⁵⁷

The HCNM’s overall recommendation was for Ukraine and Crimea to find an arrangement that would maintain the territorial integrity of Ukraine while providing significant Crimean autonomy, especially in the economic field, and he recommended that the two parties reach a settlement containing a complete program of steps to resolve the issues. To assist in this process, he recommended that the Ukrainian government accept OSCE assistance in the form of a team of constitutional and economic experts to look into the situation and provide suggestions for solutions.

The Ukrainian government immediately accepted the recommendation regarding the experts; however, a few days later the Crimean parliament increased tensions by its actions, most notably adopting a law that restored the 1992 constitution that the Ukrainian government had abolished. The government viewed this action as a violation of Ukrainian legislation and as a step towards secession, and suspended the law until Crimea’s constitution was brought in line with Ukraine’s laws. The Crimean parliament responded by suspending the Ukrainian government’s suspension. The Ukrainian government moved additional soldiers to Sevastopol, and the Crimean authorities increased the guards on some buildings in Simferopol, the Crimean capital. Within a few days both parliaments agreed to conduct talks, but reached no agreement.

The OSCE States became increasingly concerned about the situation, and in June 1994, the OSCE Committee of Senior Officials expressed its deep concern and

¹⁵⁷ Ibid.

reaffirmed its commitment to Ukrainian sovereignty and territorial integrity, called on the Crimean authorities to refrain from any action that could cause the situation to worsen and endanger the prospects for a fruitful dialogue, and asked all OSCE States to act in ways that would strengthen the OSCE principles regarding territorial integrity and the inviolability of borders. The committee also noted that Ukraine was “determined to continue dealing with the issue by peaceful means, without resorting to the use of force and in conformity with [O]SCE principles.”¹⁵⁸

In July tensions eased somewhat when the supposedly pro-Russian Leonid Kuchma, who had been supported by an overwhelming majority of Crimea’s voters, assumed the Ukrainian presidency. In addition, popular support for the separatist Crimean administration decreased as criminal activity increased—activity that included violent clashes between criminal clans with alleged ties to the Crimean authorities.

However, in August tensions rose again when the battle of laws and decrees resumed. The Sevastopol city council declared Sevastopol to be a Russian city subject only to Russian legislation, a resolution that the Ukrainian authorities denounced as illegal. The Ukrainian parliament adopted amendments to the constitution to annul Crimean laws if they were not brought in line with national legislation, and assumed the right to dissolve the Crimean legislature.

Concern for rising tensions resulted in an OSCE decision to establish an OSCE Mission to Ukraine, with headquarters in Kiev and a branch in Simferopol. The Mission’s initial responsibilities included supporting the work of the HCNM and the experts, and to carry out its tasks in accordance with OSCE principles, such as the support of the sovereignty and territorial integrity of Ukraine.

¹⁵⁸ 27th Meeting of the Committee of Senior Officials, Journal No. 3, June 15, 1994, Annex 2.

1995. In December 1994 the first Chechen War broke out, and a few months later—while the Russian government was occupied with the war—the Ukrainian government took a number of actions regarding Crimea. In March 1995 the government again rejected Crimea’s 1992 constitution, abolished the post of the president of Crimea, and issued a decree temporarily subordinating the Crimean administration directly to the central government. Kuchma also stated that Crimea’s parliament could be dissolved if it continued to violate Ukraine’s constitution.

The Russian government initially stated that issues concerning Crimea were internal Ukrainian affairs, a response that the Crimean parliament chair called feeble.¹⁵⁹ The parliament appealed to Russia not to conclude a pending friendship treaty with Ukraine without taking Crimea’s interests into consideration, and the Russian parliament issued a statement warning Ukraine of the negative consequences of its actions on Russian-Ukrainian relations. A Russian member of parliament protested Ukraine’s policies towards Crimea by tearing up a Ukrainian flag, an action reciprocated in the Ukrainian parliament. Russian President Boris Yeltsin stated that the friendship treaty could not be signed until Russia was certain that Crimean rights were being respected, and several days later, Foreign Minister Andrei Kozyrev said that the use of military force to protect Russians in the near abroad might be necessary in some cases.¹⁶⁰

The HCNM appealed to both sides to exercise restraint; but the Crimean parliament passed several resolutions aimed at regaining powers: most confrontational was a decision to hold a referendum in June on several issues including the 1992 constitution; the most recent Ukrainian law on Crimea; and a proposal for the economic

¹⁵⁹ Keesing’s, “Annulment of Crimean Constitution and Presidency,” March 1995.

¹⁶⁰ David Hearst, “Russia ‘Ready to Use Force in Ex-Soviet States,’” *Guardian*, April 19, 1995, 10.

and political unity of Russia, Ukraine, and Belarus. Ukraine called the referendum unconstitutional and threatened further actions, and the Crimean parliament withdrew the question regarding the Ukrainian law, but not the referendum.

The HCNM took steps to avert a crisis. In May he mediated a roundtable discussion for Ukrainian and Crimean representatives, held in a neutral setting (Locarno, Switzerland) that provided for confidential, open, and face-to-face communication. The roundtable resulted in agreement in a number of important areas, most particularly that the unpromulgated 1992 Ukrainian law on Crimean autonomy could be the basis for Crimea's status. In addition, Crimea agreed to stop its plans for a referendum, and the Ukrainian government agreed not to dissolve the parliament.

The HCNM issued an unpublished formal recommendation at the end of the roundtable regarding these agreements. In that formal recommendation he recommended that both sides avoid any action that could lead to an escalation of tensions, and that the Ukrainian and Crimean parliaments create an organ of conciliation to suggest solutions to differences that might arise during dialogue about relevant legislation. Tensions decreased, for the Ukrainian government was prepared to accept wide autonomy for Crimea (a position encouraged by the European Union and other OSCE States) and in June 1995, progress increased when more moderate politicians were elected in Crimea, creating a situation more conducive to compromise.

The HCNM held a second roundtable in September 1995 that focused primarily on the problems of the formerly deported peoples, in particular the Tatars. After this roundtable (in Yalta), the HCNM held a series of meetings in Ukraine and Crimea, then issued his third formal recommendation on October 12, 1995. He recommended that the

division of responsibilities between the Ukrainian government and the Crimean administration balance the interests of the two parties, and that the Ukrainian government, as the central government, be responsible for defense, security, and foreign policy, but to consult Crimea before concluding treaties with special relevance for Crimea, and to include Crimean representatives in a number of official delegations to other States. He also recommended that Crimea have the right to open trade offices abroad and conclude international agreements regarding commercial and cultural questions; however, he recognized the authority of the central government by adding the phrase, “taking into account the Ukrainian legal order.”

In the financial area, he recommended that the Ukrainian government make arrangements to ensure that an equitable portion of the revenues from Crimean natural resources, and Ukrainian property in Crimea, be used for Crimea’s benefit, and that Crimea delete references to Crimean citizenship in its constitution. Regarding the problem of the status of Sevastopol, he recommended that the parties set up a tripartite commission of representatives of Ukraine, Crimea, and Sevastopol to develop proposals for increasing cooperation between Sevastopol and Crimea in various fields.

In November Crimea adopted a new constitution that incorporated many of the HCNM recommendations and significantly narrowed the disputed points. However, the constitution still conflicted with Ukraine’s, and tensions increased.

1996–1997. Tensions continued to increase in February and March 1996, particularly as the Ukrainian parliament worked on a new constitution that would reduce many Crimean powers. In response the Crimean parliament convened a special session, issued a sharp statement, and a few days later adopted a resolution “proposing” that the

Ukrainian parliament approve Crimea's constitution by the end of March, warning that if Ukraine ignored "the expression of the Crimeans' will," the Crimean parliament would have the right to have the constitution approved by a referendum.¹⁶¹ These actions, which took place shortly before a scheduled visit by Yeltsin to sign a friendship treaty between Russia and Ukraine, led to a new escalation in tensions, and the visit—which had been postponed several times before—was postponed again.

In March the HCNM organized a third roundtable, in the Dutch town of Noordwijk, to concentrate on the disputed provisions in the Crimean constitution, and included independent experts as observers to assist in legal and economic questions. The roundtable resulted in significant progress: the two sides agreed on a basic framework for Crimea's status within Ukraine, and agreement was achieved on all but twenty provisions of the Crimean constitution.

To consolidate the gains made, the HCNM prepared a formal recommendation in which he recommended that the Ukrainian government immediately approve the Crimean constitution except for the articles still in dispute. He also recommended changes to the Crimean constitution such as replacing "Republic of Crimea" with "the Autonomous Republic of Crimea," and "citizens of Crimea" with "citizens of Ukraine residing in Crimea." He recommended that the parties make a special effort to speed up the resolution of the remaining differences, recommending that the Crimean parliament consider the disputed articles within a month, and that the Ukrainian parliament consider the new Crimean proposals as soon as possible thereafter.

On April 3 the HCNM again visited Ukraine, and after consulting the experts who had attended the roundtable, prepared a detailed formal recommendation on April 5. In

¹⁶¹ Kulyk, *Revisiting a Success Story*, 55.

this recommendation, he urged both sides to maintain the momentum in narrowing the gap between their positions, make determined efforts to resolve the remaining differences “soon,” and do nothing that could lead to a worsening of the atmosphere in which future negotiations would be conducted. Similarly, he recommended that Crimea refrain from organizing a referendum, or “poll,” on the Crimean constitution, and that the Ukrainian government not deviate from the aim of providing Crimea with substantial autonomy in the fields that did not belong to the exclusive responsibility of Ukraine. He also made a number of legal suggestions.

The Ukrainian government implemented the HCNM’s recommendation by adopting a new “Law on the Autonomous Republic of Crimea” in which it approved all but 20 articles, or parts of articles, out of a total of 136.¹⁶² A number of the unapproved articles dealt with “Crimean citizenship,” the status of Sevastopol, and signs of sovereignty such as official symbols.

During April and May both parliaments focused on internal controversies regarding the draft Ukrainian constitution—which was considered the most important document regarding the future of Crimea—and made little effort to resolve the remaining issues. In June the Ukrainian parliament adopted a new constitution that included the status of Crimea; however, continuing controversies in the Crimean parliament hampered progress during the rest of 1996 and early 1997. March and April 1997 were marked by protests in Crimea calling for the return of the peninsula to Russia, and actions in Russia exacerbated tensions. In April the upper house of the Russian parliament voted to make Sevastopol a special international city, and a Russian Federation Council commission decided that Russia should declare Sevastopol an international city under international

¹⁶² Kemp, *Quiet Diplomacy in Action*, 225.

law, and that the 1954 Supreme Soviet resolution that gave Crimea to Ukraine had been unconstitutional and had exceeded Soviet President Nikita Khrushchev's authority.¹⁶³

However, the situation changed significantly on May 31 when Presidents Yeltsin and Kuchma signed the long-awaited friendship treaty, which unequivocally supported the territorial integrity of both countries. The presidents also made final agreements on the Black Sea Fleet. These actions decreased Crimean separatist hopes for Russia's help.

In June the Crimean parliament adopted amendments to Crimea's constitution, but the amendments neither brought the Crimean constitution in line with Ukraine's, nor fully implemented the HCNM's recommendations. The Ukrainian parliament reacted negatively, a reaction exacerbated by the Crimean parliament's subsequent actions, which included passing resolutions declaring the Russian language to be Crimea's only official language, and demanding that Russian be a state language in all of Ukraine.

1998–2001. Controversies continued within and between the two parliaments. For example, in January the Ukrainian president issued a decree to replace the elected mayor of Yalta with a presidential appointee, an action that incensed the Crimean parliament and provoked responses that included appealing to the Ukrainian parliament and the Council of Europe. The Crimean parliament also voted to put three highly controversial items on its agenda: holding a referendum on restoring the 1992 constitution, declaring Crimea to be a Russian autonomy, and adopting Russian as the area's official language.

However, the situation significantly improved in March 1998 when a large number of more "pragmatic" individuals were elected to the Crimean parliament. This group preferred to develop a new constitution rather than amend the previous draft, and therefore concentrated on developing a draft acceptable to the Ukrainian parliament, and

¹⁶³ Minorities at Risk, *Chronology for Crimean Russians in Ukraine*.

passed the new draft in October 1998. There were still discrepancies with the Ukrainian constitution and laws, but the Ukrainian parliament took actions that brought the entire issue to a swift conclusion. The Ukrainian parliament inserted a provision into the Crimean document that any current and future acts of the Crimean parliament and executive branch would be invalid if they contradicted Ukrainian legislation, and on December 23, 1998, approved the Crimean constitution. For the rest of the HCNM's tenure, though some tensions continued, they remained at a reduced level.

OSCE Principles, Implementation, and Effect on Security

From 1994 to 1996 the HCNM made five formal recommendations in which he made specific recommendations to the Ukrainian government, the Crimean administration, and both of them (see Appendix D). All of the recommendations either referred to OSCE principles, or were related to them.

The HCNM's Overall Recommendation. The HCNM's overall recommendation to the Ukrainian government and Crimean administration was to find an arrangement that would maintain Ukraine's territorial integrity yet give Crimea significant autonomy, and this recommendation referred to several OSCE principles. The part of the recommendation that addressed territorial integrity was related to Principle 2, which addressed the rights of sovereignty, including the territorial integrity of States. The part of the recommendation that addressed Crimean autonomy involved Principles 10–15, which addressed the responsibilities of the government to create and maintain the conditions in which all members of the State, including minorities, were able to exercise their basic rights. The recommendation that the parties develop a complete program of

steps to resolve the issues concerning autonomy for Crimea pertained to Principle 20, which addressed the development and use of processes.

The Ukrainian government and the Crimean administration implemented the HCNM's overall recommendation; however, the implementation took nearly five years, and did not occur until nearly two years after the HCNM made his last formal recommendation in April 1996. (After this recommendation, the HCNM continued to visit Ukraine but did not prepare any additional formal recommendations.)

The HCNM's Specific Recommendations. The OSCE principles contained in the HCNM's specific recommendations, and their implementation, can be addressed in groups. One group of specific recommendations addressed the division of responsibilities between the central government and the Crimean administration. These recommendations were most closely related to Principle 13, that governments balance the interests of majorities and national minorities. In this case, the Ukrainian government and the Crimean administration were trying to find a division of responsibilities that would balance the interests of the Ukrainian majority in Ukraine as a whole, with the interests of the ethnic Russian majority in Crimea. These recommendations were in general implemented, though with a significant delay.

A second group of specific recommendations encouraged the parties to maintain the momentum they had developed through negotiations, and to move the negotiation and settlement process forward. These recommendations referred to Principle 18, that individuals, groups, NGOs, and governments at all levels make good faith and continuous efforts to fully implement their OSCE commitments. Some of these recommendations also involved Principle 19, that the participating States find and build on areas of

agreement regarding shared values (in this instance, an OSCE principle that referred primarily to international relations was applied to relations within the State). Both parties implemented these recommendations, but often with a very significant delay.

A third group of recommendations were intended to prevent progress that had been made from unraveling, such as for both parties to refrain from actions that would lead to escalating tensions. These recommendations referred to Principle 6, that the States use a cooperative approach to security, and Principle 8, which addresses the need to prevent security threats from arising. The Ukrainian government and the Crimean administration eventually implemented these recommendations, but in many cases during the 1994–1998 period, one side or the other, or both, disregarded the recommendations.

A fourth group pertained to creating formal mechanisms and institutional processes as the means for dialogue and to resolve existing differences, problems, or disputes, and those that might arise in the future. These recommendations (none of which were implemented) were related to Principle 20 regarding processes.

The HCNM made one specific recommendation to the Ukrainian government regarding the acceptance of OSCE assistance, particularly in the form of a team of constitutional and economic experts. This recommendation pertained to Principle 4, that the participating States accept their mutual involvement with, accountability to, and assistance to each other in matters pertaining to the implementation of their OSCE commitments. This recommendation also contained an implied recommendation that the OSCE States provide this assistance. This recommendation was implemented, as was the implied recommendation to the OSCE States.

Observed Effects on Security. There were observed effects on security when the parties implemented the OSCE principles in the HCNM's recommendations. These effects could be seen regarding a number of the HCNM's specific recommendations, but primarily regarding the HCNM's overall recommendation.

The HCNM's specific recommendations. There was an observable effect on security for most of the specific recommendations when implemented. These effects were observed primarily in the increase or reduction of tensions as the two parties made—or did not make—progress in their negotiations. Of particular note was that at the end of each of the three roundtables, political leaders of both Ukraine and Crimea made statements that indicated reduced tensions.

No effect on security was observed for the several recommendations that the HCNM made regarding creating formal mechanisms as the means of resolving problems or disputes. However, since each roundtable resulted in progress in resolving issues, it may be that formal mechanisms could have helped resolve these issues earlier, and thereby eased national and international tensions.

The HCNM's overall recommendation. The principal observed effects on security resulted from the implementation of the HCNM's overall recommendation. When this recommendation was implemented in December 1998, there was evidence of a decrease in tensions within Ukraine, between Ukraine and Russia, and in the OSCE area.

— *Tensions within Ukraine.* Within Ukraine, the “war” of laws and decrees ceased; mutual threats between the Ukrainian government and the Crimean administration ended; and there were no further reports of the buildup of forces. No outbreaks of violence, or threats of violence, pertaining to separatism in Crimea were

reported in either the Keesing's Record of World Events or the Lexis-Nexis database during the years from 1999 to 2006. However, some Crimeans, and Russian political leaders and citizens, did not become reconciled to Crimea being part of Ukraine.¹⁶⁴

— *Tensions between Ukraine and Russia.* The settlement of the issue of Crimean autonomy within Ukraine reduced tensions between Ukraine and Russia: there were no further reports in Keesing's Record of World Events or the Lexis-Nexis database during the years from 1999 to 2006 of threats of force by Russia, or of the Russian parliament making efforts to regain Crimea. However, other factors contributed to the reduction of tensions such as the 1997 treaty between Ukraine and Russia that unequivocally recognized Crimea as part of Ukraine, and agreements regarding the Black Sea Fleet.

— *Regional tensions.* The primary evidence of reduced tensions in the region was that the OSCE closed its Mission to Ukraine on the basis of the successful implementation of its mandate, and because the Ukrainian government and the Crimean administration had normalized their relations.¹⁶⁵ There was no further direct HCNM involvement, and no situations regarding Crimea arose that required the attention of the OSCE leadership.

¹⁶⁴ Woehrel, *Ukraine: Current Issues and U.S. Policy*, June 7, 2006, 1.

¹⁶⁵ "OSCE Mission to Ukraine," *OSCE Newsletter*, April 1999, 6. However, the OSCE established an OSCE Project Coordinator in Ukraine to plan, carry out, and monitor the activities of OSCE institutions.

Chapter 5: OSCE Principles and Estonia

Chapter outline

Introduction

Background of Estonia

The HCNM's Intervention and Recommendations

OSCE Principles, Implementation, and Effect on Security

Introduction

This chapter presents a case study of the implementation of the OSCE security principles contained in the first High Commissioner on National Minorities' (HCNM) recommendations to the government of the Republic of Estonia, the Russian-speaking minority in Estonia, and the government of the Russian Federation from 1993 to 2001. The case study then analyzes the effect on security as the result of the implementation of the HCNM's recommendations and the OSCE principles contained therein.

Background of Estonia

In 1992 Estonia was a small country of about 45,000 square kilometers and 1.6 million people, located on the Baltic Sea across from Finland, and next to Russia and Latvia.

World War I and the Russian Revolution created the conditions in which the Estonians, among other peoples, could achieve independence from Russia. In 1917 the Russian government was in increasing disarray—the Tsar's abdication in March was followed by a Provisional Government until the Bolsheviks seized power in November—and Estonia proclaimed its independence in February 1918.



The Bolshevik government attempted to reconquer Estonia but was unsuccessful, and in 1918 signed the Treaty of Brest-Litovsk, acknowledging the independence of Estonia, Latvia, Lithuania, Poland, Ukraine, and Finland. At the end of World War I, the Bolshevik government repudiated the treaty and invaded Estonia again, but was repulsed after heavy fighting, and in 1920 signed the Treaty of Tartu, relinquishing all claims to the territory of Estonia in perpetuity.

With independence, Estonia adopted a liberal democratic constitution with a parliamentary form of government, and the independence period of 1918–1940 was one of educational, economic, and cultural advancement. Compulsory education was introduced, a public library system established, and Estonian students had access to higher education for the first time. Through economic reform Estonia shifted from being a food importer to an exporter. New archives and museums stimulated research into Estonian culture, and cultural autonomy was also given to minorities—unusual legislation in Europe in 1925.

Estonian independence ended in June 1940 when the Soviet Union invaded and then occupied Estonia until July 1941. This period was marked by summary arrests and executions; the collectivizing of farms; the expropriation of property to include all church property and all private holdings over 30 hectares (74 acres); and the Sovietization of political, educational, and cultural life (to include the destruction of Estonian memorials, cultural symbols, and library books, and closing activities such as cooking clubs).¹⁶⁶

Resistance, which included guerilla warfare, resulted in reprisals, purges, and deportations. On June 14, 1941, planned mass deportations began simultaneously in all three Baltic States as ordered by the “Instructions Regarding the Manner of Conducting

¹⁶⁶ Laar, *War in the Woods*, 8; Raun, *Estonia and the Estonians*, 150–152.

the Deportation of the Anti-Soviet Elements from Lithuania, Latvia, and Estonia.”¹⁶⁷

Over 10,000 Estonians—about 1 percent of the population—were deported to Siberia and other places in the Russian hinterland. The list included many political and religious leaders, but most were women, children, and the elderly.

In July 1941 German forces drove out the Soviet army, and Germany occupied Estonia until September 1944 when the Soviet army retook Estonia. The German occupation was as harsh as that of the Soviets, and by the time the war ended, Estonia had lost more than one-fifth of its population and nearly half of its infrastructure.

With the end of World War II, the Sovietization of Estonia resumed; however, resistance continued, particularly through guerilla warfare by the “forest brethren,” actions to which the Soviets responded with a number of measures including a massive purge. On March 25 and 26, 1949, about 21,000 Estonians—more than 2.5 percent of the population—were arrested and deported, and in the following month more than half of the farms in Estonia were collectivized.¹⁶⁸ The guerilla movement continued, nevertheless, until its final suppression in the 1950s.¹⁶⁹

The Soviet Union integrated Estonia into its centrally-planned economy, and brought in large numbers of Russians and Russian-speakers to work in new industrial factories, along with large numbers of Soviet military forces and secret police. The Soviet Union’s immigration and other policies (such as arrests, executions, and deportations), combined with losses from World War II, significantly altered Estonia’s demographics. The share of ethnic Estonians in the population declined from 88 percent in 1934 to 62

¹⁶⁷ Shtromas, “The Baltic States as Soviet Republics,” 86.

¹⁶⁸ Estonian government, “25 March 1949”; Raun, *Estonia and the Estonians*, 179.

¹⁶⁹ The last fighter died in 1978 while trying to evade capture. See Nordberg, *The Baltic Republics*, 26.

percent in 1989, and the share of Russian-speakers increased from 8 to 35 percent.¹⁷⁰ In the northeast areas bordering Russia the population became 90 percent Russian, and the two largest towns in the northeast, Narva and Sillamäe, became almost entirely Russian, as did nearly half of the capital, Tallinn. Estonia also became one of the most highly militarized areas in the Soviet Union, with the military controlling more than 500 installations, nearly 2 percent of Estonian territory, and over 130,000 troops.¹⁷¹

Russification was implemented, with the Russian language taught in schools and imposed for official use throughout the country. By 1989 almost all Estonians could speak Russian but few Russians could speak Estonian.

The breakup of the Soviet Union provided the opportunity for Estonia to reassert its independence, which was accomplished in 1991 after a period of primarily nonviolent struggle, though support for an independent Estonia among the Russian-speakers varied. In July 1989 thousands of Russian-speakers demonstrated against the Estonian independence movement, and in August went on a countrywide strike. In a 1990 survey, about 11 percent of the Russian-speakers supported Estonian independence, whereas 77 percent believed that Estonia's future lay within the Soviet Union.¹⁷² In the 1991 independence referendum, 25–30 percent of the non-Estonians (primarily Russian-speakers) voted in favor of independence, but 35–40 percent voted against.¹⁷³

The new Estonian government faced a number of serious challenges, including preserving independence, managing the transition from a command to a market economy, and restoring the Estonian national identity. The government saw integration with the

¹⁷⁰ Estonian Government, "Population by Nationality," May 24, 2004.

¹⁷¹ Bajarnas, *The Baltic States: Security and Defence After Independence*.

¹⁷² Sarv, *Integration by Reframing Legislation*, 24.

¹⁷³ *Ibid.*, 24.

West, particularly through membership in the EU and NATO, as the best way to achieve security, and vigorously pursued joining these and other international institutions.

Asserting that the Republic of Estonia had continued to legally exist under international law throughout the Soviet period, in February 1992 the Estonian parliament (the Riigikogu) reinstated Estonia's prewar citizenship law, which gave automatic citizenship only to those who had held it before the Soviet occupation, and their direct descendants.¹⁷⁴ The law's provisions, which were similar to those of many OSCE countries, did not discriminate on the basis of ethnicity, and as a result, 80,000 non-Estonians became citizens automatically under the law. However, over half a million Russians and Russian-speakers who had come during the Soviet era (and their children, many of whom had been born in Estonia), were left with an uncertain citizenship status.

In response protesters at a large meeting in Tallinn denounced Estonian independence and called for the establishment of a "Baltic Russia." In April energy workers in Narva went on strike, demanding automatic Estonian citizenship for all Russians in Estonia. The Russian government also reacted, and the parliament passed a resolution warning of economic sanctions, suspending the cooperation treaty with Estonia, and threatening to raise the issue at the United Nations. In October Russian President Boris Yeltsin suspended the Russian troop withdrawal from the Baltic States.

The Estonian parliament began working on a second law that would clarify the status of the noncitizens, and provide policy and procedures for naturalization. However, progress was slow and the legislation was not finished when the OSCE appointed the first HCNM, Max van der Stoep, in December 1992.

¹⁷⁴ Many countries had not recognized the occupation of Estonia as legal under international law. For example, an Estonian embassy was maintained in the United States throughout the Soviet period.

At the time that the HCNM began his work, tensions were increasing among the Estonian government, the Russian-speaking minority, and the Russian government, raising fears among the OSCE States that these tensions might escalate to armed conflict. The sources of these tensions included a border dispute, the withdrawal of Russian troops, payment of Russian military pensions, jurisdiction over the Estonian Orthodox Church, environmental damage incurred during the Soviet period, and issues regarding ethnic Russians and other Russian-speakers in Estonia.¹⁷⁵ This last issue—that interethnic tensions within Estonia were causing tensions between two OSCE States, Estonia and Russia as the kinstate of the Russians in Estonia—was the HCNM’s direct concern.

Within Estonia there were several sources of interethnic tensions. The preservation of independence was a crucial government objective, and Estonians feared that the Russians in Estonia might contribute to the loss of this independence.

The Russian military presence in Estonia was also viewed as a threat to independence. In March 1993 about 7,600 Russian troops were reported as still being in Estonia, as well as a large number of military retirees.¹⁷⁶ Many Estonians believed that Russia had purposefully kept military officers in Estonia (often by retiring them as early as their thirties and forties) so as to form a fifth column that could work for Russian intelligence, cause instability in Estonia, or even support an invasion—the Estonian defense plan considered the retired Russian officers as a primary internal threat to the country’s security.¹⁷⁷ The Russian military also continued to conduct maneuvers such as an April 1993 map exercise that Estonian military officials said focused on the “capture

¹⁷⁵ An example of the environmental damage was an 80-acre pond containing about 8 million tons of radioactive waste, with minor leakage into the Baltic Sea. See Raun, *Estonia and the Estonians*, 255.

¹⁷⁶ Woehrel, *Russians in the Baltic States*, 8.

¹⁷⁷ Sarv, *Integration by Reframing Legislation*, 51.

and keeping of strategically important targets in the Baltic States until the arrival of main forces,” a charge that Russia called deliberate disinformation.¹⁷⁸

Another high priority for the government was to restore the suppressed Estonian national identity and culture, in particular the Estonian language. A complicating factor was the legacy of bitterness from the Soviet era, which as the HCNM wrote, had “led to great suffering for virtually all Estonian families.”¹⁷⁹

Tensions on the part of the Russians included fears of being forced to leave Estonia or of being deprived of rights if they were able to stay. There was deep resentment over the citizenship issue, for under the new law they were considered as immigrants—a resentment intensified because many Russians had voted for independence on the assumption that they would be Estonian citizens. A third source of tension was that efforts by Estonians to reestablish their language and culture were seen by many Russians as aimed against them.

The HCNM’s Intervention and Recommendations

1993–1994. In early 1993 the HCNM made his first visit to Estonia. At that time interethnic tensions were increasing over a number of issues, particularly over the provisions of a draft law on naturalization requirements. Of most concern to the noncitizens were two draft provisions: first, that everyone who had not applied for Russian or Estonian citizenship would have to apply for a residence permit within a year or leave the country, and second, that former and present members of foreign military and security services and their families would not be issued permits.

¹⁷⁸ Woehrel, *Russians in the Baltic States*, 9–10.

¹⁷⁹ HCNM letter to Foreign Minister Jüri Luik, March 9, 1994.

The HCNM issued his first formal recommendation in April 1993, regarding which the government took almost no action from April to June, while on the Russian-speakers' side, opposition increased to the draft legislation. Russian organizations in Estonia organized large demonstrations; called on the Russian government for assistance; and threatened to close down power stations, conduct sabotage, and take up arms.

The Russian government responded by protesting the draft law at the United Nations, and the Russian foreign ministry warned Estonia that it was headed for a dangerous confrontation that could have serious consequences for the whole Baltic region. Russia also tried unsuccessfully to prevent Estonia from joining the Council of Europe on the grounds that hundreds of thousands of people were deprived of citizenship and that Estonia's conformity with European norms was an illusion.¹⁸⁰

The Estonian parliament nevertheless passed the law on June 21, 1993, sparking a crisis involving the Estonian government, the Russian-speaking minority in Estonia, and the Russian government. Many noncitizens interpreted the law as an effort to force them to leave, and Russian organizations in Estonia claimed that the law provided the legal basis for mass deportations and called for civil disobedience. Russian President Yeltsin warned that all necessary measures would be taken to protect Russians in Estonia, and cut gas supplies to Estonia the following day, ostensibly because of unpaid bills. He also called the Estonian government's actions "ethnic cleansing" and "an Estonian version of apartheid," adding that the Estonian leadership had forgotten about "some geopolitical and demographic realities" about which Russia was able to remind them.¹⁸¹

¹⁸⁰ Andrew Marshall, "Russia Resists Estonia Joining Human Rights Body," *Independent*, May 13, 1993, 10.

¹⁸¹ Justin Burke, "Charges Fly Between Russia, Estonia Over Citizenship Law," *Christian Science Monitor*, June 29, 1993, 7.

On June 28 the town councils of Narva and Sillamäe voted to hold referenda on declaring their towns as autonomous regions. The government considered that the referenda would be illegal and a threat to Estonia's territorial integrity, fearing that any autonomous regions might try to join with Russia, a perception increased by statements by nationalists in Russia. The government discussed using force to stop the referenda, and the Russian parliament passed a resolution urging sanctions on Estonia including suspending troop withdrawals. The potential for Russian intervention increased, for the resolution stated that Estonia's actions could not be seen as a purely internal affair, and Yeltsin declared that Russia might have to intervene if interethnic relations worsened.

The president of Estonia, Lennart Meri, asked the OSCE for help, and the OSCE Committee of Senior Officials asked the HCNM to look into the situation (an unusual action), and for the Estonian government to take appropriate action in response to his recommendations. The HCNM undertook a period of intense "shuttle diplomacy" between the Estonian government and representatives of the Russian community, while maintaining informal contacts with Russian officials, the foreign minister in particular.

His most immediate recommendation was for the president, who under the Estonian constitution was required to promulgate all laws before they would take effect, to defer his decision until the Council of Europe and OSCE had assessed the law in light of international standards. The president accepted the recommendation, and after receiving comments sent the law back to the parliament, which amended it. The EU welcomed the changes to the law but the Russian Foreign Ministry stated that the revised law maintained the discriminatory spirit of the earlier draft. On July 12 Meri promulgated the revised version, stating that it was now in line with European principles.

On the same day, the HCNM issued a statement that included assurances he had received from the Estonian government and Russian community representatives, which included a commitment from the government that it had no intention of beginning a process of expulsion, and a commitment from the Russian community that it would abide by the decision of the Estonian court regarding the legality of the referenda. The two towns did conduct the referenda, the Estonian Supreme Court declared them null and void, and the Russian community respected the decision. The crisis ended without violence, but the underlying problems had not been resolved and tensions remained.

Relations with Russia regarding interethnic tensions remained strained during this period, particularly as the Russian leadership came under increasing criticism from nationalists, hardliners, and communists regarding the status of the 25 million Russians in the former Soviet republics. This was a serious concern for the government, but was also an issue that could be exploited by political leaders and groups as the December 1993 elections neared, an approach that contributed to the electoral success of the leader of the ultra-nationalist Liberal Democratic Party of Russia (LDPR) Vladimir Zhirinovskiy.

Russian citizens living in Estonia were allowed to vote in Russian elections, and almost half of those who voted in the Russian December 1993 elections voted for the LDPR, a matter that increased tensions for Estonians.¹⁸² The success of the LDPR in these elections so alarmed the Baltic States that the three leaders held an emergency summit to discuss the implications of the election.

In 1994 nationalistic rhetoric increased in Russia (which some analysts attributed to the perceived need to regain the initiative lost to the nationalists in the elections). In January Foreign Minister Andrei Kozyrev said that Russia should not withdraw from

¹⁸² Keesing's, "Foreign Reaction," Dec. 1993.

regions that had been in its sphere of interest for centuries, and that troops needed to stay in the Baltics because a complete withdrawal would create a security vacuum that would leave the Russians undefended.¹⁸³ Zhirinovskiy called for economic measures to force the collapse of the Baltic States if they did not give full voting rights to the Russians.

In February 1994 one instance of violence was reported when unknown attackers destroyed a checkpoint at a Russian airbase near Tallinn. The Russian foreign ministry called the attack “an extremely dangerous provocation which could lead to unforeseeable consequences,” but Estonian officials denied that the attack had been sanctioned.¹⁸⁴

Little was done to implement the HCNM’s recommendations, and tensions remained high over a number of issues, especially administrative problems in obtaining residence permits and passports. The government had seriously underestimated the time and resources required to process and issue 400,000 residence permits in one year, and the resulting delays, confusion, and long lines caused frustration and fear on the part of the Russians. Most alarming was that the application deadline was July 1994, and by early 1994 the full-scale application process had not yet started, and fears of expulsion increased. The HCNM learned of these fears during a February 1994 visit, and made a number of recommendations regarding residence permits: general recommendations such as making the application process “as simple and smooth as possible,” and others aimed at specific problems such as providing the application form in Russian. The HCNM also recommended that the government extend the deadline; however, in order to make sure

¹⁸³ John Lloyd, “Russians to Stay in Baltics, Says Kozyrev,” *Financial Times*, Jan. 19, 1994, 2.

¹⁸⁴ Keesing’s, “Clash at Airbase,” Feb. 1994. Also in February, the Estonian government initiated proceedings against Peter Rozhok, an LDPR representative in Estonia, for attempting to instigate ethnic enmity. Rozhok, describing Estonia as ancient Russian territory, had urged retired Russian troops in Estonia to organize paramilitary units to defend their honor.

that the Russian-speakers took the deadline seriously—for some Russian organizations planned a boycott campaign—the government did not announce the extension until a few weeks before the deadline, a delay that caused a great deal of anxiety to many Russians.

These fears were communicated to the Russian government, and relations between the two governments continued to be poor. In May 1994 Russian Defense Minister Pavel Grachev said that the withdrawal of Russian troops was “closely linked to guarantees of normal life for the so-called Russian-speaking population,” and added that it wouldn’t take long to send reinforcements.¹⁸⁵ In July Yeltsin announced further delays in the troop pullout due to the “crude violations of human rights.”¹⁸⁶ In August a poll of 615 Russian military officers listed Russia’s enemies, in order, as Latvia, Afghanistan, Lithuania, Estonia, and the United States.¹⁸⁷

1995. In 1995 the Estonian government increased tensions by lengthening the residence requirement for naturalization and adding a constitution exam.¹⁸⁸ Russians in Estonia, and the Russian government, reacted sharply. The Russian foreign ministry said that the law was designed to legitimize discrimination against Estonia’s Russian-speaking community, and Russia brought the matter up at the Council of the Baltic Sea States and the United Nations, which resulted in investigations by both organizations. In April Kozyrev singled out Estonia and Latvia for their anti-Russian legislation designed to “push” Russians out, and stated that military force was among a large arsenal of means at Russia’s disposal for protecting Russians in the “near abroad,” and might be necessary in

¹⁸⁵ “Russia Rattles Sabres at Estonia,” *Independent*, May 7, 1994, 13.

¹⁸⁶ John Aloysius Farrell, “Yeltsin Makes Concessions on Baltic Security,” *Boston Globe*, July 11, 1994, 8.

¹⁸⁷ Bajarnas, *The Baltic States: Security and Defence After Independence*.

¹⁸⁸ The HCNM recommended that the Estonian government make the constitution exam “considerably easier,” believing that it was too difficult. Some of the questions also had questionable relevance, such as “name the regulation specifying the form of the state flag.” See Poleshchuk, *Advice Not Welcomed*, 61.

some cases. Later, though, he stressed that he had not threatened to use force against Estonia, and that force would only be used in very special situations.¹⁸⁹ In June the Narva Union of Russian Citizens demonstrated, and wrote an open letter to the Estonian parliament protesting against “the continuing mockery of citizens of Russia in Estonia” caused by Estonia’s “strident national radicalism.”¹⁹⁰

As the December 1995 elections approached in Russia, candidates increased their rhetoric. Presidential candidate and Communist Party leader Gennady Zyuganov raised the specter of secession when he declared that the eastern expansion of NATO would mean the division of Estonia since the majority of the Russians in the northeast would vote for joining Russia. Communists and nationalists won a majority to the Duma (the lower house of the Russian Federation parliament), and one-third of the Russian voters in Estonia voted for political parties with platforms that included reviving Russia’s greatness or restoring the Soviet Union.¹⁹¹

1996. During 1996 the Estonian government still made little effort to integrate the noncitizens, and the HCNM, concerned about the resources needed to implement his recommendations, asked the other OSCE States to provide assistance for programs in language training and integration projects. As a result, the government set up a Language Training Center to coordinate this assistance and distribute funds to projects, and to develop a language strategy for teaching Estonian in schools and to adults.

In the meantime, administrative problems with residence permits continued, and Russian-speakers without permits again feared being expelled. Similar problems affected

¹⁸⁹ Keesing’s, “Foreign Relations,” April 1995; Andrew Higgins, “Kremlin Backs War to Protect Ethnic Russians,” *Independent*, April 19, 1995, 8.

¹⁹⁰ Minorities at Risk, *Chronology for Russians in Estonia*.

¹⁹¹ Matthew Kaminski, “Nationalist Surge Worries Neighbours,” *Financial Times*, Dec. 20, 1995, 2.

the issuing of alien passports, and by October, 96,000 people were still without passports—and to travel outside the country they had to apply for a travel document each time.¹⁹² These issues caused frustration and resentment on the part of the noncitizens and increased their perception they were not wanted, but the most serious consequence was that large numbers of noncitizens became Russian citizens through a simple registration procedure that they could do at any Russian embassy. Some registered because of residence permit problems, but about two-thirds so that they could visit relatives. As a result, statelessness was reduced, but the number of Russian citizens in Estonia increased, a situation that did not assist in developing state cohesion and loyalty.

The HCNM recommended that the government speed up the processing of residence permits and passports, but also intervened to help the situation. He coordinated with the Swiss government to provide funds for computer equipment for the processing, and the Council of Europe paid for the printing of a hundred thousand passports.

Relations between Estonia and Russia continued to be poor. In April the Estonian foreign minister increased tensions when he said in an international forum that Russia was planning to consume neighboring States.¹⁹³ Rhetoric increased again during the Russian 1996 election campaign. Zyuganov said that Estonia was a parasite on Russia, retired general Aleksandr Lebed said in nearly every speech that Estonia would have no future if NATO expanded there, and Zhirinovskiy threatened to erect giant fans along Russia's border to waft toxic nuclear fumes into the Baltic States.¹⁹⁴ Estonian President Lennart Meri said that it was important to separate electoral rhetoric from real political substance, but noted that there had been "a sharp increase in the level of hostility coming

¹⁹² Letter from HCNM to Foreign Minister Siim Kallas, Oct. 28, 1996.

¹⁹³ "Estonia: Honoured Enemy," *Economist*, May 4, 1996, 46.

¹⁹⁴ Michael Specter, "Estonians Cast a Wary Eye on Russian Election." *New York Times*, May 26, 1996, 3.

from Russian politicians towards the Baltic States and especially Estonia.”¹⁹⁵ Of concern to many Estonians was that a large majority of the 25 million Russians in the former Soviet republics voted for Zyuganov, who supported reincorporating the Baltic States. Also of concern was that in March 1996 the Duma passed a nonbinding resolution reversing the dissolution of the Soviet Union.

1997. Beginning in 1997, the EU played an increasing role in Estonia, for membership was an extremely important foreign policy goal for the government. In 1993 the EU had published the criteria for membership, including that candidate countries had achieved stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy and the capacity to cope with the competitive pressures and market forces within the EU; and the ability to take on the obligations of membership, including adherence to the aims of political, economic, and monetary union.¹⁹⁶

The EU declared that in the area of minorities it would be guided by the HCNM’s recommendations, and therefore, in the spring of 1997, the Estonian foreign ministry prepared a document showing how Estonia had implemented all but two of the High Commissioner’s recommendations, and presented this document to the members of the OSCE Permanent Council—which included representatives from all of the EU States. The intent was to show the EU members that Estonia had fulfilled the EU requirements regarding minorities, and therefore was eligible to start accession talks.

The HCNM did not reply directly to the Estonian government’s assessment, but prepared a formal recommendation in May 1997. In this letter he assessed the overall

¹⁹⁵ Adrian Bridge, “Estonia Seeks Shelter from Icy Eastern Wind,” *Independent*, May 29, 1996, 10.

¹⁹⁶ European Commission, *Agenda 2000*, 1997, n.p.

interethnic situation in Estonia to be good, but wrote of a number of concerns regarding unimplemented recommendations, including stateless children, the slow process of naturalization, the high percentage of the population that remained stateless (14 percent), the issuing of alien passports, the lack of an ombudsman, the difficulty of the constitution exam, and the need for more language training. The HCNM believed that the government's integration efforts had been half-hearted despite the resources provided, and therefore recommended that the government speed up the preparation of the language training strategy, give it top priority, and include at least one Russian member with experience in the language training field in the working group drawing up the strategy.¹⁹⁷

The EU issued its first report on Estonia as an applicant country in July 1997, and the report's overall assessment was that on the whole, the rights of the Russian-speaking minority were being respected, and that there were no major problems between Estonians and the Russian minority. However, the report reiterated the HCNM's recommendations and outlined a number of areas that needed improvement. The report criticized areas such as the lack of an ombudsman and the administrative difficulties regarding residence permits, but particularly emphasized the need to facilitate the integration of the Russian-speaking minority to include increased language training, and to reduce statelessness including that of children. The report noted the decreasing rate of naturalizations, and stated that if the rate continued, a large percentage of Estonia's population would remain foreign or stateless for a long time.¹⁹⁸

The Estonian government took a number of actions in response. The government created a new post, a Minister for Inter-Ethnic Relations whose responsibilities included

¹⁹⁷ Kemp, *Quiet Diplomacy in Action*, 147; HCNM letter to Foreign Minister Toomas Ilves, May 21, 1997.

¹⁹⁸ European Commission, *Agenda 2000*, 1997, n.p.

population and integration issues—the first time a member of the Estonian government had been officially responsible for the integration process. The UN Development Program (UNDP) office in Tallinn convened a committee that worked out the aims and principles of the integration policy. The HCNM recognized positive aspects of the policy, writing that the integration strategy emphasized “the importance of Estonians and non-Estonians working together in the consolidation of the country’s society; it points out that integration is a two-way process, with responsibilities on both sides; it explicitly rules out assimilation as a goal; and it places emphasis on youth.”¹⁹⁹

The government established a new “state language teacher” post with incentives to teach in the Russian areas, with the goal of providing one or two teachers in each Russian-language school. The HCNM welcomed the decision, as did the OSCE and EU.

The government attached the ombudsman responsibility to an existing position, the office of the Legal Chancellor; however, the office was not independent as had been recommended, but was filled by a government official. Nevertheless, the office expanded to include satellite offices in the northeast, and use of the office increased significantly, generating positive comments from the EU and the HCNM.²⁰⁰

The Estonian government made progress on residence permits and passports, though by May 1997 there was still a backlog of 50,000 passports to be distributed. By the end of 1997 the government had largely completed the processing of both, which finally ended fears of expulsion.

Reports of tensions between Estonia and Russia regarding interethnic relations were mixed in 1997, but on the whole diminished. In January Russian Foreign Minister

¹⁹⁹ OSCE Secretary General, *Annual Report 1998 on OSCE Activities*, 33.

²⁰⁰ European Commission, *2002 Regular Report*, 27–28.

Yevgeny Primakov said that Russia would not sign a 1996 border agreement with Estonia because of Estonia's lack of respect for the rights of Russian-speakers, and stated that Russia should impose economic sanctions on those countries that discriminated against ethnic Russians, in particular Estonia. However, in the same month, the Council of Europe's Parliamentary Assembly voted to close the monitoring procedure for Estonia, highlighting the country's progress in the field of human rights, though the Council noted some areas that still needed attention.²⁰¹ At the November 1997 OSCE Implementation Meeting on Human Dimension Issues, Russian representatives voiced their concern for the Russian-speaking populations in the areas bordering Russia, the former republics, and the Baltic States in particular; however, their attitude was evaluated as being more moderate than in the previous year's meeting.²⁰² In early December a delegation of Russian foreign ministry officials visited Estonia to investigate the human rights situation, and reported that the situation was not as bad as they had thought, with the main problem being continuing difficulties for ethnic Russians in obtaining citizenship.²⁰³

Shortly before the December 1997 EU summit—at which the decision would be made as to which countries would be invited to open negotiations for joining—the Estonian government announced its decision to address the issue of stateless children. Later that same month, the EU decided to include Estonia in the first group of countries to begin accession negotiations, a major foreign policy achievement for Estonia.

²⁰¹ "Assembly Gives Qualified Support to Estonia's Honouring of Commitments," [http://www.coe.fr/cp/97/50a\(97\).htm](http://www.coe.fr/cp/97/50a(97).htm) (Sept. 28, 1999).

²⁰² Pentikäinen, "The 1997 Implementation Meeting on Human Dimension Issues of the OSCE," 22–23.

²⁰³ Finerty, "Russian Foreign Ministry on Estonia: 'Situation Not as Bad as We Thought,'" 7.

1998. The EU and the Estonian government signed the accession document in March 1998, an important step towards the achieving of security for Estonia, involving as it did some measure of physical and psychological protection by the EU. Also in March the government took a significant step towards developing a formal integration program by establishing an Integration Foundation to initiate and support projects aimed at the integration of Estonian society, and to coordinate the effective use of resources.

Significant shifts in attitude were reported as having taken place in Estonia during 1998. The government reported that in contrast to the early 1990s when most Estonians expected the Russians to leave, most Estonians accepted that the great majority of the Russians were going to stay, and a similar change occurred on the Russian side in accepting Estonia as an independent State. The Estonian government also recognized that continued alienation of the non-Estonians was a danger:

As a result of heavy migration during the Soviet occupation, a very sizeable and somewhat isolated Russian-speaking community has arisen in Estonia. Isolation of this community threatens both social stability and national security.²⁰⁴

However, progress was not constant: domestic opposition hindered the passing of legislation on stateless children, and the EU wrote in its 1998 report that it was regrettable that parliament had not adopted amendments that “would align it with OSCE recommendations and facilitate naturalization of stateless children.”²⁰⁵ Other States and the OSCE echoed the message, and in December 1998 parliament passed the legislation. The HCNM issued a press release welcoming the law’s adoption, the EU issued a

²⁰⁴ Estonian Government, *The State Programme “Integration in Estonian Society 2000–2007,”* Executive Summary, 1.

²⁰⁵ European Commission, *Regular Report*, 1998, 10.

statement acknowledging that Estonia had fulfilled the OSCE recommendations with regard to citizenship, and the Russian foreign ministry expressed satisfaction.²⁰⁶

1999. In 1999 the government adopted an integration action plan, half funded by the EU and half by the Estonian government, that included the development of a methodology for teaching Estonian as a second language, teacher training, language training in vocational and higher education institutions, and teaching materials. The government increased Estonian language teaching in Russian secondary schools and to adults, and provided language-training programs on television and elsewhere.

The Integration Foundation also supported integration projects such as Estonian language camp and family exchanges. Language camps provided young people the opportunity to supplement their knowledge of Estonian outside of school, and the family exchange projects provided the opportunity for children and youths to practice their Estonian by talking with Estonians of their own age, live with an Estonian family for a week to two months, and familiarize themselves with Estonians and Estonian culture, yet at the same time share their own culture.

2000. In March 2000 the government adopted the *State Integration Programme 2000–2007*. In this program, integration policy was stated as the idea that the harmonization of society was a two-way process that involved the integration of Estonians and non-Estonians around a strong common core of the knowledge of the Estonian language and Estonian citizenship, while at the same time creating conditions for maintaining ethnic differences based on the recognition of minority cultural rights.

²⁰⁶ Zaagman, *Conflict Prevention in the Baltic States*, 43; Minorities at Risk, *Chronology for Russians in Estonia*.

Problems still existed, however. In 1998 and 1999 parliament passed laws requiring the use of Estonian in private businesses, and requiring parliamentary candidates to be able to speak Estonian. The issues were resolved, but under strong international pressure, particularly from the EU as shown in its 1999 report:

The concerns raised by the adoption of this law go beyond the non-compliance by Estonia of the political criteria for membership on minorities issues and could conflict between the law and the obligations of Estonia under the Europe Agreement.... The OSCE High Commissioner [on National] Minorities has also pointed out that the current text contradicts a number of international standards as regards freedom of expression, in particular those introduced by the European Convention on Human Rights, of which Estonia is a contracting party.... The adoption of the Language law, which restricts access of non-Estonian speakers in political and economic life constitutes a step backwards and should be amended. In the meantime, the Commission will closely monitor the implementation of the law to see what impact it will have in practice.²⁰⁷

The 2000 census showed progress in reducing statelessness and acquisition of citizenship, with the percentage of the population that was stateless decreasing from more than 33 percent in 1992 to about 12 percent in 2000, with the proportion of Estonian citizens highest among those under thirty-five and especially high for children under ten.²⁰⁸ From 1992 to 2000, over 110,000 persons acquired Estonian citizenship.²⁰⁹

2001. The 2001 EU report recognized Estonia's progress "in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities," but also noted that continued attention and resources were needed to implement all elements of the integration

²⁰⁷ European Commission, *1999 Regular Report*, 15, 16.

²⁰⁸ Estonian Government, "Citizenship."

²⁰⁹ *Ibid.*

program, including the naturalization process, language training, and awareness and involvement in the integration process across all sections of the Estonian population.²¹⁰

During this period, Russian officials continued to criticize Estonia in fora such as the United Nations, and in December 2001 Russia opposed the ending of the OSCE Mission to Estonia, stating that the Mission had not completed its tasks and its closure was regrettable.²¹¹ However, the overall situation appeared to improve: no criticisms or threats were reported in Keesing's Record of World Events or the Lexis-Nexis database, and on March 26, 2002, the new HCNM, Rolf Ekéus said that he did not see any major problems in Estonia and would focus his efforts on supporting social integration.²¹²

OSCE Principles, Implementation, and Effect on Security

From 1993 to 1999 the HCNM made thirteen formal recommendations in which he made overall and specific recommendations to the Estonian government; ethnic minorities in Estonia, particularly the Russian-speaking community; and other OSCE States (See Appendix E). All of the recommendations involved OSCE principles.

Overall HCNM Recommendation. The HCNM's first formal recommendation, issued in April 1993, contained his overall recommendations to the Estonian government and the Russian-speaking minority. The HCNM's overall recommendation to the government was to integrate the Russian minority by a deliberate policy of integration, particularly by facilitating the acquisition of Estonian citizenship, and assuring the minority of full equality with Estonian citizens. His overall recommendation to the Russian-speaking minority was to adapt to and develop loyalty towards Estonia as an

²¹⁰ European Commission, *2001 Regular Report*, 23–24.

²¹¹ Journal of the 373rd Plenary Meeting of the Permanent Council, Dec. 13, 2001, Annex.

²¹² Sarv, *Integration by Reframing Legislation*, 100.

independent State, and to contribute to their own integration, in particular by making a “determined effort” to learn enough Estonian to be able to conduct a simple conversation (except for those who had retired from work).

OSCE Principles. All of the HCNM’s recommendations either referred to OSCE principles, or were related to them. Most of his specific recommendations involved Principles 10–15, dealing with the relationship between the State and its population.

The HCNM’s recommendations regarding general human rights were examples of references to Principle 10, which states that the government has the responsibility to create and maintain the conditions in which all individuals are able to fully exercise their rights. An example was his recommendation that the government use humanitarian considerations and reasonableness as the guiding principles regarding those who would neither qualify for citizenship nor have the status of permanent residents.

Principle 11 stated that the participating States will use democracy, the rule of law based on human rights, and the market economy as the means to ensure that all individuals are able to fully exercise their rights and freedoms. The HCNM’s recommendations aimed at clarifying legislation and ensuring consistent interpretation and implementation referred to the rule of law aspect of Principle 11.

Principle 12 recognized that sometimes special provisions are needed to ensure that minorities can exercise their equal rights, and the majority of the HCNM’s recommendations referred to this principle. All of the HCNM’s recommendations regarding mechanisms and institutions to ensure minority participation in government decisions pertained to this principle. The HCNM’s recommendation that the government

assist the non-Estonian population in acquiring citizenship was an example in that minorities cannot exercise their equal rights without participating in the political process.

The HCNM referred to Principle 13, the need to balance the interests of majorities and national minorities, a number of times. One example was when he wrote in his first formal recommendation that the stated aim of the Estonian government was to find a formula for the problem of the non-Estonian population in accordance with the international standards subscribed to by Estonia. The HCNM continued the discussion of balance by addressing the “two completely contradictory options” that the government faced, the first being to provide a privileged position for the Estonian population, an option that he wrote would not be compatible with the spirit, if not the letter, of the international obligations that Estonia had accepted. The second option was to balance the interests of the two groups by aiming at integrating the non-Estonian population.

The HCNM also referred to Principle 13 when he discussed the Estonian and non-Estonian desire to maintain and develop their identities. He acknowledged the Estonians’ determination to reestablish their national identity after its suppression during the Soviet era, but stressed that the Estonians could strengthen their political, cultural, and linguistic identity, and at the same time integrate the non-Estonians. In turn, he stated that non-Estonians could learn Estonian without sacrificing their cultural or linguistic identity.

The HCNM recommendations to the Russian-speaking community referred primarily to Principle 14, that minorities fulfill their responsibilities. As an example, he wrote in his April 1993 recommendation that he was aware that the policy he was advocating required an effort on the part of the government, and an equal contribution on the part of the non-Estonian population.

The issue of language use in public and private involved Principle 15 in that the majority and minority have linguistic rights that may sometimes conflict. As an example, minorities can use their language in their private businesses, but for public safety, emergency personnel need to be able to communicate with the individuals they serve.

The HCNM's recommendations dealing with giving and accepting help among countries referred to Principle 4, that the participating States accept their mutual involvement with, accountability to, and assistance to each other in matters pertaining to the implementation of their OSCE commitments. Examples were the assistance that other OSCE States gave to the Estonian government for language training and integration efforts. Principle 4 was also the basis for the help that the HCNM personally directed, such as arranging for the Foundation on Inter-ethnic Relations to publish brochures on the naturalization process, and arranging an international seminar on minority education.

On several occasions the HCNM referenced Principle 18, that individuals, groups, NGOs, and governments at all levels make good faith and continuous efforts to fully implement their OSCE commitments. One example was his statement that the Estonian government had repeatedly assured him that it was determined to fully respect its OSCE commitments, including those concerning minorities. A second example was when he wrote that the Russians in Estonia would adapt more easily to Estonia as an independent State if Russia fulfilled its OSCE commitment to remove its troops.

The table below summarizes the HCNM's recommendations to Estonia, and the OSCE principles involved.

Table 5.1 Summary of HCNM Recommendations and OSCE Principles

HCNM Recommendations ↓

↓ Estonian Government ↓	↓ Russian-speaking Community ↓	↓ Other OSCE States ↓
<ol style="list-style-type: none"> 1. Assist noncitizens to acquire citizenship 2. Assure minorities of full equality 	<ol style="list-style-type: none"> 1. Develop loyalty to Estonia as an independent State 2. Contribute to own integration, particularly by learning a basic level of Estonian 	<ol style="list-style-type: none"> 1. Remove all Russian troops per OSCE commitment 2. Provide assistance to the Estonian government for language training and integration 3. Recognize the Estonian Aliens Passport as a legal travel document
Principles 10–15, 18	Principles 14, 18	Principles 4, 18

Implementation. The government implemented nearly all of the HCNM’s recommendations, but often only after a significant delay, sometimes of several years. In some areas, however, the government went beyond the HCNM’s recommendations in facilitating integration and the acquisition of citizenship. In 2000 the government began to allow students who achieved a certain level on school language and civics exams to use these exams to fulfill the language and constitution exam requirements for citizenship. Estonia also gave noncitizens the right to vote in local elections, which the EU noted was a right that few countries in Europe allowed, and that contributed effectively towards the integration of noncitizens and the protection of their rights.²¹³

The HCNM’s recommendations to the Russian minority were to adapt to Estonia as an independent State; develop a sense of loyalty towards Estonia; and contribute to their own integration, in particular by learning Estonian. The majority of the Russian-speakers, particularly the younger people, tried to implement these recommendations. In a 1996 survey, over half of those without citizenship said that they had tried to improve their knowledge of Estonian since independence, and two-thirds of individuals aged 18–

²¹³ European Commission, *Agenda 2000*, 1997, n.p.

29 said they had tried.²¹⁴ The 2000 population census showed that 94 percent of persons fifteen and older used the Estonian language as either their mother tongue or as a second language, including two-thirds of Estonian citizens of Russian ethnicity. The attitude towards the language requirement for citizenship also changed. In a February 1993 survey, 90 percent of the respondents in the predominately Russian-speaking town of Narva disagreed with knowledge of the Estonian language as a citizenship requirement; however, three years later, well over 90 percent of all Russian-speakers in Estonia agreed or strongly agreed that their children ought to learn Estonian.²¹⁵

The HCNM made three specific recommendations to other OSCE States. One was to the kinstate, Russia, to fulfill her OSCE commitment to remove her troops, which was done in August 1994. The HCNM made one recommendation to other OSCE States to provide significant assistance to the government for language training and integration, and recognize the Estonian Alien Passport as a legal travel document. Only some OSCE States recognized the passport as a legal travel document; however, a number of States and international organizations did provide significant assistance to the Estonian government for language training and integration.²¹⁶

Observed Effects on Security. The primary effects on security regarding the implementation or non-implementation of the OSCE principles contained in the HCNM's recommendations were seen in the levels of tensions within Estonia, between the Estonian and Russian governments regarding specific issues, and in the region.

²¹⁴ HCNM letter to Foreign Minister Toomas Ilves, May 21, 1997.

²¹⁵ Smith, *The Baltic States*, 195; HCNM letter to Foreign Minister Toomas Ilves, May 21, 1997.

²¹⁶ Sarv, *Integration by Reframing Legislation*, 87. The donors included international organizations, NGOs, and individual countries. From 1998 to 2003, the EU provided over €4.5 million for language training, integration projects, and increasing employment opportunities.

Tensions within Estonia. When the HCNM's recommendations were not implemented, as was generally the case from 1993 to 1996, tensions remained high within Estonia, and between Estonia and Russia regarding the issues referenced in the HCNM's recommendations. However, in 1997, when the Estonian government began to implement a number of the HCNM's recommendations, especially those involving acute anxieties such as residence permits (which affected whether or not people would be allowed to live in Estonia), tensions began to diminish. In 1998 the government (and the Russian minority) began to seriously implement the HCNM recommendations, including his overall recommendation to each, and tensions diminished as indicated by poll results showing better interethnic relations, and the increased acquisition of Estonian citizenship, particularly among young people. However, in 1998 and 1999, parliament passed laws not in keeping with OSCE principles and other international standards, and tensions increased, but decreased when these laws were revised. From 2000 to 2001 statelessness continued to be reduced, and tensions with Russia remained at a lower level. In 2001 the new HCNM stated that he believed he only needed to monitor interethnic relations.

Tensions between Estonia and Russia. Implementation of the OSCE principles in the HCNM's recommendations reduced tensions between the Estonian and Russian governments regarding issues pertaining to the Russian minority in Estonia, though criticisms continued. Indications of reduced tensions included the absence of threats, and the overall lowered tone of statements by the Russian government.

Regional tensions. Evidence of reduced tensions in the region included the closure of the OSCE Mission to Estonia based on the perception of the decreased likelihood of

conflict. The HCNM issued no further formal recommendations, and no situations involving interethnic tensions arose that required the attention of the OSCE leadership.

Summary. The implementation of the OSCE principles contained in the HCNM's recommendations had a meaningful effect on security by reducing tensions within Estonia, between Estonia and Russia, and in the region. Though some Russian citizens in Estonia and Russia did not become fully reconciled to Estonian independence, and tensions concerning language and minority education were not completely resolved, overall security was increased.

Chapter 6: OSCE Principles and Macedonia

Chapter outline

Introduction

Background of Macedonia

The HCNM's Intervention and Recommendations

OSCE Principles, Implementation, and Effect on Security

Introduction

This chapter presents a case study of the OSCE principles contained in the first High Commissioner on National Minorities' (HCNM) recommendations to the Republic of Macedonia from 1993 to 2001.²¹⁷ The case study analyzes the effect on security resulting from the implementation of these recommendations and OSCE principles.

Background of Macedonia

In 1991 Macedonia was a small, landlocked country in southeastern Europe (about 25,000 square kilometers and 2 million people), sharing borders with Greece, Bulgaria, Serbia, and Albania. Before the twentieth century Macedonia had comprised a much larger area, but had been partitioned in 1913 among Greece (51 percent), Serbia (39 percent), Bulgaria (9 percent), and Albania (1 percent).²¹⁸ After World War II, the Serbian part became one of the six constituent republics of Yugoslavia (Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia).



²¹⁷ The Republic of Macedonia entered the United Nations in 1993 under the provisional name “The former Yugoslav Republic of Macedonia” (fYROM). This study uses the name “Macedonia” for clarity.

²¹⁸ Williams, *Preventing War*, 20.

In September 1991, during the period of great change that took place in the Soviet Union and Eastern Europe from 1989 to 1991, Macedonia declared its independence after a referendum in which more than two-thirds of the eligible voters voted in favor of independence.²¹⁹ Macedonia was the only Yugoslav republic that seceded without armed conflict, and at the time, war was already being waged in Croatia, and conflict was to break out in Bosnia in 1992.

The new government faced serious challenges that included preserving independence, lack of international recognition as a State, achieving national security, avoiding war, economic problems, and interethnic tensions. Macedonia experienced great difficulty in achieving general international recognition, and membership in international organizations such as the United Nations and the OSCE, because of Greek opposition. Greece strongly objected to the use of the name “Macedonia,” believing that the inhabitants did not have any links to the Macedonians of classical Greece, and that the use of the name and Hellenic symbols were usurping Greek heritage (as an example, Macedonia used the star of Vergina from the tomb of King Philip of Macedon as its national symbol and on its flag). Greece also feared that the use of the name “Macedonia” might support a territorial claim in northern Greece, which contained a province also called “Macedonia,” and in which a significant number of ethnic Macedonians lived.²²⁰

Macedonia’s national security was problematic: Serbia had withdrawn almost all of the Yugoslav Army and equipment, leaving Macedonia without an adequate defense capability in the case of a feared Serbian attack, or to monitor its long, mountainous, and

²¹⁹ Ibid., 23.

²²⁰ Estimates of the number of Macedonians in Greece varied: the Greek government’s figure was 40,000 whereas the Macedonian government’s figure was 250,000. See Human Rights Watch, *A Threat to “Stability”: Human Rights Violations in Macedonia*.

poorly marked borders. A particular fear was that the war in Bosnia-Herzegovina would spill over and embroil Macedonia in a broader Balkan war. The international community was also concerned with this possibility, and in the fall of 1992, established the United Nations Preventive Deployment Force (UNPREDEP) of peacekeepers to Macedonia's borders with Albania and Serbia—the first time the UN had deployed forces to a region before the outbreak of any fighting. The OSCE established a Mission in Macedonia to monitor developments along the borders with Serbia and other areas that could be affected by the spillover of the conflict in the former Yugoslavia; to promote respect for Macedonia's territorial integrity and the maintenance of peace, stability, and security; and help prevent possible conflict in the region.²²¹

Macedonia's economic challenges included managing the transition from a command to a market economy, high inflation, and significant unemployment. These challenges were exacerbated by the loss of financial support from the central Yugoslav government, and the effects of UN-imposed sanctions against Serbia during the Bosnian war, which caused Macedonia to lose its major trading partner and only direct overland route to Western Europe. The lack of international recognition prevented Macedonia from applying for foreign loans and capital, though organizations such as the IMF informally recognized Macedonia in order to provide aid.

There were significant interethnic tensions within the country. At the time of independence, Macedonia's population consisted of about two-thirds ethnic Slav Macedonians; less than one-quarter ethnic Albanians; and about one-tenth other

²²¹ *Survey of OSCE Long-Term Missions and Other OSCE Field Activities*, 2001, 1–2. Other tasks included dialogue with the government; contacts with representatives of political parties, organizations, and ordinary citizens; trips to assess the level of stability and the possibility of conflict and unrest; and in case of incidents, assisting in establishing the facts.

minorities (ethnic Turks, Roma, Serbs, and Vlachs), and the primary tensions were between the Macedonian and Albanian communities. During the Yugoslav era, the two communities had coexisted peacefully, but with little contact and mutual suspicion, a situation that continued after independence.

The Albanian minority had significant tensions involving a number of areas. In particular the Albanian community believed that they were treated as second-class citizens, pointing to their low education level and poor representation in public service positions, and believed that they should have an equal status with the Macedonian majority. This belief was reflected in a number of demands, such as the recognition of Albanian as a second official language.

A major Albanian concern was better education at all levels for their children. Macedonia's constitution guaranteed primary and secondary education for minorities in their own language; however, Albanian education was generally poorer, and in 1993, fewer than one-third of Albanian students attended high school (a significantly lower rate than that of ethnic Macedonians), and even fewer went on to college.²²² A major—and contentious—demand was for a State-funded Albanian-language university.²²³

On the Macedonian side, a great concern was the possibility of secession: the Albanians were primarily concentrated in the western part of the country along the borders of Albania and the Kosovo province of Serbia, and Macedonians feared that the Albanians' ultimate objective was to be part of a pan-Albanian State consisting of Albania, Kosovo, and parts of Macedonia. Ethnic Macedonians were also alarmed by the

²²² HCNM letter to Foreign Minister Stevo Crvenkovski, Nov. 16, 1994.

²²³ In the former Yugoslavia, Albanians in Macedonia had attended the University of Pristina in Kosovo—the only institution of higher education in Yugoslavia with courses taught in Albanian; however, in 1991 the Serbian authorities had ended these courses, leaving the Albanians with no access to Albanian-language higher education.

increasing Albanian population from the higher Albanian birth rate and immigration from Kosovo, and feared becoming the minority.²²⁴ A number of Macedonians suspected the Albanian community of not respecting the nation's laws, and of disloyalty to the new State. For example, many of Macedonia's Albanians boycotted the September 1991 referendum concerning independence, and in January 1992 had held their own unofficial referendum in which a large majority voted in favor of territorial and political autonomy within Macedonia—a referendum that the government rejected, and that many Macedonians interpreted as the first step towards secession. Macedonians also tended to view Albanians as a minority that should not be granted greater rights than those of other minorities. In addition, the government feared internal instability or even the break-up of the country if Albanian demands were met—for other minorities in Macedonia often complained that Albanians received disproportionate attention and benefits.

The HCNM's Intervention and Recommendations

1993–1995. In February 1993 Greece accepted international arbitration over the issue of Macedonia's name, after which Macedonia was admitted to the United Nations under the provisional name of “The former Yugoslav Republic of Macedonia,” but without a flag pending arbitration regarding Greek objections to the star of Vergina on the flag. Macedonia was then admitted to the OSCE in April, but only with observer status, and the HCNM made his first visit in June. He made a second visit in October, after which he issued his first formal recommendation on November 1, 1993. His initial

²²⁴ After Serbia deprived Kosovo of the status of autonomous province in 1989, a steady influx of Kosovar Albanians into Macedonia occurred as the Serbian regime became increasingly repressive. In addition, during the Yugoslav era, internal mobility had been unrestricted, and a great deal of movement, and intermarriages, had resulted between Albanian communities in Macedonia and Kosovo.

specific recommendations dealt with the issues of minority education, mechanisms for dialogue, minority representation in public service, and a census.

In the area of education, the HCNM recommended that the government ensure that an adequate number of Albanian teachers receive proper training for teaching in elementary schools, and promote greater access to high school for Albanian students. During the 1993–1995 period the government did not implement the recommendation concerning teacher training, but did establish quotas for minority students to attend high school, thereby increasing the number of students going on to secondary education.

He recommended that the government strengthen the Council for Inter-Ethnic Relations in ways that could improve its ability to promote interethnic harmony such as by being able to initiate investigations of events that had led to interethnic tensions, and that the government provide the Council with an adequate staff to perform these additional responsibilities. These recommendations, however, were not implemented.

The HCNM recommended that the government ensure, through the progressive process that was already underway, that the staffing of all government departments adequately reflect minorities.²²⁵ The government made efforts to implement this recommendation, but progress was slow: for example, though the government set quotas for minority police training, attrition reduced the potential increase in staffing.²²⁶

The Albanian community believed that their numbers were underrepresented in the population figures, and therefore the HCNM recommended that the government

²²⁵ The HCNM also recommended that the government prepare annual progress reports in this area, and that the Council for Inter-Ethnic Relations review them. This recommendation was also not implemented.

²²⁶ From 1993 to 2000, the Albanian police force membership increased from less than 5 percent to nearly 9 percent. See HCNM letter to Stevo Crvenkovski, Nov. 16, 1994; U.S. Department of State, *Macedonia, The Former Yugoslav Republic of, Country Reports on Human Rights Practices 2001*.

resubmit a draft law on a census to parliament (the Sobranie).²²⁷ The government held a census in 1994 with support from the EU and Council of Europe; however, some members of the Albanian community boycotted the census and protested the results.²²⁸

During this period, another challenge arose: in February 1994 Greece imposed a trade embargo on Macedonia over the dispute regarding the country's name and other issues. This action had serious economic consequences, which the Macedonian government estimated cost about \$60 million per month.²²⁹

The HCNM visited Macedonia again in November 1994, after which he issued his second formal recommendation. In this recommendation he made a number of new specific recommendations and reiterated previous ones.

He recommended that the government reduce the residency requirement for citizenship from fifteen to five years (the requirement used in many OSCE States.) The government did not implement this recommendation, with the negative effects often associated with statelessness such as resentment and the hampering of the development of loyalty to the State.²³⁰

The HCNM recommended that the government resubmit an earlier draft law on local self-government to the newly elected parliament, and emphasized the importance of particular articles pertaining to the official use of the languages and alphabets of the country's ethnic groups. The parliament did pass a law on local self-government in 1995

²²⁷ Shea, *Macedonia and Greece*, 239. The resulting figure of 23 percent Albanians was disputed by ethnic Albanians; however, international observers rejected their objections.

²²⁸ Keesing's, "Albanian Boycott of Census," July 1994; "Results of Controversial Census," Nov. 1994.

²²⁹ HCNM letter to Foreign Minister Stevo Crvenkovski, Nov. 16, 1994.

²³⁰ The EU also noted the problem of stateless persons. See European Commission, *Former Yugoslav Republic of Macedonia Stabilisation and Association Report*, 2002, 10.

that allowed official use of minority languages in “units of local self-government” when a minority comprised at least 20 percent of the population.²³¹

He recommended that TV broadcasts in the Albanian language be increased from one to two hours per day, with further subsequent increases. The government implemented this recommendation, increasing Albanian programming to three hours per day and five hours on Wednesdays.²³²

The HCNM recommended that other OSCE States and the international community offer enough assistance to enable Macedonia to start a process of economic recovery, noting that economic conditions in Macedonia had continued to deteriorate. The States and international organizations did provide aid; however, GDP continued to decrease, hampered by the sanctions on Serbia and Greece’s embargo.

He also recommended that the Macedonian and Greek governments normalize their relations, to include ending the Greek embargo. This recommendation was partially implemented in October 1995 when Greece and Macedonia signed an interim accord that normalized their relations and settled all of the disputed issues except for the name. The agreement also opened the way to international recognition and membership in international organizations (however, the accord stated that Greece would not object to Macedonia joining any international, multilateral, or regional organization of which Greece was a member unless Macedonia was to be referred to in any other way than “The former Yugoslav Republic of Macedonia”). Trade between the two countries increased, and Greece eventually became the primary investor in Macedonia.²³³

²³¹ The implementation sometimes needed improvement, for in 1998 the HCNM addressed implementing the “spirit” of the law as well as specifics such as the transfer of resources.

²³² International Crisis Group, *The Albanian Question in Macedonia*, 9.

²³³ However, as of 2006 the dispute over Macedonia’s name had not been resolved.

A new recommendation was for the Macedonian government to maintain the country's stability, and the HCNM outlined two areas that he saw as threats to this stability. The first was a possible deterioration of the economic situation, which he wrote could lead to social tensions, and the second was interethnic tensions, which in early 1995 did result in a crisis over the issue of an Albanian-language university.

In December 1994 the government decided that a request to initiate an Albanian-language university was not in accordance with the constitution and the education law, and when the self-styled "Tetovo University" attempted to open despite this ruling, the police forcibly closed the university. The HCNM immediately went to Macedonia and urged the government to accommodate Albanian aspirations for a university, but also urged the self-appointed rector of Tetovo University to use legal ways to achieve his aims. The HCNM repeatedly pointed out to both sides that OSCE commitments and other international standards recognized the right of persons belonging to national minorities to establish their own educational institutions, but that this right had to be exercised in accordance with national legislation.

Nevertheless, the issue became increasingly divisive and a second attempt to open the university resulted in clashes in which one Albanian was killed and about twenty people, including policemen, were injured. The HCNM again flew to Macedonia to defuse the situation. After meeting with Macedonian President Kiro Gligorov, the HCNM made a public statement on February 20, 1995, in which he called for calm and dialogue, and emphasized the importance of respecting both law and OSCE commitments:

I am strongly convinced that this is a time for restraint and for all the parties to remain calm. It is in the common interest of everyone in this country to live together in harmony. Incidents like that of [17 February] can only disturb this harmony. I am also deeply convinced that, if there is

a further escalation of tensions, the interests of all ethnic groups will be further damaged. Now is the time not for mass demonstrations but for dialogue. Dialogue is the way of searching for common solutions. The question of the university is uppermost in this regard. In my opinion, this issue should be discussed within the framework of preparing the new law on higher education. It cannot be enforced by illegal actions. I consider it very important that your President has reiterated his firm intention to live up to the commitments contained in the OSCE documents, including those relating to persons belonging to national minorities. On this basis, it has to be possible to find solutions to the problems your country faces.²³⁴

The HCNM then met with members of the government and Albanian leaders, and discussed ways of stabilizing the situation; continuing the dialogue between the government and the Albanian community; and promoting solutions that would, within the framework of national laws, meet the legitimate demands of the Albanian community.

Tensions eased, though a large number of Macedonian students demonstrated against an Albanian-language university. The HCNM visited Macedonia again in March, and consulted with all concerned. After considering the problem, the HCNM believed that creating a new state university would probably require a change in the constitution, and therefore considered that a new private university could be a compromise. Therefore, on April 28, 1995, he issued his third formal recommendation, in which he focused on the issue of Albanian-language higher education.

He began by establishing the overall framework in which he believed the solution should be sought, which was through dialogue while a draft law on higher education was being prepared, and with full respect for Macedonia's constitutional order. He emphasized the need for a compromise formula, saying that any steps towards creating a new institution must conform with OSCE principles, respond to specific educational needs, contribute to interethnic harmony, and benefit all groups in the country.

²³⁴ "High Commissioner on National Minorities," *OSCE ODIHR Bulletin*, Winter 1994/1995, 55–56.

In this recommendation, the HCNM proposed that the government create a Higher Education Center for Public Administration and Business as a private institution that would work in close cooperation with Skopje and Bitola universities. He emphasized the need for attention to languages, such as that the Center would contain a language training center and that lectures would be in Macedonian, Albanian, and English. He also noted that the curriculum would have to be approved by the government, and recommended that the government ask for international assistance for the Center's financing.

He pointed out that the Macedonian constitution, and OSCE standards, allowed the formation of a private university, but emphasized that both documents stressed that educational institutions had to conform with national laws. He addressed how the Center could benefit Macedonia in that the high-level training could result in the expansion of small- and medium-sized businesses that would help the economy; increase the country's international focus in higher education, which was needed; and that education in public administration and business would help increase the number of Albanians in public service. However, little action was taken on this recommendation.

1996–1997. In 1996 the HCNM focused on interethnic relations and the Albanian-language university in Tetovo, visiting Macedonia several times and meeting with representatives of the government and the Albanian minority. In his visits he stressed the need for dialogue and constructive solutions to problems, and in December chaired a roundtable on building harmonious interethnic relations in Macedonia, bringing together representatives of parliament, the government, Albanian political parties, the academic community, and local NGOs. The participants discussed interethnic issues facing the country, three in particular: the role of local self-government in a multiethnic

society, minority participation in public affairs, and minority education as a means of preserving ethnic identity while strengthening the integration and cohesion of society as a whole.

In early 1997 parliament passed a law allowing Albanian-language instruction at Skopje University for Albanian teachers of kindergarten and grades 1–4. The HCNM acknowledged this as a positive step; however, noted that the problem of the quality of teaching in grades 5–8 and secondary schools remained compelling, and urged further government action. He pointed out that improving education at these levels could stimulate the social and economic level of the Albanian population, increase the number of students starting and completing higher education, and remove a major barrier preventing the gradual appointment of ethnic Albanians to leading positions.

However, the law provoked verbal attacks from Macedonian nationalists and daily demonstrations by students and professors. These protests escalated into sporadic violence against Albanians including a violent confrontation after a soccer match; however, the Albanian political leadership restrained the Albanian community from responding in ways that might have escalated the situation. Interethnic tensions nevertheless increased and became further polarized when elections resulted in the success of a more radical Albanian party, and Macedonian attitudes hardened against any further concessions to the Albanians.

In July tensions erupted over the issue of the flying of the flags of other countries. Members of the more radical Albanian party were elected as mayors of the towns of Tetovo and Gostivar, and began flying the Albanian flag next to the Macedonian flag in front of the town halls. Macedonia's constitution guaranteed minorities the right of self-

expression to include the use of symbols such as flags, but also prohibited the flying of the flags of foreign States.²³⁵ A legal protest resulted in a Constitutional Court ruling to remove the flags, but neither mayor complied. The government decided not to take immediate action, but to prepare a new draft flag law as a compromise: Albanian flags would be allowed during sport and cultural events, and, in municipalities where an ethnic minority was the majority, kinstate flags could be flown next to the Macedonian flag on official state holidays.

Parliament (which included Albanian representatives), passed the new law, but the two mayors continued to fly the Albanian flag, and in the early morning of July 9, 1997, the police took the flags down. Later that day there were disturbances in Tetovo, and in Gostivar a demonstration turned into clashes during which 3 people were killed and over 200 injured, including a number of police. Both mayors were charged with failing to implement the Constitutional Court ruling. The mayor of Gostivar was also charged with organizing resistance, and with instigating national, racial, and religious hatred, discord, and intolerance.

The HCNM flew to Macedonia the next day and met extensively with members of the government and the Albanian community. After these meetings, the HCNM issued a statement in which he said that in his view, it was more important than ever for all groups to strive to find solutions for interethnic problems by rejecting ethnic hatred and intolerance and by seeking constructive and continuous dialogue, with equal rights for all ethnic groups as the guiding principle. The statement said that in order to be successful, this dialogue had to be based on internationally accepted norms and standards, but

²³⁵ During the Yugoslav era, minorities were allowed to fly kinstate flags to which a red five-pointed star had been added. This star was removed after Macedonia's independence, which meant that the towns were flying Albania's flag. See International Crisis Group, *Macedonia Report*, 1997, 13.

equally on respect for the sovereignty and territorial integrity of the State, the constitutional order, and the rule of law.

Tensions eased somewhat, and the HCNM continued to visit Macedonia, emphasizing how important it was for all groups to promote constructive dialogue, tolerance, and respect, and stressing that this dialogue would yield productive results only when conducted in the context of respect for the constitution and the rule of law. He took direct actions as well: in November 1997 he held consultations in The Hague with Albanian leaders, and initiated a project through the Foundation on Inter-Ethnic Relations, the Transition Year Program, to help Albanian high school students improve their university entrance examination scores.²³⁶

1998. The HCNM issued his fifth formal recommendation on November 6, 1998, after the parliamentary elections but before the new government was formed. This recommendation, issued in the form of a press release, was a comprehensive statement on a number of interethnic issues, and can be expressed as follows:

That the parties engage in a serious, constructive, and continuous dialogue regarding the steps that can be taken to accommodate the specific desiderata of minorities and find solutions acceptable to both sides regarding interethnic questions, and use a specific framework for this dialogue.

This dialogue, the HCNM wrote, must be based:

- Equally on internationally accepted norms and standards, and respect for the sovereignty and territorial integrity of the State as well as respect for the rule of law and the constitutional order, including that it can only be changed in accordance with constitutional rules;
- On the recognition, that as all groups pursue their specific interests, they also have common interests, such as the maintenance of peace and stability, the promotion of economic development, and the reduction of unemployment;

²³⁶ The program was successful, despite opposition from some ethnic Albanians as detracting from the issue of a separate Albanian-language university. See Kemp, *Quiet Diplomacy in Action*, 190.

- On the guiding principles of equal rights for all ethnic groups, and the rejection of ethnic hatred and intolerance;
- On recognition that the government and the majority avoid considering any concession to a minority as a weakening of the State, and recognize that meeting the wishes of a minority, within the constitutional framework of a unitary State, may strengthen the State;
- On recognition that the essence of democracy is compromise in that both sides have to modify some of their positions, and that in a democratic multiethnic State a minority cannot impose a dictate on a majority, but neither can a majority afford to ignore the desiderata of a minority;
- On recognition that disregard of these basic rules will inevitably lead to destabilization of the State, and very possibly to violence, from which all concerned would suffer and no one would gain, whereas success would provide a firm basis for the stability of the country in the future.

The HCNM accompanied these general principles with more specific recommendations, and reiterated previous recommendations regarding education, minority participation in public affairs, local self-government, teacher training, and Albanian-language higher education. He also recommended that the other OSCE States provide international assistance to enable students of Macedonian and Albanian ethnicity to study new subjects like civic education and human rights in common, and to fund projects aimed at promoting the integration process such as summer camps and courses for students of different ethnicity.

1999–2000. The new government was receptive to the recommendations; however, in the spring of 1999, fighting and “ethnic cleansing” in Kosovo caused more than 250,000 Kosovar Albanians to seek refuge in Macedonia. This influx increased the population of Macedonia by more than 10 percent in a few weeks; significantly changed the interethnic balance; and exhausted the resources of the government, leaving no funds to pay government salaries, unemployment benefits, and pensions. Interethnic tensions in Macedonia increased, particularly as the Kosovo Liberation Army (KLA)—the force

fighting Serbs in Kosovo—ran recruitment videos on Albanian television stations in Macedonia, increasing fears that the KLA would turn its attention to Macedonia.

As the refugee burden on Macedonia grew, the HCNM became so concerned that he gave a formal early warning to the OSCE Permanent Council, after which he issued a press release on the situation on May 12, 1999.²³⁷ In this release, the HCNM made two specific recommendations: that the Macedonian government and all political parties do their utmost to maintain the stability of the country during the crisis, and that the OSCE States increase their efforts to help Macedonia avoid destabilization from the influx of refugees from Kosovo. These recommendations were implemented, for the international community did provide support, and stability in the country was maintained. The States gave bilateral aid and held an international donor's conference; in addition, international organizations such as the IMF and the UN gave assistance (the UN, which did not normally compensate host countries, made an exception for Macedonia).

When the Kosovo crisis ended almost all of the refugees returned to Kosovo, and during his next visit, the HCNM noted a more constructive atmosphere regarding the issue of an Albanian-language university. He visited Macedonia several more times, and in February 2000 brought international education experts to discuss issues such as funding, subjects to be taught, and the legal status of the proposed institution. In April he presented a proposal for a private Institute of Higher Education that would consist of two sections: teacher training, and business management and public administration. However, the draft law on higher education required all instruction to be in Macedonian or “world languages,” and the HCNM and experts assisted in the preparation of a new law that

²³⁷ An early warning meant that the High Commissioner had concluded that there was a *prima facie* risk of potential conflict (in essence, that the HCNM did not believe he could contain a situation with the tools available to him).

would allow for the use of other languages in private tertiary institutions. The new law, despite strong opposition from both extremes, was passed on July 25, 2000.

To implement the plan, the HCNM held a series of meetings with international experts, Macedonian experts, and ethnic Albanian representatives, and by October 2000 a business plan for the new university had been completed and presented. An international foundation was established to oversee funding, legal issues, and implementation, and the European countries, European Union, Soros Foundation, and United States contributed more than 90 percent of the funds needed (the United States contributed about half).

2001. The groundbreaking ceremony for “South East European (SEE) University” took place in Tetovo on February 11, 2001. However, as the date approached, an extremely serious crisis had been brewing. In January 2001, an organization calling itself the National Liberation Army (NLA) attacked the police station of a Macedonian village, killing one policeman and wounding three others. The NLA then issued a “communiqué” threatening the government and moderate Macedonian Albanians:

On 22 January a special unit of the National Liberation Army supported by a group of observers with automatic guns and hand grenade launchers attacked a Macedonian police station.... The attack was limited and was a warning to the Macedonian occupiers and their Albanophone collaborators. The uniforms of the Macedonian occupiers will continue to be attacked until the Albanian people are liberated. The policemen are called upon to return to their families and not sacrifice their lives in vain for the illusory Macedonian plans to dominate the Albanian majority.²³⁸

The NLA had ties to the KLA, and included ethnic Albanians from Macedonia who had either previously fought with the KLA or took up arms to fight with the NLA, and in February carried out armed assaults in Macedonia, seizing territory and attacking

²³⁸ International Crisis Group, *The Macedonian Question*, ICG Balkans Report 109, 3.

government forces.²³⁹ The NLA claimed to be fighting for greater rights for Albanians; however, the insurgency was primarily analyzed as a deliberate attempt to destabilize Macedonia in order to pursue Albanian independence in Kosovo and the western area of Macedonia, and to preserve smuggling rings and other criminal activities.²⁴⁰

Independence in Kosovo and the western area of Macedonia. Analysts speculated that the international community's support of the Serbian leadership after the Kosovo crisis might have discouraged some Kosovar Albanians' hopes for independence. The KLA, therefore, may have wanted to capitalize on Albanian frustrations in Macedonia and open a new front by provoking an overreaction by the Macedonian government, which would in turn elicit Western sympathy and support, and spark a conflict between the government and the Albanian community.²⁴¹ There was speculation that the NLA sought to manipulate the NATO countries into supporting the Albanians as had happened during the Kosovo crisis: the BBC's Balkans correspondent reported that the NLA was anxious to know how NATO would react to the campaign, and would be bitterly disappointed by NATO's response.²⁴²

The attacks occurred as Macedonia and the EU were preparing to sign a Stabilization and Association Agreement (a significant step towards membership in the EU), and as the date for the groundbreaking for SEE University approached. Both events were expected to increase stability in Macedonia, which would dampen prospects for

²³⁹ The NLA reportedly received logistical and financial support from inside Kosovo, and funds collected abroad. See Keesing's, "Serious Clashes with Ethnic Albanian Guerillas," March 2001; Kim, *Macedonia: Country Background and Recent Conflict*, Nov. 7, 2001, 1–2.

²⁴⁰ Two other possible contributing factors were a contested Serbia-Macedonia border demarcation, and frustration with the pace of reform in Macedonia.

²⁴¹ In addition, statements in 2001 from the new George W. Bush administration that the United States might reduce its involvement in the Balkans, may have influenced Albanian separatists to believe that the time for independence was propitious. See Gallagher, *The Balkans in the New Millennium*, 97.

²⁴² "Press Profile," *OSCE Newsletter*, April 2001, 16.

independence and interfere with smuggling (the agreement would give Macedonia duty-free access to markets in the EU area).

Smuggling and criminality. In February 1999—shortly after Macedonia recognized Taiwan—China vetoed extending the U.N. peacekeeping operation in Macedonia. By summer 1999 the KLA was reported as having regrouped, and there were frequent reports of arms smuggling in and out of Kosovo. The OSCE Mission reported that the absence of a significant international presence had left the area open to organized crime, and noted a machinegun exchange between groups of smugglers and government forces.²⁴³

In February 2000 a wave of ethnic violence broke out in southern Serbia, which NATO and Albanian sources in Kosovo said were primarily instigated by members of the KLA infiltrating Serbia from Kosovo.²⁴⁴ Incidents

on the Kosovo-Macedonian border increased, including attacks on Macedonian police by organized groups of ethnic Albanians. NATO and Yugoslav forces therefore tightened control over the borders, and conflicts increased between the border police and smugglers (Macedonia was a



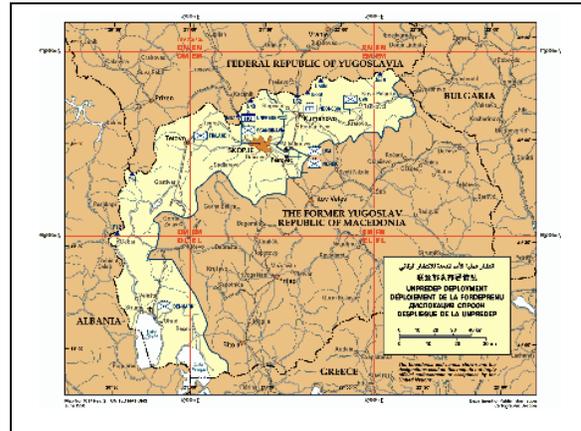
major transit point for a number of illegal activities such as trafficking in human beings—women in particular—and smuggling of many kinds including arms, tobacco, and heroin from Southwest Asia). The first clash involving government forces occurred in the village of Tanusevci, a smuggling haven and a 1999 KLA base.

²⁴³ “News from the Field,” *OSCE Newsletter*, Aug. 1999, 8; Minorities at Risk, *Chronology for Albanians in Macedonia*.

²⁴⁴ Minorities at Risk, *Chronology for Albanians in Macedonia*.

The response of the international community. Condemnation of the NLA and

support for the Macedonian government were almost universal.²⁴⁵ NATO Secretary General Lord Robertson ordered an immediate political and military mission to Macedonia, and NATO started dismantling the 5-kilometer buffer zone they had established between Kosovo and Serbia because Albanian guerrillas were using it to stage incursions into Serbia.



The United States strongly condemned the actions of the Albanian extremists and increased monetary, security, and technical assistance to Macedonia.²⁴⁶ U.S. Secretary of State Colin Powell traveled to the Balkans, and Macedonian President Boris Trajkovski was invited to Washington, where he met with senior government officials including President George W. Bush.

The OSCE Chairman-in-Office Mircea Geoana and the HCNM issued a joint statement strongly criticizing the unprovoked acts of violence by groups of extremists. The HCNM added the following:

As the events in the Balkans during the past 10 years have shown, armed conflict leads to disaster for all concerned, whatever their ethnicity. Everything possible has to be done to prevent such an outcome. Recently, the chances of finding solutions for inter-ethnic differences have greatly

²⁴⁵ “Press Profile,” *OSCE Newsletter*, April 2001, 16.

²⁴⁶ The United States expressed support for Macedonian sovereignty and territorial integrity, and urged restraint on the part of the Macedonian forces and attention to legitimate Albanian grievances. See U.S. Government, “Fact Sheet U.S. Support for Macedonia,” May 2, 2001; Kim, *Macedonia: Country Background and Recent Conflict*, Nov. 7, 2001, summary. In June 2001, U.S. President George W. Bush signed Executive Order 13219, “Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans,” which sanctioned extremist forces in the Balkans, including the NLA.

improved. It would be a tragedy if the ongoing peaceful dialogue would be replaced by armed struggle.²⁴⁷

The resolution of the conflict. The fighting continued during the spring and summer, during which Macedonia came close to civil war. In May 2001 Robertson warned that Macedonia was “on the brink of the abyss,” and the international community (particularly NATO, the EU, the OSCE, and the United States) made increasing efforts to restore order.²⁴⁸ Under international mediation, a ceasefire was brokered in July 2001, and a coalition of Macedonian and Albanian political leaders, facilitated by the United States and the EU, negotiated the Ohrid Framework Agreement. The Agreement, signed in August, contained a set of general principles and specific implementing actions such as a national census; a super-majority system for laws directly affecting culture, language, education, and symbols; increased decentralization for local governments; amendments to be made to the constitution; and modifications to be made to laws. Peace was restored, though the fighting escalated as the talks neared completion (OSCE monitors reported that the NLA instigated 90 percent of the new fighting in July).²⁴⁹

SEE University. The HCNM wrote later that for a while it had seemed that full-scale civil war was inevitable and that work on the new university might have to stop. Nevertheless, SEE University was completed with only a few weeks delay, and initially consisted of five departments: law, business administration, public administration, communication studies, and pedagogic methodology for teachers, and a partnership with

²⁴⁷ OSCE Press Release, “Violence a Threat to Peace and Stability in the former Yugoslav Republic of Macedonia,” March 15, 2001.

²⁴⁸ Lord Robertson also described the rebels as “a bunch of murderous thugs whose objective is to destroy a democratic Macedonia,” and accused the rebels of using civilians as human shields in an attempt to provoke “another Balkan bloodbath.” In June he said that the only way to address the legitimate concerns of the ethnic Albanian population was through the normal political process, and that the armed extremists must lay down their arms. See Keesing’s, “Escalating Unrest—Fighting Between Government and Ethnic Albanian Forces,” May 2001, and “Calls for Declaration of Civil War—NATO Involvement,” June 2001.

²⁴⁹ International Crisis Group, *Macedonia: Still Sliding*, 7.

the University of Indiana was established. The aims and principles of the university included the following:

- To be trilingual, with courses in Albanian, Macedonian, and English;
- To provide opportunities for young Albanians to study, and therefore serve the interests of the Albanian language and culture, but also serve equally members of other ethnic groups;
- To improve interethnic relations and to promote ethnic harmony, and thus contribute to peace and stability in Macedonia; and
- To recognize that each ethnic group has its own specific interests, but also a common interest in promoting a peaceful and prosperous Macedonia.

The university began with 900 students—more than expected because of the security situation—of which 10 percent were non-Albanians and 40 percent were women. The university opened on November 20, 2001, with Max van der Stoel and the new HCNM, Rolf Ekéus, attending the opening ceremony.²⁵⁰

The opening of the university was the fulfillment, in great part, of a major Albanian aspiration: higher education in Albanian, for courses would be taught in Macedonian, Albanian, and English. The implementation had overall positive effects on security, but did generate some protests by those Albanians who wanted the institute to be State-funded. Positive effects included a number of statements by high-level officials from a number of countries and international organizations. A greater effect was the increased opportunity for young persons of all ethnicities in Macedonia, but particularly for Albanian youth, with 2,300 students attending in 2002.²⁵¹

OSCE Principles, Implementation, and Effect on Security

Recommendations and Principles. From 1993 to 2001 the HCNM made seven formal recommendations in which he made specific recommendations to the Macedonian

²⁵⁰ Van der Stoel, “The South East European University in Macedonia,” 184.

²⁵¹ *Ibid.*, 184.

government, the minority communities in Macedonia—the Albanian community in particular, and the OSCE States and the international community (see Appendix F). All of the recommendations either referred to OSCE principles, or were related to them.

The recommendations primarily referred to principles 10–16 in Group II, which addressed relations within the State. These principles involved the responsibility of governments to create and maintain the conditions in which all individuals, including minorities, are able to fully exercise their rights and freedoms; the responsibilities of minorities to fulfill their responsibilities; and requirements regarding respect, in that all groups must respect all other groups, and that governments have the responsibility to promote a climate of respect. The recommendations to other OSCE States primarily addressed the mutual assistance part of Principle 4. Principle 8, which involved preventing security threats from arising, and using peaceful means to resolve disputes that do arise, was a key principle that involved the nonuse of force. Principle 20, which addressed the need to use processes, applied to the recommendations regarding dialogue and mechanisms for dialogue.

The HCNM's recommendations addressed a number of areas including minority participation in public affairs, mechanisms for dialogue, minority access to the media, Albanian-language education, international assistance and international relations, the framework in which to seek solutions to issues involving interethnic tensions, and the maintenance of stability and avoidance of violence. Most of the recommendations in these areas were implemented with positive effects on security; however, the area with the most serious negative effect on security was the 2001 insurgency.

In taking up arms against the government—an action widely seen as illegitimate—the NLA seriously violated a number of OSCE principles. Members of the NLA did not use peaceful means to resolve problems (Principle 8); failed to fulfill their responsibilities (Principle 14); did not respect the rights of others (Principle 16), and committed egregious acts including murder and mutilation (government forces and civilians on both sides also committed acts that violated international human rights law).

The non-implementation of OSCE principles had long-lasting negative effects on security. Lives were lost; over 100,000 people became refugees; and hundreds of homes and buildings were destroyed, including a fourteenth-century monastery.²⁵² The serious violations of international humanitarian law provoked retaliation and spiraling violence.

The insurgency had negative economic effects. GDP, which had been projected to grow at 6 percent, declined 4.6 percent while the government deficit and unemployment surged.²⁵³ The EU reported that the insurgency slowed down the process of making the changes necessary for Macedonia to make progress towards membership. The international community incurred significant costs from the use of NATO forces and prolonged diplomatic efforts.

The conflict negatively affected the rule of law in Macedonia. As part of the Ohrid Framework Agreement that stopped the conflict, the international community accepted the commitment to train 1,000 new minority police officers by July 2003, and the OSCE began this training program, graduating its first class in December 2001.

²⁵² Kim, *Macedonia: Country Background and Recent Conflict*, Nov. 7, 2001, 8. The NLA also reportedly used people—primarily women and children—as human shields, and Orthodox and Muslim religious sites as military bases and firing positions. See “Press Profile,” *OSCE Newsletter*, June 2001, 17.

²⁵³ GDP declined during the first half of the 1990s, but steadily increased during the second half. See European Commission, *Former Yugoslav Republic of Macedonia Stabilisation and Association Report*, 2002, 15.

However, two years later, police presence had not yet been completely reintroduced into western Macedonia, where most of the human trafficking and smuggling took place.²⁵⁴

In the aftermath of the insurgency, interethnic tensions increased significantly. The Macedonian population became even more sensitive regarding Albanian issues, resulting in increased mistrust, fear of secession, demonstrations, and overreactions. The more nationalistic Macedonian political leaders accused the West of supporting the Albanian insurgents and became increasingly hostile to the international community. The EU reported that negative attitudes to the EU had increased among the Macedonian majority as having forced them into concessions to the Albanian minority.²⁵⁵

The conflict deepened divisions on the community level, resulting in increased physical separation as city districts were “claimed” by one group or the other, and separation in mixed-ethnicity villages became more marked, with non-Macedonians and non-Albanians often forced to take sides. The cleavage included maintaining separate facilities such as shops, clinics, bus stops, playgrounds, and schools: it became common for Macedonian and Albanian students to fight before and after school, boycott classes, and protest policies seen as favoring the other group. Many schools began teaching the two groups in shifts to reduce contact, and parents increasingly sent their children to separate schools.

New radical splinter groups formed, such as the so-called Albanian National Army (ANA), which rejected the Ohrid Framework Agreement and pledged to continue to fight for a “greater Albania.” These groups did not appear to have broad public support, but were funded primarily by criminal activity and the diaspora, and overlapped

²⁵⁴ UNICEF/UNOHCHR/OSCE ODIHR, *Trafficking in Human Beings in South Eastern Europe*, 177.

²⁵⁵ European Commission, *Former Yugoslav Republic of Macedonia Stabilisation and Association Report*, 2002, 31.

with criminal gangs involved in smuggling. During 2002–2003 the ANA claimed responsibility for a series of terrorist attacks in Macedonia, Kosovo, and southern Serbia.

Though a broader Balkan war was avoided, the international community may have sent the message that the use of violence can bring quick gains. The United States increased its assistance to Macedonia to include \$15 million for SEE University, and in March 2002 the World Bank and the European Commission held an international donor's conference at which nearly €600 million was pledged.²⁵⁶ The Albanian community achieved many of its objectives through the Ohrid Framework Agreement, and the NLA's political leader, Ali Ahmeti, emerged from the conflict as a major figure.

Summary. During the 1993–2000 period, the Macedonian government, the majority of the Albanian minority, and the other OSCE States implemented in great part the OSCE principles referenced in the HCNM's recommendations, and tensions were reduced to the extent that the parties implemented the recommendations. However, in 2001 a minority within the Albanian community, with the involvement of Kosovar Albanians, did not implement Principle 8, involving using peaceful means to resolve disputes and conflicts, and launched attacks in Macedonia that soon escalated into an insurgency. There is little evidence that the violence was justified: from 1993 to 2000 all parties had made progress towards effective integration, and Albanian aspirations were being fulfilled, particularly higher education in the Albanian language.

The violence severely worsened interethnic tensions within Macedonia, and decreased the effectiveness of the rule of law in the western regions of Macedonia, allowing criminal activities to go unchecked. Several times it appeared that the conflict

²⁵⁶ European Commission, *Former Yugoslav Republic of Macedonia Stabilisation and Association Report*, 2002, 30.

would descend into civil war; however, this outcome was averted through strong efforts by the international community.

Epilogue. For the next several years, though the government implemented almost all of the Ohrid Framework Agreement provisions, the negative consequences of the conflict continued. Interethnic relations continued to be poor; the rule of law was not completely reintroduced into all areas of Macedonia; and radical or unknown groups conducted a number of terrorist attacks. Though the economic situation improved, deep mistrust and mutual suspicion remained.

There were positive indications, however. From 2001 to 2006 there were no incidents of interethnic violence at SEE University. Ethnic relations were slowly rebuilt, and in 2005, for the first time in seven years, poll results showed that a majority of ethnic Macedonians and Albanians held favorable opinions of each other.²⁵⁷

²⁵⁷ U.S. Department of State, *Macedonia: Country Reports on Human Rights Practices 2005*.

Chapter 7: Findings and Conclusions

Chapter outline

Introduction

Findings

Conclusions

Policy Recommendations

Implications for Further Research

Introduction

The purpose of this study was to use the work of the first High Commissioner on National Minorities (HCNM) to test whether or not the implementation of OSCE principles had a significant effect on security in the OSCE area.²⁵⁸ To answer this question, the study addressed two research questions:

What OSCE security principles were in effect during the first High Commissioner on National Minorities' 1993–2001 tenure?

Did the implementation of the OSCE security principles contained in the first High Commissioner on National Minorities' recommendations have any meaningful effect on security?

To answer these questions, the study first extracted from official OSCE documents a set of basic principles designed to regulate the security relationships among the member States including their behavior toward their own populations. The study then assessed the practical effects of the implementation of the principles by tracing their detailed application to highly contentious situations involving interethnic tensions and separatism in Ukraine, Estonia, and Macedonia by Max van der Stoep, the first High Commissioner on National Minorities.

²⁵⁸ Organization for Security and Cooperation in Europe (OSCE).

Findings

Findings on the OSCE Principles. The study identified a set of twenty OSCE principles in effect from 1993 to 2001, the period studied. These principles formed a security framework that consisted of three groups of principles:

- Group I: Principles guiding relations between OSCE States;
- Group II: Principles guiding relations between the government and the people who comprise the State; and
- Group III: Principles guiding implementation, review, and development processes.

Group I: Principles guiding relations between OSCE States. The first group of principles was designed to provide security by avoiding conflict between OSCE States, reducing tensions between them, and deepening their relations. Through the framework provided by these principles, the States sought to achieve security by addressing how States would deal with each other; a comprehensive, cooperative, and common approach to security; and the means to be used to prevent and resolve tensions and conflicts.

— *Relations between OSCE States.* The principles adopted regarding the relations between OSCE States included the rights and responsibilities of State sovereignty, and the specific aspects of those rights that the States had explicitly agreed to limit. The primary limitations that the States accepted pertained to their form of government, which would be liberal democracy; their economic system, which would be the market economy; and their mutual responsibility to each other regarding the implementation of their OSCE commitments, particularly in the area of individual rights and fundamental freedoms. This mutual responsibility included assistance regarding the implementation of OSCE commitments, and participation in the Helsinki process (the periodic review of

how well the States were doing in implementing their commitments, and the process of developing further principles and commitments).

— *A comprehensive, cooperative, and common security concept.* Three principles addressed the States’ “comprehensive, cooperative, and common” security concept. The States adopted a *comprehensive security* approach so that they would be able to address all issues that caused tensions between them, and because the different aspects of security were interrelated. Through the *cooperative security* approach, the States adopted a concept that sought to achieve security *with* others, not *against* them, and recognized that States had common interests and faced common threats. The *common security* approach recognized the need of each State for security, and that the level of security in each State affected the security of others.

— *Peaceful methods and a preventive focus.* The States adopted one principle that focused on the prevention of security threats, and the methods that would be used to resolve these threats—and the means *not* to be used, particularly force or the threat of force. This principle emphasized that the States would take actions to prevent security threats from arising, and would use peaceful means such as mediation, fact-finding missions, and peacekeeping to resolve any problems that did arise. The States adopted this principle on the belief that preventing security threats, and using peaceful means to resolve them, provided a better and more cost-effective outcome for all concerned.

Group II: Principles guiding relations between the State and the people who comprise the State. This second group of principles was designed to provide security by ensuring stability *within* States by providing the conditions in which all members of the State are able to fully exercise their individual rights. Through the framework provided

by these principles, the States sought to achieve security by addressing the purpose and form of governments, minority rights and responsibilities, and mutual respect.

— *Purpose and form of government.* One principle addressed the internal governance of the OSCE States in order to ensure that governments established and maintained the conditions in which all members of the State could exercise their individual rights and freedoms; a second principle specified that the form of government used to fulfill this responsibility would be democracy, a rule of law based on human rights, and the market economy. The purpose of ensuring a population's ability to exercise rights was intended to achieve the *normative goal* of enabling all members of the State to exercise their rights, and to obtain the *practical effect on security* involved in the respect for these rights. The States' logic was that violating individual rights causes instability within a State, which in turn can cause threats to other States.

The States identified the individual person as their primary focus, and declared that the first purpose of governments was to protect and promote the rights of the individuals who comprise the State. In this area, an agreement of particular note pertained to the primacy of individual rights, in that democracy and the rule of law existed to support and enforce respect for human rights. The States further declared that the three elements were mutually reinforcing and therefore had to be applied as a group.

— *Minority rights and responsibilities.* The States adopted three principles intended to reduce tensions involving minority issues. Two principles called for governments to make provisions as needed to ensure that persons belonging to national minorities were able to exercise their rights, but to also balance the rights of majorities and minorities. In these principles, the States committed themselves to ensuring that

national minorities could exercise their rights such as to participate fully in public affairs, to equality under the law, and to develop their cultures—but not at the expense of other groups. The States recognized that threats to stability could arise from aggressive nationalism, intolerance, xenophobia and ethnic conflicts, and believed that questions relating to national minorities could only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary.

A third principle addressed minority responsibilities, which included participating in public affairs; integrating into the wider society to a certain degree, particularly by learning the State language or languages; and being responsible in general. The States further specified that no minority right could be interpreted as implying the right to take any action in contravention of international law, the Helsinki Final Act, or the purposes and principles of the Charter of the United Nations.

— *Respect.* The States adopted two principles regarding respect. The first addressed the responsibility of governments to promote a climate of respect; the second addressed the responsibility of all individuals and groups to respect all others and their equal rights, to include their legitimate interests.

Group III: Principles guiding implementation, review, and development processes. The third group of principles was designed to give operational effect to the norms, principles, and commitments that the States developed through the OSCE. These principles were intended to provide a framework for how the States implemented and interpreted the principles, reviewed them, and developed them further.

The first principle addressed the need for States to apply all OSCE principles equally and unreservedly, and to interpret each principle in light of all of the others. The

second principle addressed the responsibility of all parties—governments, groups, NGOs, and individuals—to make good faith and continuous efforts to implement the OSCE principles and other commitments. The third addressed the requirement to identify and build on shared values in both international and intrastate relations. A fourth addressed the need to use processes to develop standards and commitments, review their implementation, and respond to State requirements (the Helsinki process).

The creation of security. The OSCE States sought to create security through the framework provided by the three groups of principles. One means was by expanding areas of consensus among States with different—and during the Cold War, often antagonistic—views. A second means was an approach designed to improve security in both short and long timeframes, for the States intended that over time, striving for the goals outlined in OSCE documents would strengthen the security of the participating States, and improve conditions for their populations. A third means was by involving individuals, groups, organizations, governments, and populations in the effort to make progress towards achieving these goals—efforts that did help make progress and had a significant effect on security.

Institutionalization to Implement the Principles. The study found that a significant number of the OSCE principles, particularly in Group II (relations between the State and its population), had been agreed to during the 1990–1992 period. During this period, the States expanded the OSCE body of commitments (the *acquis*) to include a framework for liberal democratic governments founded on respect for individual rights, the democratic and rule of law institutions needed to support and enforce this respect, and the market economy. The study also found that beginning in 1990 the States began to

institutionalize in order to develop the operational capability to help States, particularly the new democracies, implement this framework. The creation of the position of the High Commissioner on National Minorities, designed to prevent ethnic tensions from erupting into conflict, was part of this institutionalization.

Findings on the Implementation of OSCE Principles Through the Work of the HCNM. From 1993 to 2001, the first HCNM, Max van der Stoep, worked to help States implement the OSCE principles, particularly as the principles applied to minority issues and tensions. The primary tools he used were the OSCE principles themselves; analysis; formal recommendations; visits; consultations; negotiation and mediation, to include roundtables; the advice of teams of experts; political support from the OSCE leadership and other States; and financial support from OSCE States, international organizations, and NGOs for tension-reducing projects.

In intervening in particular States, the HCNM took the abstract OSCE principles and applied them to specific and often very volatile situations. In these interventions, the HCNM tried to help States implement their OSCE commitments, but also sought to help States develop the mechanisms and processes that would enable them to resolve issues on their own. His objective was to help States and minorities achieve a society that involved a central core of loyalty to the State and respect for the rights of all, and at the same time provided all with the opportunity to develop their cultures within the State.

The Effect on Security. The study analyzed three cases in which the HCNM applied the OSCE principles: Crimean autonomy within Ukraine, interethnic relations and separatism in Estonia, and interethnic relations and separatism in Macedonia. The study findings showed that in all three cases, the implementation of the OSCE principles

had a meaningful effect on security within each State, between States, and in the region, primarily by reducing tensions involving minority issues. These effects were evident regarding many specific HCNM recommendations on particular issues, but the primary effect on security occurred when the parties implemented the HCNM's overall recommendation regarding a situation.

— *Ukraine*. In Ukraine, when the Ukrainian government and the Crimean administration implemented the HCNM's overall recommendation by finding a mutually acceptable division of responsibilities between them, there was a significant effect on security. Though separatist sentiment did not completely disappear, tensions within Ukraine, between the Ukrainian and Russian governments, and in the region were reduced. Within Ukraine there were no further threats between the Ukrainian government and the Crimean administration; no further reports of the buildup of forces; and no threat or outbreaks of violence pertaining to separatism in Crimea. There were no further reports of threats of force by Russia, or of the Russian parliament making efforts to regain Crimea, and the OSCE closed its Mission to Ukraine in part because the Ukrainian government and the Crimean administration had normalized their relations. There was no further direct HCNM involvement, and no situations involving Crimea arose that required the attention of the OSCE leadership.

Of particular significance to the security outcome was the implementation of the OSCE principle regarding the resolution of issues using peaceful methods. In this area, the primary tools used were negotiation and mediation, to include the advice of constitutional experts and three roundtables, after each of which the contending parties grew closer to a solution.

— *Estonia*. In his first formal recommendation to Estonia in 1993, the HCNM made one overall recommendation to the Estonian government, and one to the Russian-speaking minority. His overall recommendation to the government was to integrate the Russian minority by a deliberate policy of integration, particularly by facilitating the acquisition of Estonian citizenship, and of assuring the minority of full equality with Estonian citizens. His overall recommendation to the Russian-speaking minority was to adapt to and develop loyalty towards Estonia as an independent State, and to contribute to their own integration, in particular by learning a basic level of Estonian.

When the Estonian government and the Russian-speaking minority began to seriously implement these overall recommendations, significant effects on security were observed within Estonia, between the Estonian and Russian governments, and in the region. Within Estonia, poll results showed better interethnic relations, and the acquisition of Estonian citizenship increased among ethnic Russians, particularly among young people. Though the Russian government continued to criticize the Estonian government's treatment of the ethnic Russians, the government made no further threats of the use of force against Estonia regarding this treatment—and statements were occasionally made that the situation was not as bad as sometimes portrayed. The closing of the OSCE Mission to Estonia was a further indication of reduced regional tensions.

Of particular significance in the Estonian case was the implementation of the OSCE principle involving mutual assistance among OSCE States. The implementation of this principle was critical to the security outcome in two respects.

First was the support that the EU States (all of which were also OSCE States) gave to the HCNM's recommendations when the European Commission announced that

it would be guided by the HCNM's assessment as to whether or not candidate countries met the EU's entrance standards in the area of minority rights. Estonia was a candidate country, and though this study did not focus on why parties did or did not implement the HCNM's recommendations, the study found that the EU's announcement strongly influenced the Estonian government's decisions to implement the recommendations.

Second was the significant financial support that other OSCE States provided for an integration program, Estonian-language training, and other projects aimed at integrating the Russian-speaking minority. This assistance significantly aided the Estonian government in implementing the Group II principles involving the State's responsibility to create the conditions in which all members of the State, including minorities, could exercise their basic rights and freedoms. Without this support, it is not likely that the Estonian government could have afforded the programs.

— *Macedonia*. The HCNM's overall recommendation to the Macedonian government and the Albanian minority was, in essence, to engage in a serious, constructive, and continuous dialogue regarding the steps that could be taken to accommodate the specific desiderata of the Albanian minority, and find solutions acceptable to both sides. He also outlined that the dialogue needed to be based on internationally accepted norms and standards, and respect for the sovereignty and territorial integrity of the State and the rule of law. The primary desiderata of the Albanian minority included greater representation in government, increased local self-government, an equal status with the Macedonian majority, better primary and secondary education, and a State-funded Albanian-language university.

From 1994 to 2000 the Macedonian government, the Macedonian majority, and the Albanian minority made slow progress towards implementing the HCNM's recommendations and the OSCE principles contained in them, and the level of tensions fluctuated, twice rising to the point that the HCNM's crisis intervention was required. The level of tensions during this period was, however, affected by external events, particularly the violence and "ethnic cleansing" in Kosovo, which had a strong impact on ethnic Albanians in the Balkan region, including Macedonia. Nevertheless, by 2000 a number of major Albanian aspirations were close to being realized, such as greater representation in all areas of government service, and a private (not State-funded) university that would include courses taught in Albanian (SEE University).

However, this progress was overshadowed by the outbreak of violence. In early 2001 members of the Albanian minority, in conjunction with Kosovar Albanians, did not implement Principle 8 regarding the peaceful resolution of issues, and launched armed assaults. The effect on security of violating this principle by initiating armed conflict—conflict that was widely seen as illegitimate—was extremely negative. The assaults quickly became an insurgency that threatened to engulf Macedonia in civil war, and the region in another Balkan war. This insurgency greatly increased tensions throughout the region before the OSCE States contained the violence by helping the parties to negotiate the August 2001 Ohrid Framework Agreement. This Agreement, which was based on OSCE principles and the HCNM's recommendations, ended the conflict, reduced regional tensions, and diminished the widespread fear of a regional conflict. However, the conflict resulted in increased interethnic tensions within Macedonia, and contributed to decreased cooperation and more frequent outbreaks of violence for several years.

Of particular significance to the ending of the conflict was the implementation of the OSCE principle involving mutual assistance. Through the extensive efforts made by other OSCE States and international organizations (NATO and the EU in particular), the conflict was ended, and the potential consequences of wider conflict were avoided.

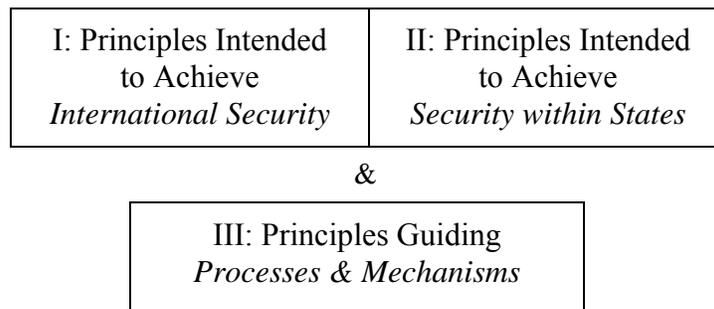
Summary of the findings on the HCNM cases. In the three HCNM cases examined in the study, the implementation of OSCE principles had a meaningful effect on security by reducing tensions involving minority issues within each State, between OSCE States, and in the region. The effect on security was particularly significant in view of the instability and tensions of the post–Cold War period, the OSCE’s ongoing institutionalization process, and the limited resources and tools available to the OSCE and the HCNM. The early post–Cold War period was a very difficult and unstable time as the Soviet Union dissolved, new countries appeared, the first armed conflicts in Europe since World War II broke out, and rising tensions elsewhere threatened to erupt. The HCNM monitored the entire OSCE area during this period, and his intervention cases all involved countries undergoing the difficult transitions from communist systems of government to democracies, and from command to market economies. All of these countries carried the legacy of totalitarian regimes, and most had recently gained independence and had little experience of statehood.

The state of the OSCE was also significant: in the early 1990s the OSCE had little institutional or operational capability; no military forces, no economic leverage, few resources, and no coercive tools—the most negative measure the OSCE possessed was suspension. The HCNM himself had few tools and resources.

Given this situation, more violence might have been expected than actually occurred; however, with the exception of Macedonia in 2001, no new conflicts based on minority tensions broke out in the OSCE region during the HCNM's tenure.²⁵⁹ Based on the results of the study, the OSCE principles, and the methods used in their application, merit examination and further development.

Conclusions

Through the OSCE, the participating States developed and implemented a unique security approach: the development and articulation of principles addressing national and international security, followed by principles guiding the processes and mechanisms necessary to put the principles into practice. The principles can be shown in three groups:



Group I provided a *framework for international security* through principles guiding the relations between the participating States. The second group provided a *framework for security within States* through principles guiding how governments would establish and maintain the conditions in which all members of the State could exercise their human rights and fundamental freedoms: the means to be used was democracy, the rule of law, and the market economy.

²⁵⁹ Yugoslavia was suspended from the OSCE during most of the HCNM's tenure.

The third group of principles provided a *framework for processes and mechanisms* by which the States could interpret, implement, and apply the principles to specific circumstances; advance the principles and review their implementation; address future security challenges; and progress towards greater security, deeper mutual relations, and increased respect for human rights.

The three groups of principles together formed a security framework, and the idea underlying this framework can be summarized as below:

National and international security depend on the protection and promotion of individual rights; the way that States deal with each other and resolve problems; and processes for developing agreed-upon norms, principles, and commitments, and the mechanisms to give them operational effect.

The study showed that the application of the principles in this security framework was effective in increasing international security, and security within States. Through the analysis of the detailed application of the OSCE principles in three HCNM intervention cases, the study found a very significant effect on security, particularly in light of the few resources expended in achieving the increase in security.

A major conclusion that can be drawn from the study regarding the OSCE States' approach to security is summarized below:

The systematic articulation of norms widely seen as legitimate, supplemented by principles, operational commitments, and mechanisms designed to bring those norms to bear on specific situations, can have a significant positive effect on security.

The States first established this security approach when they crafted the OSCE principles and commitments in the 1975 Helsinki Final Act, and created the "Helsinki process" as the mechanism by which the States would further develop the principles and commitments, and review their implementation. The careful articulation of the norms and

principles in the Helsinki Decalogue was seen in the significant time and effort expended in the negotiating process, and was a singular achievement given the fundamentally opposed nature of the governments of the Soviet and Western blocs. The principles were widely seen as legitimate because of their adoption through consensus and because of their actual content—particularly the recognition of the individual rights of freedom of thought, conscience, belief, and religion—and this legitimacy inspired actions on the part of governments, organizations, groups, and individuals to implement the principles. The States’ use of the Helsinki process as an implementing mechanism for the principles effectively increased national and international security: the 1992 *NATO Handbook* identified the adoption of the Helsinki Final Act as one of the three most significant events to which the end of the Cold War can be traced.²⁶⁰

A second important instance of the implementation of this security approach was during the early post–Cold War period, 1990–1992, when the States developed and adopted comprehensive principles and commitments regarding respect for individual rights, and the democratic and rule of law institutions necessary to support and enforce this respect. The body of principles in this area was intended to form a framework in which all members of the State would be able to exercise their basic political and civil rights, and the States intended for this framework to increase security in the OSCE area by preventing the tensions and instability caused by the nonrespect of these rights.

²⁶⁰ *NATO Handbook*, 1992, 57. Numerous other observers identified the Helsinki Final Act as a “turning point.” See Gaddis, “Order versus Justice,” 162. Henry Kissinger, a former skeptic of the Helsinki Final Act human rights provisions, wrote in 1999 that the Act had been a seminal event in international relations: “Turning points often pass unrecognized by contemporaries. Many events perceived as seminal when they occur are diminished by the perspective of history to little more than sensational incidents. Others that were either controversial or ignored by contemporaries are elevated by posterity into turning points. The latter was the case with the European Security Conference, which culminated in Helsinki in July 1975 in a summit meeting of thirty-five heads of state or government.... With the passage of time, it came to be appreciated as a political and moral landmark that contributed to the progressive decline and eventual collapse of the Soviet system over the next decade and a half.” See Kissinger, *Years of Renewal*, 635.

The States followed the adoption of these principles and commitments with new implementing mechanisms, primarily the Office for Democratic Institutions and Human Rights (ODIHR). The purpose of the ODIHR was to help all OSCE States, especially the new democracies, to implement their commitments regarding human rights and fundamental freedoms; the rule of law, to include the judiciary and the police; and democracy and democratic institutions, in particular the election process. Though the study did not address these operations or their effect on security, the ODIHR's assistance through the entire cycle of national elections became prominent, particularly assessments as to whether or not an election had been "free and fair."²⁶¹

During this same 1990–1992 period, the States also adopted principles and commitments regarding national minorities, and recognized new threats from tensions involving minority issues. The mechanism the States created in response was the position of the OSCE High Commissioner on National Minorities, intended as an instrument of conflict prevention to address and reduce these tensions and threats. The States established the position to bring the OSCE principles to bear on situations involving minority tensions, and this mechanism—skillfully executed by the first HCNM—reduced tensions and the threat of additional conflicts in the OSCE area.

In conclusion, security is usually considered to be the highest priority responsibility of any government, and despite the many approaches and theories that have been tried, how to achieve security remains a challenge. The approach that the European and North American States established in 1975, and developed over the next quarter of a

²⁶¹ The ODIHR helped the new democracies to develop all aspects of their elections. The ODIHR deployed observers six to eight weeks before an election, assessed the conditions surrounding the election campaign, and monitored the actual voting and counting process. After the election, the ODIHR issued a preliminary statement (often jointly with other international organizations present for the observation), published a final election report, and then assisted States in implementing the recommendations made in the report.

century, represents a sustained effort on the part of most of the world's democracies, and constitutes a significant body of thought and practice regarding security, and respect for the individual. The achievement of the OSCE States provides a compelling experience from which to draw on in the search for security. The OSCE principles, the Helsinki process, and the work of the High Commissioner on National Minorities merit further examination, development, and application to national security policy and practice.

Policy Recommendations

Governments may benefit from reviewing the OSCE experience, and adapting their security policies and practices as needed to capitalize on the benefits obtainable through the OSCE approach. This review can encompass a number of aspects of the OSCE addressed in the study, five in particular: the OSCE comprehensive, cooperative, and common security concept; the efficacy and cost-effectiveness of conflict prevention measures; the role of legitimacy in policy; the security implications of respect for individual rights; and the "process" aspects of security.

The OSCE Comprehensive, Cooperative, and Common Security Concept. The findings indicate that governments and policymakers can benefit from analyzing how the OSCE security concept could be applied to the problems they face. Two particularly relevant approaches are "comprehensive security" and "cooperative security."

The OSCE's "comprehensive security" approach. The study found that the States adopted a broad approach to security so that they would be able to address all of the sources of tensions between them. The HCNM used this approach in a number of ways, such as in making his initial assessments of situations in various States. In these assessments, the comprehensive approach enabled him to analyze all of the factors that

were causing tensions, and through this technique often found that problems that appeared to be interethnic were actually economic or other issues. This approach also assisted him in formulating his recommendations, particularly by identifying the steps that could be taken to address the specific problems in the situation.

The study showed that this approach resulted in gains in security, and, therefore, governments may benefit by incorporating this approach into their national security planning and analytic processes. This incorporation, as appropriate, would assist governments to accurately assess security problems, avoid misdiagnosing problems, and guard against overlooking important factors.

Analysis of past organizational structures of the U.S. National Security Council (NSC) staff shows that the primary focus has been on the political and military aspects of security, but that different administrations have incorporated other areas, such as the economic, human rights, democracy, and transnational health aspects. In this area, the “dimension” construct the OSCE uses may be adaptable, for the States have used as many as seven categories to describe their comprehensive concept: the political, military, economic, scientific, technological, environmental, and human rights aspects of security.

Incorporating a broad approach to security in national security organizations may also help to create more effective and efficient organizational structures, and thereby assist in giving the best policy options to decisionmakers. Another benefit may be to enable better coordination between sometimes-conflicting policy objectives; for example, the potential tradeoff between security and economic objectives.

The OSCE comprehensive approach to security could be criticized for being too diffuse, or for diverting resources from the essential tasks of ensuring political and

military security. However, analysis showed that tensions, disputes, and conflicts between and within States arise from many sources, such as disputes over water or the treatment of a minority. Because tensions from any source can lead to instability and conflict, it is in States' best interests to identify and deal with these tensions, particularly early on before they become more difficult to resolve. As the September 11, 2001, terrorist attacks in the United States showed, major threats to security can arise from nonstate actors, and given the increasing threats States face from instability within countries, the comprehensive security approach may be used with good effect, to include identifying the best tools with which to address problems.

The OSCE's "cooperative security" approach. Governments can benefit by capitalizing on the practical effects that can be gained from using the OSCE States' "cooperative security" approach. This approach seeks to achieve security *with* others and not against them, and the findings showed that the use of this concept resulted in significant short- and long-term gains in security for the States. Cooperative actions on the part of OSCE States and international organizations reinforced the HCNM's recommendations, and significantly aided in States' decisions to implement them and the OSCE principles contained therein. The cooperative security approach was effectively used to contain the violence in Macedonia: without the combined efforts of NATO, the EU, the OSCE, the United States, and other countries, there is a strong possibility that the insurgency would have escalated into a civil war, and possibly a wider Balkan war.

The OSCE's cooperative security approach also has relevance for governments regarding the different methods of achieving security. Many security organizations adopt a collective security approach intended to provide security for its members, particularly

from an external threat. However, the OSCE approach was designed to create security from the “inside-out” by expanding areas of consensus and cooperation, even among States with widely differing views. This aspect of cooperative security may seem counterintuitive when applied to relations between antagonistic governments; however, the approach was shown to be effective: the OSCE and the Helsinki process helped to transform communist governments, and to strengthen democracy in the Western States.

Through this aspect of security, governments can capitalize on an often-underestimated aspect of power: that of inducing compliance. Through the OSCE, the States sought to induce compliance and cooperation as a more effective, lasting, and cost-effective method than coercion. As the States participated in the Helsinki process, they progressed towards greater agreement on core values, but only as far as all were willing to go at any one time. Nevertheless, this process exerted a sustained pressure towards greater recognition for, and implementation of, OSCE principles and commitments—with significant gains in security.

The OSCE’s cooperative approach to security has been criticized for its limited enforcement mechanisms—a lack that has its own strengths, but may not be effective unless backed up by the capability to use more coercive measures.²⁶² In cases that require these measures—force in particular—States must have recourse to other international bodies with those capabilities, such as NATO or the UN Security Council. This situation emphasizes the need for a cooperative security approach among mutually reinforcing international organizations.

²⁶² The lack of enforcement mechanisms requires the use of other methods such as leadership, convincing arguments, and the inducing of compliance, which can result in a greater level of compliance than can be obtained through coercion.

The Efficacy and Cost-effectiveness of Conflict Prevention Measures. The study showed that conflict prevention methods, adroitly used, can have a positive effect on security—and at a relatively low cost. These findings demonstrate the need for governments to review the effectiveness of conflict preventive measures, and incorporate them into their national security policy and strategy.

The study showed that in the HCNM's experience, the earlier a problem was identified and an appropriate response applied, the more likely it was that the problem could be solved effectively and at minimal cost. He found that early on there were usually a number of possibilities regarding ways to resolve differences, and even more important, possibilities still existed for creating processes and mechanisms for managing interethnic relations peacefully. Bargaining positions had not hardened; the cycle of violence and revenge had not taken hold; and the parties usually wanted peaceful solutions, particularly at the earliest stages of friction. In his work, Van der Stoel was often struck by the amount of harmony among individuals of different ethnicity; however, found that once interethnic violence had broken out, this harmony often turned to hatred.

The study found that the HCNM's conflict prevention efforts were very cost-effective—in 2001, his total budget was about the cost of two cruise missiles—which shows that conflict prevention is a tool that governments can use to promote stability while conserving resources. The HCNM found that governments often overlooked the potential usefulness of this tool, particularly its cost-effectiveness. He found that relatively minor problems could, if not addressed, develop into major sources of tension, but that extremely modest expenditures could remove the causes of serious tensions and promote stability. Examples were assistance for a census in Macedonia, and language classes for

ethnic Russians in Estonia. In the HCNM's assessment, one-tenth of one percent of yearly defense budgets would be more than enough to set up a wide range of effective conflict prevention programs that would considerably reduce the risk of new conflicts.

However, conflict prevention is challenging for a number of reasons. Government leaders and foreign offices are usually so occupied with current crises that they seldom have the time to focus on those that are brewing. Though foreign offices and the media are often well informed about impending crises, problems generally only get attention at a late stage, which as the HCNM's experience showed, there are fewer means available to resolve problems peacefully.

The resources needed for conflict prevention measures can be difficult to justify. When a blazing fire threatens to spread, the necessary resources are committed until the fire is out—but the same readiness to expend time, attention, and funds may not be available for fire prevention. Similarly, the effect of conflict prevention can be difficult to measure. It is easy to see when conflict prevention has failed, but hard to see when it has been successful because there are seldom visible results except for the absence of conflict—if Humpty Dumpty had been assisted safely off the wall, there would have been no news and no need to spend time and money trying to put him back together. However, the three HCNM case studies show that through detailed analysis, it is possible to identify a number of the direct effects of conflict prevention measures.

Challenges to implementing conflict prevention measures also involve issues such as how to choose the situations in which to intervene, and the potential for measures to continue beyond their need. These kinds of potential problems call for careful monitoring; however, the first HCNM showed that the application of these measures can

be done with judgment in selecting situations, skill in execution, and ending dates—he was able to end his direct involvement as issues were settled, or as parties developed processes and mechanisms to the point at which they could address issues on their own.

In summary, governments are accustomed to thinking of security in terms of protection against aggression from outside; however, as ethnic conflict and terrorism show, major threats can originate from within States. As addressed in the study, it is usually easier and more cost-effective to address tensions early before a conflict erupts, for after the threshold of violence has been crossed the conflict can be extremely difficult and costly to bring to an end. Instead of pouring billions of dollars into reconstruction after a conflict, as was done in Yugoslavia and Macedonia, governments can benefit by investing a fraction of those resources into preventing conflicts.

The difficulty of conflict prevention is that by the time crises occur, they are very difficult to avert, but without a crisis it can be difficult to get people's attention. The study findings call for more support on the part of governments for conflict prevention measures, increased government leadership, and the development of understanding and perseverance on the part of the general public.

The Security Implications of Respect for Individual Rights. A study finding that has particularly significant implications for governments is the effect on security involved in respect for individual rights. In recognition of the instability caused when individual rights are not respected, the States established principles regarding the requirement for governments to create the conditions in which all members of the State can exercise their basic political and civil rights.

The OSCE States identified these principles as both normative and practical in nature. One of the practical effects was the conflict prevention potential of developing the democratic and rule of law institutions necessary for the effective functioning of a civil society that respects basic rights. However, promoting the growth of civil society takes patience and perseverance and seldom results in headlines—like building a foundation, pouring concrete is essential, but watching it harden is not usually very interesting. Leadership, therefore, is necessary to develop understanding of the need for sustained efforts to promote individual rights, democracy, and the rule of law, and the corresponding institutions needed.

Of great importance for governments is to recognize the OSCE concept that individual rights, democracy, and the rule of law must be promoted as a group. To promote democracy without respect for individual rights can result in the election of aggressive governments that do not respect the rights of their own populations, or the rights of other countries. The rule of law without respect for individual rights can be used as a tool of repression, such as the Jim Crow laws that prevented U.S. citizens from voting, or the 1935 Nuremberg Laws that stripped citizenship from individuals because of their religion. These examples also demonstrate the need to recognize the OSCE concept that the purpose of democracy, democratic institutions, and the rule of law is to support and enforce respect for individual rights. In the OSCE States' view, the rights of the individual are paramount, and democracy and the rule of law exist to support and enforce respect for these rights, a concept that has important implications for governments in their efforts to promote human rights, democracy, and the rule of law.

The Role of Legitimacy in Policy. Governments would benefit from paying more attention to the role of legitimacy in the formulation and execution of security policy, for the OSCE experience demonstrated that the application of principles widely seen as legitimate can be a powerful tool with practical implications for security. The study showed that legitimacy played a significant role in the increases in security gained from the implementation of OSCE principles. This legitimacy was conferred by the extensive process of their development; their adoption by consensus; and by their substance, particularly respect for individual rights.

The effect of legitimacy on security can be seen in the OSCE experience during the Cold War. During this period, the OSCE principles were widely seen as legitimate in both East and West in particular because of their recognition of basic rights. In turn, this perception of legitimacy engaged and channeled the energies of individuals, groups, organizations, and Western governments to work to help turn aspirations into reality.

The effect of legitimacy can also be seen in the HCNM's cases: the perception that the principles were legitimate aided in the decisions of governments to implement the HCNM's recommendations. The fact that the HCNM represented all of the OSCE States increased his legitimacy, which was further increased by the strong backing of the OSCE leadership, the OSCE States, and international organizations.

The role that respect for the individual plays in achieving the perception of legitimacy has particularly important implications for policy. In terms of the United States, repeated polls worldwide show widespread admiration for U.S. ideals, even when actual policies are not perceived to be in keeping with these values. U.S. ideals are founded on respect for the individual, as are the OSCE principles, which implies that the

more policies are in keeping with the norms expressed in OSCE documents, the more the policies will be perceived as legitimate—which in turn can engender support that is likely to increase the policies' effectiveness.

The “Process” Aspects of Security. Governments may benefit from recognizing the process aspects of security, in particular, the view that achieving security involves the use of processes, and continuous attention. Process was a key part of the OSCE approach: the Helsinki Final Act combined broad goals and specific objectives with the Helsinki process as the mechanism through which they could further develop the principles and commitments, review their implementation, and measure progress towards achieving OSCE goals. Significant effects were observed in both the short and long term, and on the part of the HCNM, and the OSCE.

The OSCE approach was designed to work on different timeframes at the same time. In the longer term, the States intended that the effort made to implement the goals outlined in OSCE documents would strengthen the security of the participating States and improve conditions for their populations, and this evolutionary aspect of the OSCE did result in significant gains in security. In the shorter term, the OSCE States adopted specific commitments, in part as steps towards achieving their broad objectives. The OSCE and the Helsinki process were able to stimulate and channel the efforts of government, groups, organizations, and individuals to achieve goals articulated as both broad objectives and specific steps—an aspect that demonstrates the power that exerting steady pressure can have.

The HCNM worked on different timeframes as well. In the short term, the HCNM engaged in crisis intervention on several occasions, and by successfully defusing the

situations prevented potential conflicts from breaking out. However, he also perceived that the underlying causes of the crises had not been resolved, and undertook the painstaking, long-term efforts required in these cases. These long-term efforts often involved helping parties to develop peaceful processes to deal with issues, processes that would ensure that the legitimate interests of all members of the State were addressed. He believed that in any society the members would have different interests, and therefore the key to stability lay in respecting the legitimate interests of all parties, and finding the mechanisms to deal peacefully with the issues that inevitably arise.

In summary, the study showed that the implementation of OSCE principles significantly increased security in the OSCE area. The study also showed that a single individual, High Commissioner on National Minorities Max van der Stoel, working within an embryonic institution with few resources, was able to have a very significant effect on security by skillfully applying the OSCE principles to specific and highly contentious situations. States, therefore, can increase their security, and that of their populations, by reviewing the OSCE and HCNM experience, and incorporating key findings into their national security policy and practice.

Implications for Further Research

The study results point toward a number of directions for further research. Three of the most relevant ways pertain to the usefulness of the OSCE principles in combating terrorism; the OSCE's comprehensive, cooperative, and common security concept; and the conflict prevention potential of the OSCE principles.

Combating Terrorism. The study results indicate that research on how OSCE principles can be applied to the problem of terrorism would yield beneficial results. The

ability of extremists to destabilize a situation is an issue with important security implications for policymakers, and the OSCE principles are relevant to governments and communities in this area, since the aim of terrorists is often to provoke governments and groups into compromising their values in their responses to attacks. This was seen during the 2001 conflict in Macedonia when the NLA ostensibly used terrorist attacks to try to provoke the Macedonian government and ethnic Macedonians to overreact and retaliate *in kind*. In this area, the OSCE principles are particularly relevant to democracies in that respecting human rights is not an impediment during counterterrorist operations, but an essential part of a strategy to isolate terrorists morally.

OSCE principles are relevant to a number of other aspects of terrorism. Groups that respect the rights of others do not use terrorism as a means to try to achieve their objectives: they choose nonviolent means, which calls for research on ways to promote respect for individual rights and the rule of law. Research is particularly needed on ways to promote democracy, the rule of law, and respect for individual rights as a group, for in the view of the OSCE States, democracy and the rule of law are not ends, but means intended to support and enforce respect for human rights.

A number of OSCE documents contain rules applicable during “states of emergency”: in the Moscow Document the participating States confirmed “that any derogation from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation.”²⁶³ These commitments are relevant to counterterrorist methods in that during times of emergency

²⁶³ Moscow Document, 1991, 41.

such as after a major terrorist attack, targeted governments and groups can fall into the trap of violating individual rights, as some Macedonians did.

The OSCE Comprehensive, Cooperative, and Common Security Concept.

Further study on the OSCE “comprehensive, cooperative, and common security concept” is likely to identify ways that this concept could be effectively applied to many security problems. Given the wide spectrum of threats that States face—including those posed by terrorism, weapons of mass destruction, weapons proliferation, transnational diseases, environmental degradation, ethnic conflict, unregulated population flows, and economic decline—analysis and research on the OSCE security concept could be very productive.

In a related area, future research is called for regarding the efficacy of the tools of national strategy, and the different forms of power that each tool can exert. These capabilities may be described as having the capacity to influence, attract, induce, pressure, or coerce, and research is needed on which forms of power may be the most effective in a given situation. The OSCE has exerted a slow, steady pressure that has been shown to be effective, and research on the usefulness of different forms of power may assist in better decisionmaking regarding which tools to use.

The Conflict Prevention Potential of the OSCE Principles. The findings demonstrate the need for further study on how the conflict prevention potential in the OSCE principles can be adapted to the needs of particular problems in countries and communities. This research, followed by action by policymakers at all levels, could help reduce or eliminate the considerable human, economic, and international costs of conflict.

Research is also needed on ways to balance the tensions between OSCE principles, such as the tension between territorial integrity and self-determination, to

include ways to achieve “internal self-determination” through forms of autonomy or self-government. A second area of research pertains to the need to balance the interests of majorities and national minorities, and in this area, the applicability of mechanisms for dialogue is a particular area of future research. Though OSCE principles can be accepted in general, difficulties may occur in implementation at all levels, and mechanisms for dialogue can help to effectively resolve these issues.

More research is needed on the OSCE conflict prevention method of developing civil society and the democratic and rule of law institutions necessary for its effective functioning. The OSCE States’ agreement that the first purpose of government is to protect and promote individual rights is a principle with very significant implications for international security, including the fight against terrorism. The agreement of the States that the means that governments would use to protect and promote individual rights would be democracy, a rule of law based on human rights, and a market economy is a second principle of great importance.

The OSCE, including the HCNM, worked to help the new democracies by integrating them into OSCE structures and activities, and by establishing the means to help them develop the democratic and rule of law institutions that provide the basis for the protection and promotion of individual rights, and the foundation for civil society. These actions were based on OSCE principles, and given that their implementation increased security during the difficult post–Cold War period, further research is needed to determine if the principles worked in other situations, and could be effectively applied to other regions of the world.

Appendix A: The OSCE Principles 1993–2001 and Document Analysis

I. Principles Guiding Relations Between OSCE States. *Achieving security requires:*

1. That the participating States develop agreed-upon principles guiding international relations.
2. That the participating States respect the sovereign rights of other participating States, in particular their juridical equality, external and internal political independence, and territorial integrity.
3. That the participating States agree to limit their political independence in regard to their OSCE commitments.
4. That the participating States accept their mutual involvement with, accountability to, and assistance to each other regarding the implementation of their OSCE commitments.
5. That the participating States use a comprehensive approach to security that enables them to address all areas that cause tensions between States (comprehensive security).
6. That the participating States use a cooperative approach to security (cooperative security).
7. That the participating States respect the right of each participating State to equal security (common security).
8. That the participating States prevent security threats from arising, and use peaceful means to resolve disputes and conflicts that do arise.

II. Principles Guiding Relations Between the State and the People Who Comprise the State. *Achieving security requires:*

9. That the participating States develop agreed-upon principles guiding relations between the State and the people who comprise the State.
10. That the participating States create and maintain the conditions in which all members of the State are able to fully exercise their individual rights and fundamental freedoms.
11. That the participating States use democracy, a rule of law based on human rights, and a market economy as the means to ensure that all individuals are able to fully exercise their rights and freedoms.
12. That participating States make provisions as needed to ensure that national minorities are able to exercise their equal rights.
13. That the participating States balance the interests of majorities and national minorities.
14. That national minorities fulfill their responsibilities.
15. That the participating States promote a climate of respect.
16. That all individuals and groups respect all others and their equal rights.

III. Principles Guiding Implementation, Review, and Development Processes. *Achieving security requires:*

17. That the participating States apply all OSCE principles equally and unreservedly, each of them being interpreted taking into account the others.
18. That individuals, groups, NGOs, and governments at all levels make good faith and continuous efforts to fully implement their OSCE commitments.
19. That the participating States find and build on shared values.
20. That the participating States use processes to develop standards and commitments, review their implementation, and respond to State requirements.

Table of Documents Analyzed for OSCE Security Principles

Content analysis was done on the following documents in order to identify and articulate the OSCE security principles that were in effect in January 1993, and from January 1993 to June 2001. OSCE documents were generally adopted, but on occasion were signed: two particularly important signed documents were the 1975 Helsinki Final Act and the 1990 Charter of Paris for a New Europe.

Table A.1 OSCE Documents Analyzed for Security Principles

Title *	Year	Type of Document
1. Helsinki Final Act	1975	Summit document
2. Belgrade Document	1978	Concluding Document, first Follow-up Meeting
3. Madrid Document	1983	Concluding Document, second Follow-up Meeting
4. Vienna Document	1989	Concluding Document, third Follow-up Meeting
5. Copenhagen Document	1990	Human Dimension document
6. Charter of Paris	1990	Summit document
7. Moscow Document	1991	Human Dimension document
8. Helsinki Document	1992	Summit document
9. Budapest Document	1994	Summit document
10. Lisbon Document	1996	Summit document
11. Istanbul Document	1999	Summit document

* The titles usually used in referring to the documents—see the bibliography for the full titles.

Appendix B: Analysis of Level-IV States by Geographic Region

Balkan area: Albania, Croatia, and Macedonia. The principal area of concern in Albania was the Greek minority, and the principal issues were political representation, education, use of language, and separatism. In Croatia the principal concern was minorities, in particular Serbs, and the primary issues were post–conflict distrust and population dislocation. In Macedonia, the principal area of concern was the Albanian minority, and the primary issues were political representation, education, and separatism. Macedonia also experienced outbreaks of violence in 1995 and 1997 that required HCNM crisis intervention, and in 2001 experienced intrastate conflict (including terrorism).

Baltic area: Estonia and Latvia. The problems faced by Estonia and Latvia were generally similar: both had been independent States forcibly incorporated into the Soviet Union, and subjected to political, economic, and cultural Sovietization after World War II. Soviet policies towards both countries included forced population transfers (deportation of Estonians and Latvians, and resettlement of Russian-speakers in their place); the collectivizing of farms; and Russification regarding language, education, and culture. These policies resulted in large demographic changes in both countries: from 1934 to 1989, the percentage of ethnic Estonians in Estonia dropped from 88 to 61 percent, and in Latvia the percentage dropped from 73 to 52 percent.

The principal area of concern was majority-minority relations, and issues included citizenship (there were several hundred thousand stateless Russians in both countries), language, education, and the continued presence of Russian military forces. Statements

by Russian officials were interpreted to mean that Russia was considering the use of force against Estonia and Latvia to protect the rights of Russians there. Estonia also had the issue of separatism: a large percentage of the Russian minority was concentrated in the northeastern area contiguous to Russia, and sentiment for autonomy or joining with Russia was strong. This situation threatened to erupt in 1993 when the northern cities of Narva and Sillamäe declared their intention to hold a referendum on autonomy, sparking a crisis requiring HCNM intervention.

Central European area: Hungary, Slovakia, and Romania. The principal areas of concern were the Slovak minority in Hungary, and the Hungarian minority in Slovakia and Romania. The primary issues were political representation, language, and education. Many of the problems stemmed from the redrawing of borders after World War I at which time Hungary ceded two-thirds of its territory to Romania, Czechoslovakia, and Yugoslavia, causing over 3 million Hungarians to become minorities in those countries.

Near-Russia area: Moldova and Ukraine. The principal areas of concern in Moldova were the Russian, Ukrainian, and Gagauz minorities, and the primary issues were language, education, the consequences of Russification, and separatism to include the “frozen” separatist conflict over Transdniestria.²⁶⁴ The principal areas of concern in Ukraine were the status of Crimea, the resettlement of Crimean Tatars (deported to Central Asia in 1944), and majority-minority relations. The primary issues were separatism in Crimea, which resulted in HCNM crisis intervention in 1995; language; education; the consequences of Russification; the potential radicalization of Tatar Islamic youth; and possible spillover effects from the conflict in Chechnya.

²⁶⁴ The Gagauz were an ethnically Turkish people of Orthodox Christian faith.

Central Asian area: Kazakhstan and Kyrgyzstan. The principal areas of concern were the emigration of the Russian and German minorities, and the potential radicalization of Islamic youth.

Table B.1 Threat Analysis in Level-IV States

<u>Level IV States</u>	<u>Interstate Conflict Based on Minority Tensions?</u>	<u>Intrastate Conflict Based on Minority Tensions?</u>	<u>HCNM Crisis Intervention?</u>
1. Albania	No	No	No
2. Croatia	No	No	No
3. Estonia	No (Russia implied threats of force 1993–1995)	No	Yes: 1993
4. Hungary	No	No	No
5. Kazakhstan	No	No	No
6. Kyrgyzstan	No	No	No
7. Latvia	No (Russia implied threats of force 1993–1995)	No	No
8. Lithuania	No	No	No
9. Macedonia	No	Yes: 2001 (also interethnic clashes 1995, 1997)	Yes: 1995, 1997, 2001
10. Moldova	No	No	No
11. Romania	No	No	No
12. Russia	No	No	No
13. Slovakia	No	No	No
14. Ukraine	No	No	Yes: 1995

Appendix C: Data Collection and Analysis Form

Title

1. Subject.

2. HCNM specific recommendation(s).

3. OSCE security principle(s) involved.

4. Implementation chronology.

5. Observed effect(s) on security.

6. Notes.

Data Collection and Analysis Form—August 8, 2006

Appendix D: HCNM Recommendations to Ukraine Regarding Crimea

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
I. To the Ukrainian Government and the Crimean Administration of the Autonomous Republic of Crimea (ARC)			
1. Reach a settlement regarding the division of responsibilities between the central government and the ARC that would maintain the territorial integrity of Ukraine but also contain a complete program of steps to solve various issues concerning the implementation of the formula of substantial autonomy for Crimea, especially in the economic field. (May 15, 1994)	2, 20	Yes	Yes
2. Avoid any action that could lead to an escalation of existing tensions. (May 15, 1995)	6, 8	Yes	Yes
3. Divide responsibilities between the central government of Ukraine and the ARC as follows: Ukrainian government: defense, the armed forces, and foreign policy. —Consult the ARC before concluding treaties of special relevance for Crimea, and include representatives in a number of official delegations to other States; —Make arrangements to ensure that an equitable portion of the revenues of Ukrainian property in Crimea and the natural resources of Crimea will be used for the benefit of Crimea; and —Taking into account the Ukrainian legal order, give the ARC the right to conclude international agreements regarding commercial and cultural questions, and the right to open trade offices abroad. (Oct. 12, 1995)	13	Yes	Yes
4. In lieu of a treaty between the ARC and Sevastopol, set up a tripartite commission, composed of representatives of Ukraine, the ARC, and Sevastopol, to come forward with proposals for intensifying the collaboration between Sevastopol and the ARC in various fields. (Oct. 12, 1995)	20	No	Not observed
5. Make a special effort to speed up solving the remaining constitutional differences, and for the ARC parliament to give renewed consideration to the articles still in dispute within a month, and for the Ukrainian parliament to consider the ARC parliament's new proposals as possible thereafter. (March 19, 1996)	6, 18	No	Yes

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
6. Maintain the momentum in narrowing the gap between the positions of Ukraine and the ARC regarding a considerable number of issues, make determined efforts soon to resolve the remaining differences, and do nothing that could lead to a worsening of the atmosphere in which future negotiations will be conducted. (April 5, 1996)	18	Yes	Yes
II. To the Ukrainian Government.			
1. Consider OSCE assistance, particularly a team of constitutional and economic experts who could, after investigating the issues in dispute, provide some suggestions for solutions. (May 15, 1994)	4	Yes	Yes
2. Use the 1992 Ukrainian law that divided powers between Ukraine and the ARC and that did not enter into force, with some modifications and additions, as the future ARC constitution, and for the Ukrainian parliament to adopt a parallel constitutional law with the same content, and if the 1992 Ukrainian law is adopted, end the subordination of the Crimean government to the government of Ukraine and do not dissolve the ARC parliament. (May 15, 1995)	13	Yes	Yes
3. Adopt, as quickly as possible, a Ukrainian law on the approval of the ARC constitution that would approve the coming into force of the ARC constitution with the exception of those articles that are still in dispute. (March 19, 1996)	19	Yes	Yes
4. Agree to have a permanent arrangement regarding the one channel budget system, if simultaneous agreement can be reached on the supervision of the system and on the manner of assuring respect for the Ukrainian unified tax system, and ensuring an equitable share of the future revenues from oil and gas deposits in the continental shelf surrounding Crimea. (April 5, 1996)	12, 13	Yes	Yes
5. Declare its willingness to consult with the appropriate authorities of the ARC regarding matters of military defense and security relevant for the ARC, and to inform the appropriate Crimean authorities on steps envisaged in these relevant areas. (April 5, 1996)	6, 12, 13	Yes	Yes
6. Do not deviate from the aim of providing Crimea with substantial autonomy in those fields that do not belong to the exclusive responsibility of Ukraine. (April 5, 1996)	18	Yes	Yes

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
III. To the Crimean Administration.			
1. Stop plans for a referendum on the ARC constitution that was abolished by the Ukrainian parliament. (May 15, 1995)	2	Yes	Yes
2. Delete references to Crimean citizenship in the draft ARC constitution. (Oct. 12, 1995)	2	Yes	Yes
3. Make the following editorial changes in the draft law on the approval of the ARC constitution: —Replace “Republic of Crimea” with the “Autonomous Republic of Crimea.” —Replace “citizens of Crimea” with “citizens of Ukraine residing in Crimea.” —Replace “the people of Crimea” with “the population of Crimea.” (March 19, 1996)	2	Yes	Yes
4. Refrain from organizing a referendum, or a poll, in the ARC on the November 1995 ARC constitution. (April 5, 1996)	2	Yes	Yes
5. Make a number of changes and deletions to the November 1995 ARC constitution. (April 5, 1996)	2	Yes	Yes

Formal Recommendations to the Ukrainian Government Regarding Crimea.

1. Letter from OSCE HCNM Max van der Stoel to Mr. Anatoly Zlenko, Minister for Foreign Affairs of Ukraine, May 15, 1994.
2. Unpublished letter from OSCE HCNM Max van der Stoel to Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, May 15, 1995. See Kemp, *Quiet Diplomacy in Action*, 221–222; Kulyk, *Revisiting a Success Story*, 44–45; and Foundation on Inter-Ethnic Relations, *Bibliography on the OSCE High Commissioner on National Minorities*, 1997, 21.
3. Letter from OSCE HCNM Max van der Stoel to Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, October 12, 1995.
4. Letter from OSCE HCNM Max van der Stoel to Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, March 19, 1996.
5. Letter from OSCE HCNM Max van der Stoel to Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, April 5, 1996.

Appendix E: HCNM Recommendations to Estonia

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<u>I. To the Estonian Government.</u>			
I-1. Naturalization: Policy.			
1. Grant citizenship to children born in Estonia who would otherwise be stateless. (April 6, 1993)	12	Yes	Yes
2. Consider the psychological effects of the proposed naturalization law on the Russian-speaking population, including its possible destabilizing effects, and therefore, do not promulgate “The Law on Aliens,” adopted by the Riigikogu on June 21, 1993, in its present form. (July 1, 1993)	10, 12	Yes	Yes
3. Use humanitarian considerations and reasonableness as the guiding principles regarding those who neither qualify for citizenship nor have the status of permanent residents. (April 6, 1993)	10, 12	Yes	Not observed
4. Delay the entry into force of the law requiring citizenship for civil servants. (Dec. 11, 1995)	12, 13	Yes	Not observed
I-2. Naturalization: Process.			
1. Allow reapplication for citizenship. (April 6, 1993)	12	Yes	Not observed
2. Make explicit that unemployment payment meets the legal income requirement. (April 6, 1993)	12	Yes	Not observed
3. Ensure nondiscrimination in citizenship matters in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination when enacting or implementing legal provisions concerning nationality, citizenship, or naturalization. (April 6, 1993)	10	Yes	Not observed
4. Ensure maximum publicity for the language law and its implementing regulations, especially among the Russian population. (April 6, 1993)	12	In part	Yes
5. Continue efforts to inform the non-Estonian population about legislation, regulations, and practical questions concerning citizenship, language requirements, etc. (April 6, 1993)	12	In part	Yes
6. Ensure that the Virumaa Information Center can effectively contribute to informing the Russian population in the Northeast. (April 6, 1993)	12	In part	Yes
I-3. Naturalization: Constitution Exam.			
1. Make the constitution exam considerably easier. (Dec. 11, 1995)	12	In part	Not observed

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Imple-mented?</u>	<u>Observable Effect(s) on Security?</u>
I-4. Naturalization: Language Requirements.			
1. Set the language exam standard as the conduct of a simple conversation. (April 6, 1993)	12	Yes	Yes
2. Involve the Council of Europe and OSCE in the language exam standard. (July 1, 1993)	4	Yes	Yes
3. Waive all language requirements for the elderly and disabled. (April 6, 1993)	12	In part	Yes
4. Ensure consistent interpretation of the law on language requirements. (April 6, 1993)	11	Yes	Yes
5. Ensure that language testing fees are not prohibitively expensive. (April 6, 1993)	12	Yes	Not observed
6. Allow retesting of the language exam. (April 6, 1993)	12	Yes	Yes
I-5. Naturalization: Residence Permits.			
1. Provide residence permit application forms in Russian. (March 9, 1994)	12	Yes	Not observed
2. Have noncitizen representatives cooperate in the registration process. (March 9, 1994)	12, 14	Yes	Not observed
3. Do not make people who settled in Estonia before July 1, 1990, provide different certificates or pay application fees for residence permits. (March 9, 1994)	12	Yes	Not observed
4. Make the application process for residence permits simple and smooth. (March 9, 1994)	10	In part	Yes
5. Extend the deadline for residence permit applications. (March 9, 1994)	12	Yes	Yes
6. Count residence from March 30, 1990, and the time of actual residence in Estonia, on the basis of permanent registration in the former Estonian Soviet Socialist Republic, and on the basis of temporary or permanent permits under the new Law on Aliens. (Dec 8, 1994)	12	Yes	Not observed
7. Speed up the process for residence permits and alien passports. (Oct. 28, 1996)	10	Yes	Yes
8. Delete the requirement that a residence permit will not be issued to any alien "who does not respect the constitution system and does not observe Estonia's legal acts." (July 1, 1993)	11	No	Not observed
9. Delete or adapt the article stating that a residence permit will not be issued to any alien "who with his or her actions has compromised Estonia's national interests or international reputation." (July 1, 1993)	11	Yes	Not observed
10. Establish a clear and legally binding provision ensuring the same rights for temporary residents as for permanent residents, and provide relevant information. (March 9, 1994)	12	Yes	Yes
11. Reconsider or reformulate the requirement that a residence permit will not be issued to aliens who have served in an armed forces career position of a foreign State, or to family members, to ensure that a great number of Russians will not be expelled. (July 1, 1993)	12	No	Yes

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<p>I-6. Naturalization and Full Equality: An Official Policy of Integration.</p> <p>1. Aim to integrate the non-Estonian population by a deliberate policy of facilitating the chances of acquiring Estonian citizenship for those who express such a wish, and of assuring them full equality with Estonian citizens, to include:</p> <ul style="list-style-type: none"> —Develop and implement an official policy of integration. (April 6, 1993) —Enhance efforts to aid non-Estonians in acquiring a reasonable level of Estonian. (April 6, 1993) —Use other governments’ help in language education. (March 9, 1994) —Increase the use of mass media, in particular television, to help non-Estonians learn Estonian. (April 6, 1993) —Study the language education system in the city of Kohtla-Jaerve with a view to its possible implementation elsewhere in Estonia. (April 6, 1993) —Speed up preparing the Language Strategy Document, and give it top priority. (May 21, 1997) —Include at least one Russian member, with experience in this field, in the Working Group drawing up the language strategy for the Language Training Center. (May 21, 1997) 	<p>10, 12, 14, 13 implied</p> <p>10, 12</p> <p>4</p> <p>10, 12</p> <p>10, 12</p> <p>10, 12</p> <p>10, 12</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Not observed</p> <p>Not observed</p> <p>Not observed</p> <p>Not observed</p>
<p>I-7. Full Equality: Mechanisms and Institutions.</p> <p>1. Implement a visible and consistent policy of dialogue and integration towards the non-Estonian population. (April 6, 1993)</p> <p>2. Establish a roundtable of noncitizens and ethnic minorities. (July 1, 1993)</p> <p>3. Establish an Office of a National Commissioner on Ethnic and Language Questions. (April 6, 1993)</p>	<p>12</p> <p>12</p> <p>12</p>	<p>In part</p> <p>Yes</p> <p>In part</p>	<p>Not observed</p> <p>Yes</p> <p>Yes</p>
<p>I-8. Full Equality: Alien Passports.</p> <p>1. Allow alien passports to residents who have the right to a residence permit in Estonia and are not citizens of another State. (July 1, 1993)</p> <p>2. Make alien passports available without complicated procedures or excessive costs. (March 9, 1994)</p>	<p>12</p> <p>10</p>	<p>In part</p> <p>In part</p>	<p>Yes</p> <p>Yes</p>
<p>I-9. Full Equality: Framework Convention for the Protection of National Minorities.</p> <p>1. Clarify that the intended reservation to the Council of Europe’s Framework Convention for the Protection of National Minorities does not mean that the government plans to restrict the rights of noncitizens living on its territory. (Oct. 28, 1996)</p>	<p>10</p>	<p>Yes</p>	<p>Yes</p>

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
I-10. Full Equality: The Regulation of Language Use.			
1. Ensure that the Estonian language is not required in the internal affairs of private enterprises and organizations. (April 6, 1993)	10, 13	Yes	Yes
2. Do not promulgate amendments requiring proficiency in the Estonian language in order to be a member of the parliament or a local governmental council. (April 22, 1996)	10, 13	Yes	Yes
3. Follow the letter and spirit of the amended Law on Language, in particular as pertaining to the scope of application to public interests permissible under international law and in proportion to the legitimate aim sought. (June 15, 2000)	10, 13	Not observed	Not observed
<u>II. To Minorities.</u>			
1. Adapt to and develop loyalty towards Estonia as an independent State. (April 6, 1993)	14	In part	Yes
2. Contribute equally towards their own integration within Estonia. (April 6, 1993)	14	In part	Yes
3. Make a determined effort to master Estonian to the extent of being able to conduct a simple conversation in Estonian, except for those who have retired from work. (April 6, 1993)	14	In part	Yes
<u>III. To Other OSCE States.</u>			
III-1. Recommendation to the Kinstate.			
1. Rapidly remove Russian troops from Estonia in line with the Helsinki Document, para. 15. (April 6, 1993)	18	Yes	Yes
III-2. To Other OSCE States.			
1. Provide assistance to the Estonian government for language training. (March 9, 1994)	4	Yes	Yes
2. Recognize the Estonian Alien Passport as a legal travel document. (Feb. 14, 1996)	4	In part	Yes

Formal Recommendations to the Estonian Government.

1. Letter from OSCE HCNM Max van der Stoel to Mr. Trivimi Velliste, Minister for Foreign Affairs of the Republic of Estonia, April 6, 1993.
2. Letter from OSCE HCNM Max van der Stoel to Mr. Lennart Meri, President of the Republic of Estonia, July 1, 1993. With Statement of the High Commissioner on National Minorities, July 12, 1993.
3. Letter from OSCE HCNM Max van der Stoel to Mr. Jüri Luik, Minister for Foreign Affairs of Estonia, March 9, 1994.
4. Letter from OSCE HCNM Max van der Stoel to Mr. Jüri Luik, Minister for Foreign Affairs of the Republic of Estonia, December 8, 1994.
5. Letter from OSCE HCNM Max van der Stoel to Mr. Siim Kallas, Minister for Foreign Affairs of Estonia, December 11, 1995.
6. Letter from OSCE HCNM Max van der Stoel to the members of the OSCE Permanent Council, February 14, 1996.
7. Unpublished letter from OSCE HCNM Max van der Stoel to Mr. Lennart Meri, President of the Republic of Estonia, April 22, 1996. See Kemp, *Quiet Diplomacy in Action*, 147.
8. Letter from HCNM to Mr. Siim Kallas, Minister for Foreign Affairs of the Republic of Estonia, October 28, 1996.
9. Letter from OSCE HCNM Max van der Stoel to Mr. Toomas Hendrik Ilves, Minister for Foreign Affairs of the Republic of Estonia, May 21, 1997.
10. Unpublished letter from OSCE HCNM Max van der Stoel to Mr. Lennart Meri, President of the Republic of Estonia, December 19, 1998. See Kemp, *Quiet Diplomacy in Action*, 150.
11. Unpublished letter from OSCE HCNM Max van der Stoel to Mr. Toomas Hendrik Ilves, Minister for Foreign Affairs of the Republic of Estonia, March 26, 1999. See Kemp, *Quiet Diplomacy in Action*, 151; *Annual Report 1999 on OSCE Activities*, 1999, 52–53.
12. Unpublished letter from OSCE HCNM Max van der Stoel to Mr. Toomas Hendrik Ilves, Minister for Foreign Affairs of the Republic of Estonia, July 12, 1999. See Kemp, *Quiet Diplomacy in Action*, 152.
13. OSCE Press Release, “Statement Regarding the Adoption of Amendments to the Law on Language by the Estonian Parliament,” June 15, 2000.

Appendix F: HCNM Recommendations to Macedonia

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<u>I. Minority Participation in Public Affairs.</u>			
<u>1. Census.</u> <i>Macedonian government:</i> Submit a draft law on the census to parliament without delay. (Nov. 1, 1993)	10	Yes	Yes
<u>2. Citizenship.</u> <i>Macedonian government:</i> Reduce the citizenship residency requirement from fifteen to five years. (Nov. 16, 1994)	10	No	Yes
<u>3. Local self-government.</u>			
<i>1) Macedonian government:</i> Resubmit the July 1993 draft law on local self-government to the newly elected parliament, in particular because articles 79, 80, 81, and 82 contain provisions for the official use of the languages and alphabets of ethnic nationalities in units of local self-government in which there is a majority or a significant number. (Nov. 16, 1994)	10, 12	Yes	Not observed
<i>2) Macedonian government:</i> Ensure, within the areas of their responsibilities, the most efficient functioning of local self-government, and with a spirit that reflects the constitutional legal provisions and in addition, perform the following: —improve the system of collecting local taxes, and ensure that financial resources from the State budget, aimed at supporting units of local government, are promptly transferred to them in accordance with existing legal regulations; —analyze how the practical implementation and execution of powers of local government in areas as mentioned in Article 115 of the Constitution could be improved and strengthened, and continue comprehensive cooperation on the matter between the relevant authorities and the specialized organs of the Council of Europe; and —strengthen the Macedonian Association of Local Self-Government Units, established in conformity with Article 10 of the Law on Local Self-Government, and use as a forum for exchanges of experiences and for developing a meaningful relationship between self-government units, and between them and the central government. (Nov. 9, 1998)	10, 12	No	Not observed

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<p><u>4. Electoral processes.</u> <i>Macedonian government:</i> Take steps to remedy some of the weaknesses in the electoral process that became evident in the recent elections, to include: —make a special effort to increase the accuracy of the electoral lists and ensure their permanent updating; —resubmit the draft law on elections to the newly elected parliament, which would also include the partial introduction of a system of proportional representation; and —revise the borders of constituencies in such a way as to ensure that each electoral district encompasses a roughly equal number of voters. (Nov. 16, 1994)</p>	10, 12	In part	Not observed
<p><u>5. Minority participation in public service.</u> <i>Macedonian government:</i> Ensure, through the progressive process already underway, that the staffing of all government departments, to include the military and the police at all levels, adequately reflects the recognized nationalities. (Nov. 1, 1993)</p>	10, 12	In part	Yes
<p><u>II. Albanian-language Education.</u> <u>1. Albanian teacher training.</u> <i>Macedonian government:</i> Ensure that an adequate number of Albanian teachers receive a proper training at the required level. (Nov. 1, 1993)</p>	10, 12	In part	Yes
<p><u>2. Access to secondary school.</u> <i>Macedonian government:</i> Promote greater access to high school for Albanian students. (Nov. 1, 1993)</p>	10, 12	Yes	Not observed
<p><u>3. Framework in which to seek solutions for questions involving Albanian-language higher education.</u> <i>Majority and Minority:</i> Seek and find solutions to questions regarding higher education in the framework of full respect for the constitutional order of Macedonia, conduct dialogue on these subjects in the framework of the preparation of the law on higher education, and find a compromise formula regarding a new university on the basis of the following premises: —any further step towards creating a new institution of higher education must be in accordance with the constitutional order, and conform with OSCE principles; —the institution must have the purpose to contribute to interethnic harmony; —the institution must respond to specific educational needs; and —all population groups in the country ought to benefit from its creation. (April 28, 1995)</p>	11, 13, 15, 16, 20	Yes	Yes

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<p><u>4. A new, private, Albanian-language institute of higher learning.</u></p> <p><i>Macedonian government:</i> Establish a private, Albanian-language institute of higher education. (April 28, 1995)</p> <p><i>OSCE States:</i> Provide international assistance to realize the plan for a private, Albanian-language institute of higher education. (Nov. 9, 1998)</p>	<p>10, 12</p> <p>4</p>	<p>No</p> <p>Yes</p>	<p>Yes</p> <p>Yes</p>
<p><u>III. Mechanisms for Dialogue.</u></p> <p><u>1. Council for Inter-Ethnic Relations.</u></p> <p><i>Macedonian government:</i> Give the Council for Inter-Ethnic Relations the responsibility to analyze ways to promote interethnic harmony and initiate investigations of events that have led to interethnic tensions; provide the Council with an adequate staff to perform these additional responsibilities; and provide, for review, annual progress reports regarding minority staffing of the military, police at all levels, and all government departments. (Nov. 1, 1993)</p>	<p>12</p>	<p>No</p>	<p>Not observed</p>
<p><u>IV. Minority Access to the Media.</u></p> <p><u>1. Access to television.</u></p> <p><i>Macedonian government:</i> Increase TV programs in the Albanian language from one to two hours per day as an interim measure, with a further substantial increase. (Nov. 16, 1994)</p>	<p>12</p>	<p>Yes</p>	<p>Yes</p>
<p><u>V. Framework in Which to Seek Solutions to Issues Involving Interethnic Tensions.</u></p> <p><u>1. Framework.</u></p> <p><i>1) Majority and minority:</i> Strive to find solutions for interethnic problems by rejecting ethnic hatred and intolerance and by seeking constructive and continuous dialogue (with equal rights for all ethnic groups as the guiding principle), and base this dialogue on internationally accepted norms and standards, and equally on respect for the sovereignty and territorial integrity of the State, and respect for the constitutional order and the rule of law. (July 13, 1997)</p> <p><i>2) Majority and minority:</i> Recognize, as specific interests are pursued, that all groups have common interests such as the maintenance of peace and stability, the promotion of economic development, and the reduction of unemployment. (Nov. 9, 1998)</p>	<p>2, 11, 12, 16, 20</p> <p>19, 20</p>	<p>In part</p> <p>In part</p>	<p>Yes</p> <p>Yes</p>

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<p>3) Majority and minority: Respect the territorial integrity of the State and the constitutional order, including that it can only be changed in accordance with constitutional rules, and recognize that disregarding these basic rules will inevitably lead to destabilization of the State, and quite possibly to violence from which all concerned would suffer and no one would gain. (Nov. 9, 1998)</p>	2, 8, 11	No	Yes
<p>4) Majority and minority: Move beyond the discussion between the Macedonian parties that favor the present unitary state system, and the Albanian parties that want to change it, and engage in a serious dialogue regarding the steps that can be taken to accommodate the specific desiderata of minorities, and find, through discussions on future government programs, solutions acceptable to both sides regarding a number of interethnic questions that have been the subject of discussion for many years, within the following framework:</p> <ul style="list-style-type: none"> —in accordance with the commitments accepted when Macedonia joined the OSCE and became a party to a number of international agreements in the framework of the UN and the Council of Europe; and —that the discussion take into account that the essence of democracy is compromise in that both sides have to modify some of their positions: in a democratic multiethnic State a minority cannot impose a dictate on a majority, but neither can a majority afford to ignore the desiderata of a minority, particularly when it constitutes an important percentage of the population. (Nov. 9, 1998) 	11, 12, 13, 14, 20	In part	Yes
<p>5) Macedonian government and all Macedonian parties: Avoid considering any concession to a minority as a weakening of the State, and recognize that meeting the wishes of a minority, within the constitutional framework of a unitary State, may strengthen the State. (Nov. 9, 1998)</p>	10, 12, 13, 16	In part	Yes

<u>HCNM Specific Recommendations.</u>	<u>OSCE Principle(s) Referenced</u>	<u>Implemented?</u>	<u>Observable Effect(s) on Security?</u>
<u>VI. The Maintenance of Stability.</u>			
<p><u>1. Maintain national stability.</u> <i>Macedonian government:</i> Maintain the stability of the country. (Nov. 16, 1994)</p>	8, 10	In part	Yes
<p><u>2. Maintain stability during the refugee crisis.</u> <i>Majority and minority:</i> Do their utmost to ensure that the massive influx of refugees from Kosovo does not lead to a destabilization of Macedonia. (May 12, 1999)</p>	8, 10, 14	Yes	Yes
<p><u>3. Maintain stability during the 2001 crisis.</u> <i>Majority and minority:</i> Avoid armed conflict. (March 15, 2001)</p>	8, 10, 14, 16	Yes: 1993–2000; No: 2001	Yes
<u>VII. International Assistance.</u>			
<p><u>1. Aid for economic recovery.</u> <i>OSCE States:</i> Offer sufficient assistance to enable Macedonia to start a process of economic recovery. (Nov. 16, 1994)</p>	4	In part	Not observed
<p><u>2. Aid for projects to promote interethnic harmony.</u> <i>OSCE States:</i> Provide international assistance to enable the study of new subjects such as civic education and human rights (particularly so that students of Macedonian and Albanian ethnicity may study these subjects in common), and enable the conduct of summer camps for students of different ethnicity—and all combined with courses aimed at promoting integration. (Nov. 9, 1998) (Note: The HCNM also referenced NGOs as possible donors.)</p>	4	In part	Yes
<p><u>3. Aid for the refugee crisis.</u> <i>OSCE States:</i> Significantly increase efforts to help Macedonia avoid destabilization from the massive influx of refugees from Kosovo (which caused an increase of the population of the FYROM of more than 10 percent within a few weeks). (May 12, 1999)</p>	4	Yes	Yes
<u>VIII. International Relations.</u>			
<p><u>1. Normalization of Greek-Macedonian relations.</u> <i>OSCE States—Macedonia and Greece:</i> Find ways to normalize relations, to include ending the embargo. (Nov. 16, 1994)</p>	4, 6, 8	In part	Yes

Formal Recommendations to the Macedonia Government.

1. Letter from OSCE HCNM Max van der Stoel to Mr. Stevo Crvenkovski, Minister for Foreign Affairs of the FYROM, November 1, 1993.
2. Letter from OSCE HCNM Max van der Stoel to Mr. Stevo Crvenkovski, Minister for Foreign Relations of the FYROM, November 16, 1994.
3. Letter from OSCE HCNM Max van der Stoel to Mr. Stevo Crvenkovski, Minister for Foreign Relations of the FYROM, April 28, 1995.
4. OSCE Press Release, "Statement on Events in the former Yugoslav Republic of Macedonia by the OSCE High Commissioner on National Minorities," July 13, 1997. See also *Report of the High Commissioner on National Minorities Regarding His Visit to the FRY of Macedonia 10-13 July 1997*, July 16, 1997.
5. OSCE Press Release, "Inter-ethnic Relations Need Further Attention in the former Yugoslav Republic of Macedonia," November 9, 1998.
6. OSCE Press Release, "OSCE High Commissioner on National Minorities Addresses Permanent Council," May 12, 1999.
7. OSCE Press Release, "Violence a Threat to Peace and Stability in the former Yugoslav Republic of Macedonia," March 15, 2001.

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