

# Mediterranean Academy of Diplomatic Studies (MEDAC)

## OSCE Code of Conduct: Regional Conference for the Mediterranean



Malta, January 2014

Med Agenda — Special Issue  
Dr. Derek Lutterbeck and Dr. Monika Wohlfeld

MEDAC Publications in Mediterranean IR and Diplomacy

# OSCE Regional Conference on the Code of Conduct



The Hon. Dr. George Vella, Minister of Foreign Affairs of Malta opening the Conference



Prof. Dr. Stephen Calleya, Director of MEDAC, addressing the Conference

# OSCE Regional Conference on the Code of Conduct



Working Group at the Conference



Working Group at the Conference



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# **Report on the Regional Conference on the OSCE Code of Conduct on Politico-Military Aspects of Security for the Mediterranean Region**

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with the assistance of **Daniel Sammut**

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## **INTRODUCTION**

**F**rom 11-13 September 2013, the Organization for Security and Co-operation in Europe (OSCE) Conflict Prevention Centre, in partnership with the Mediterranean Academy of Diplomatic Studies in Malta (MEDAC), organized a conference on the OSCE Code of Conduct on Politico-Military Aspects of Security (CoC)<sup>1</sup>. The conference was hosted by the Government of Malta and co-sponsored by the OSCE participating States Austria, Germany and Switzerland. The conference was the sixth regional seminar on the Code of Conduct mandated by the OSCE's Forum for Security Co-operation, with previous seminars being held in Kazakhstan (2008), Bosnia and Herzegovina (2009), Belarus (2010), Ukraine (2011) and Latvia (2012).

The Malta Conference was the first ever conference on the Code of Conduct destined specifically for the Mediterranean

1 <http://www.osce.org/fsc/44574>

region and involving regional OSCE participating States as well as the majority of the OSCE's Mediterranean Partners for Co-operation: Algeria, Egypt, Jordan, Morocco and Tunisia. An important step in facilitating regional discussions on the CoC in the Mediterranean area has been the translation of the Code of Conduct into Arabic in 2013, upon the request of the Secretary General of the League of the Arab States, which was realized and co-sponsored by Germany and Switzerland.<sup>2</sup>

This report presents the background and main findings of the Malta conference. It begins with a brief discussion of the OSCE as a regional security organisation, the Code of Conduct on Politico-Military Aspects of Security, and the issue of civil-military relations in the Mediterranean region. This is followed by a summary of the discussions at the conference itself. Background documents and lists of further readings on the subject matter are enclosed in the annexes.

## **BACKGROUND TO THE CONFERENCE**

### *The OSCE*

**T**he Organization for Security and Co-operation in Europe (OSCE) is the world's largest regional security organization, encompassing 57 States from Europe, the Caucasus, Central Asia and North America.<sup>3</sup> It offers a forum for political negotiations and decision-making in the fields of early warning, conflict prevention, crisis management and post-conflict rehabilitation, and maintains a presence on the ground through a unique network of field missions.

The OSCE champions a comprehensive approach to security, including its politico-military, economic and environmental, and human aspects. This implies that the OSCE can address

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2 <http://www.osce.org/ar/fsc/99216>

3 <http://www.osce.org/>

a wide range of security-related issues. These include inter alia arms control and disarmament, confidence- and security-building measures, policing strategies and counter-terrorism, but also human rights issues. The Code of Conduct on Politico-Military Aspects of Security, a document agreed upon by CSCE participating States in 1994, is part of its acquis, and brings together all of these aspects to address a range of issues, including democratic-parliamentarian control of the armed and security forces, the implementation of International Humanitarian Law and the Law of Armed Conflicts by and within the armed forces, as well as the role of armed forces in democratic societies.

All 57 participating States enjoy equal status within the Organization. Decisions are taken by consensus. OSCE documents are politically binding.

### *The OSCE's Forum for Security Co-operation*

The Forum for Security Co-operation (FSC) was established at the 1992 Helsinki Summit to strengthen the Organization's focus on politico-military security.<sup>4</sup> It is one of the OSCE's two main regular decision-making bodies, the other being the Permanent Council (PC). The Forum meets weekly in Vienna and provides a unique platform for the OSCE participating States to discuss topical security challenges on an equal footing.

The agenda of the FSC Meetings allows participating States to raise and discuss security concerns and challenges. These discussions regularly lead to initiatives and measures to strengthen politico-military security, including confidence- and security-building measures (CSBMs) or to initiatives aimed at increasing stability through multinational assistance and capacity building projects.

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4 <http://www.osce.org/fsc>



The Forum's Chairmanship rotates (in alphabetical order) among the OSCE participating States, with each State holding the FSC Chairmanship for four months. The Forum approves documents and decisions by consensus. The FSC Support Section within the Conflict Prevention Centre of the OSCE Secretariat acts as the institutional memory of the FSC and supports the efforts of the OSCE participating States to implement FSC commitments. Malta will chair the FSC in the first trimester of 2014 (January-April) followed by Moldova (April-September) and Monaco (September-December).

### *The OSCE Code of Conduct on Politico-Military Aspects of Security (CoC)*

In 1994, the CSCE's Forum for Security Co-operation adopted the Code of Conduct on Politico-Military Aspects of Security (CoC), a landmark document on security sector governance. The CoC commits participating States to maintain, at all times, effective guidance and control of its military, paramilitary and security forces by constitutionally established authorities, and to ensure that they remain politically neutral and comply with the provisions of international humanitarian law. It also commits participating States assigning internal security missions to their armed forces to carry these out under the effective control of the civilian authorities. They must also, at all times, respect the rule of law as well as the principle of proportionality in cases where the use of force cannot be avoided. Moreover, the CoC prescribes that in such missions, international law and international humanitarian law must govern armed forces at all times. The CoC also prohibits the use of armed forces to suppress the peaceful and lawful exercise of civil rights by individuals, or to deprive them of their national, religious, cultural, linguistic or ethnic identity. Finally, the OSCE participating States must guarantee that the human and civil rights of armed and security

forces personnel are respected at all times.

Responsibility for implementing the CoC lies with the participating States. Each year, they report on their national practices in implementing the Code's provisions, based on a questionnaire (see Annex). This annual information exchange adds to the confidence and security promoted by the Code. The reports are published on the OSCE public website.<sup>5</sup>

In July 2012, the first Annual Discussion on the Implementation of the Code of Conduct was held in Vienna. During the meeting, the suggestion was put forward to pursue a strengthened outreach of the Code of Conduct to the OSCE Partners for Co-operation<sup>6</sup>.

### *The OSCE Mediterranean Partners for Co-operation*

The OSCE maintains privileged relations with 11 countries, which are known as Partners for Co-operation. Six of them are in the Mediterranean region, the remaining in Asia, including Australia. The OSCE's Mediterranean Partners for Co-operation are: Algeria, Egypt, Israel, Jordan, Morocco and Tunisia.

This relationship goes back to the Helsinki process of negotiations and the 1975 Helsinki Final Act, which included a Mediterranean chapter stating that security in Europe is closely linked with security in the Mediterranean as a whole. This inter-linkage has been underscored in various subsequent CSCE/OSCE documents.

Over the years, the OSCE has been able to exchange its experience with the Mediterranean Partners for Co-operation on a number of topics in all three dimensions of its work through ongoing dialogue and joint activities.

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5 <http://www.osce.org/fsc/86841>

6 <http://www.osce.org/fsc/100330>

A number of regular meetings, conferences and special events provide a broad framework for regular contact. Following the 1994 Budapest Summit decision, the Contact Group with the Mediterranean Partners for Co-operation was established within the framework of the Permanent Council. It is an informal group that meets periodically to facilitate the exchange of information and the generation of ideas. The annual OSCE Mediterranean Seminars offer an opportunity to exchange views and contribute to further developments in the relationship between the OSCE and the Mediterranean Partners for Co-operation. The seminars are also attended by international organizations, parliamentarians, academics and NGOs, leading to a cross-fertilization of ideas and recommendations. Significantly, Mediterranean Partners for Co-operation are invited as observers in Permanent Council and Forum for Security Co-operation meetings, as well as Ministerial Council and Summit meetings, and actively participate in annual events and review conferences. The OSCE Parliamentary Assembly and OSCE Institutions have also established a variety of formats for close co-operation with the Mediterranean Partners. The Contact Group with the Mediterranean Partners was chaired by Switzerland in 2013, followed by Serbia.

*Civil-Military Relations in the Mediterranean Region in the context of the 'Arab Spring'*

The issue of civil-military relations, which is at the heart of the OSCE Code of Conduct, has long been a key challenge in the Mediterranean region, and its relevance has only been enhanced since the dramatic events which have unfolded in the Mediterranean over the last two years. In many countries of the region, the military has traditionally played an important part in the political system, and the principle of civilian control of the military—as stipulated by the CoC—has at times been challenged. The political influence of the military has been the

result of a number of factors, such as its role in the struggle for independence, or the military's high degree of organisation which sometimes has given it an advantage over other state institutions. Military involvement in politics has varied from one country to the next, and has ranged from the direct (even if temporary) assumption of political power by the military to the more informal exercise of political influence by the military establishment. Moreover military and other security forces have regularly been accused of abuses and repression of political and other forms of popular discontent.

The popular uprisings which many countries of the Mediterranean have experienced over the last two years, and which in at least some countries have initiated a process of genuine democratisation, have further highlighted the importance of civil-military relations and the role of the military and other security forces in state and society. Key demands voiced by protesters have often included not only calls for more democratic rule and better economic opportunities, but also an end to abuses committed by security forces. Whereas the military has generally played a key role during the popular upheavals in the countries of the region, its response to the protest and pro-democracy movements and role during the ensuing transition phase has, however, varied considerably from one country to the next. While in some countries, the military has shown a willingness to support demands for political change and has acted as a stabilising force in the transition period, in other countries the military has been involved in the repression of pro-reform movements. It is, however, commonly agreed that any progress towards more democratic political systems in the region will also require a transformation of civil-military relations and the subordination of the military to democratically elected civilian authorities.

## THE MALTA CONFERENCE

The main objective of the Malta conference was to discuss the implementation of the CoC among the OSCE participating States of the Mediterranean region, by sharing practical examples and experiences, as well as to raise awareness of the norms and principles enshrined in the CoC among the OSCE Mediterranean Partners for Co-operation. Furthermore, a practical part with national presentations and exhibitions, as well as interactive debates in working groups, allowed representatives to discuss the implementation and application of International Humanitarian Law and Law of Armed Conflicts training within the armed and security forces of their respective countries. The conference was attended by around 50 participants from 20 countries of the Mediterranean region and beyond. All of the OSCE's Mediterranean Partners for Co-operation participated in the conference (except Israel due to the Yom Kippur holiday). Delegates to the conference included one Foreign Minister, several MFA Director-Generals, Ambassadors, one MoD chef de cabinet and several Colonels. The conference was opened by a key note address by the Foreign Minister of Malta, the Hon. Dr. George Vella.<sup>7</sup>

### *The main elements of the Code of Conduct (CoC)*

The first parts of the conference focused primarily on the content and main principles of the CoC, often described as 'the hidden jewel' of the OSCE. While the CoC is a short document dealing with the governance of the security sector, it brings together a multi-faceted approach to security in a unique way: with its cross-dimensional approach, interlacing the politico-military with the human dimension, it emphasizes the values

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7 See Annex

of co-operation, the rule of international law, as well as the importance of arms control and disarmament.

The CoC has been described as consisting of three elements: a normative element, a functional element and an implementation element. The normative elements oblige participating States to provide for democratic oversight of military, paramilitary and internal security forces as well as intelligence services and the police (CoC paragraph 20). They are also obliged to ensure that their armed and security forces remain politically neutral and to guarantee that the human rights of security personnel are respected. Moreover, the Code contains principles governing the relations between participating States and calls on them to implement all agreed confidence- and security-building measures and arms control agreements. In addition, it stipulates that participating States should maintain only such armed forces as are necessary for individual and collective self-defence.

The CoC functional provisions fall into four main categories or pillars:

1. Supremacy of democratic, constitutional, civilian power over the security sector (CoC paragraphs 21–26)
2. Subjection of armed forces to the norms and prescriptions of International Humanitarian Law (CoC paragraphs 29, 30, 31, 34, 35)
3. Respect of the human rights and fundamental freedoms of armed forces personnel (CoC 23, 27, 28, 32, 33)
4. Regulation of the use of armed forces for internal purposes (CoC paragraphs 36, 37).

It was argued by one participant that in current events, the CoC can be applied in a number of different situations, namely where military, paramilitary and security forces are active in

international armed conflicts; when military, paramilitary and security forces are active in internal conflicts; and to assure protection of the rights of armed forces personnel. One speaker suggested that the CoC has to be understood as a new dimension in arms control and confidence-building.

### *Relevance of the CoC*

While the CoC emerged in response to the challenges of the post-Cold War era, it was emphasized that it remains relevant and functional. Reporting on implementation of the CoC has taken place on a regular basis. In 2013, 53 of the 57 participating States submitted reports on the implementation of the CoC under the annual information exchange. A number of participating States also submitted additional voluntary information, on women and security and on private military companies. This information exchange remains on a very high and stable level.

One speaker emphasized the importance parliamentarians attach to the democratic control of the military and the role they play in ensuring that the security sector is part of the democratic system. The active role of the OSCE Parliamentary Assembly (PA) in working with the CoC was referred to, and participating States were called upon to better implement the CoC, by organizing discussions and events on security sector governance and by emphasizing the role national parliaments should play in this area. Beyond the OSCE PA, there are other inter-parliamentary bodies which are also working on the issue. Co-operation between them has taken place, but it needs to be further strengthened.

The significant role that civil society should play in ensuring proper governance of the security sector was also highlighted. The OSCE ODIHR publication on the rights of armed forces personnel entitled 'The Handbook on Human Rights and Fundamental

Freedoms of Armed Forces Personnel’ was presented to the seminar participants.<sup>8</sup> Abuses such as bullying and hazing in the armed forces should be addressed, also because they undermine the credibility and image of the armed forces. Military justice issues were also discussed, in particular the role of civil society in the monitoring process. Gender is another important issue to consider in the context of security sector reform.

Next year will mark the 20<sup>th</sup> anniversary of the CoC. The question must thus be asked what can be done to further assist participating States in better implementing the CoC and to encourage Partners for Co-operation to make best use of the norms and principles of the CoC. It was stated that further awareness raising activities are needed, in the form of seminars and conferences, and that outreach to OSCE’s Mediterranean and Asian Partners should be pursued.

A number of speakers emphasized that the CoC was not only a significant document for the participating States, but also an ‘export product’. The OSCE CoC partly served as a model for developing similar norms and provisions in regions beyond the OSCE, such as ECOWAS and the African Union. Indeed, while the OSCE Mediterranean Partners are not subject to the OSCE acquis, they may benefit from experiences of OSCE participating States in applying the provisions of the CoC. However, speakers also emphasized that it was necessary to take into account the different security conditions and different legal systems of the countries concerned. ‘One size does not fit all’, as one speaker stated.

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8 <http://www.dcaf.ch/Publications/Handbook-on-Human-Rights-and-Fundamental-Freedoms-of-Armed-Forces-Personnel>



### *Shortcomings and challenges of the CoC*

While the CoC was described as a relevant and useful document for the OSCE area and beyond, a number of speakers also pointed out that the CoC had certain gaps and that the implementation of the CoC also needed to be improved. The main gap which was highlighted during the conference concerned the applicability of the CoC to private military companies and non-state actors.

Moreover, one speaker argued that many countries lacked experience in applying the necessary multi-dimensional and multi-stakeholder approach on which the CoC was based. The OSCE ODIHR representative noted in a similar vein that processes needed to be inclusive of civil society. He suggested that information exchanges should be supplemented by meetings, possibly at regional level, in order to include feedback from civil society.

Concerning the implementation of the CoC, it was stated that while the response rates of the annual questionnaire have been very good, better follow-up was required. This was at least partly addressed by the decision to hold annual review meetings, which began in 2012. One proposal, put forward by Switzerland as the incoming Chairmanship of the OSCE, and co-sponsored by a number of states, including Germany, is to create a Compilation of Practical Examples for Democratic Control of the Armed Forces (CPE DCAF), in which participating States would present their practical procedures and arrangements concerning the democratic control of armed and security forces. Such a compilation could help close the gap between theory and practice when it comes to this central part of the Code of Conduct. The proposal is considered a priority for the incoming Swiss Chairmanship of the OSCE.

Participants enquired whether it would also be useful to present in this compilation of practical examples, on a voluntary basis, examples of problems or failures in the implementation of the

CoC, but it was felt that this was not an exercise in naming and shaming participating States, but rather of presenting constructive ways of approaching the provisions of the CoC.

*Experiences in implementing the CoC in OSCE participating States and in applying IHL/LOAC provisions in OSCE Partners for Co-operation*

During the seminar, participants from OSCE participating States and Partner States presented their national experiences related to the Code's provisions. It was evident that even within the European Union and the western hemisphere more generally, different political systems result in different solutions to specific aspects of the provisions of the CoC. Moreover, the CoC is only one of several sources used in debates on security sector governance. For example constitutional provisions on individual responsibility of members of the armed forces adopted in Germany following the Second World War correspond with the CoC spirit and letter, but evidently were not implemented in response to it. On the other hand, in states having undergone post-cold war reforms or a post-conflict reconstruction in the OSCE area, the CoC played in some cases a significant role in guiding the efforts to conceptualize the role and place of the security sector. The case study of Bosnia and Herzegovina was particularly interesting in this respect, as it highlighted the direct role of the OSCE and the CoC, but also the challenges that emerged in implementing the provisions with regard to the far reaching defence reforms.

*OSCE Mediterranean Partners and the CoC*

One of the speakers from the Mediterranean region emphasised in his presentation that Arab countries are not only different from European countries, but they also differ significantly among

themselves, including with regards to their security sectors. While it was agreed that security forces would continue to play a key role in the political evolution of the countries in the region, it would be mistaken to adopt a uniform approach to issues of security sector governance. Rather the specific situation of each individual country needed to be taken into account.

Nevertheless, speakers from the Mediterranean Partners suggested that the 'Arab Spring' was inter alia an outcry against abuses committed against Arab citizens for which security forces also bore a responsibility. Thus, civil-military relations should be reconsidered, whereby each country should come up with its own approach. One speaker from the southern Mediterranean noted that democratic control of the armed forces was inevitable and desirable and another highlighted that 'civilian control of the military' was a 'cornerstone of the democratisation process'. However, each state had its own dynamic and security challenges which should be respected.

Evidently, where such a re-configuration of civil-military relations will take place, it needs to be understood that this is not an easy process, due to lack of experience and know-how. In this respect, international partners' practical support would be invaluable. One speaker underlined the role of Geneva-based Centre for Democratic Control of Armed Forces (DCAF)<sup>9</sup>, the EU and the UN in this respect. The OSCE Mediterranean dialogue was also mentioned as relevant. A number of speakers pointed to the useful 5+5 regional co-operation on security matters.

Speakers from the Mediterranean Partners also presented constitutional reforms in their countries aimed at addressing civil-military relations. Others highlighted challenges linked to influx of refugees and armed fighters coming in from states such as Libya. It was underlined that any assistance to Partner States should be guided by the principle of Partner States' ownership,

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9 <http://www.dcaf.ch/>

and should accept sensitivities and specificities of the region. The approach should be constructive and not paternalist. This also implied a need to share experiences through the provision of training, including of high level policy-makers. Emphasis in this context should be placed on structural training (train the trainers, training of officers and NCOs as well as staff colleges training), and awareness raising campaigns. Dissemination of information was also emphasized, while the suggestion was made to use a variety of regional fora including the 5+5 and NATO's Mediterranean Dialogue. Moreover, one Mediterranean Partner for Co-operation called on the OSCE and its participating States to provide seminars and training and declared its readiness to host such events and activities.

### *Conclusions and Recommendations*

Conference participants generally agreed that the OSCE Code of Conduct remained a relevant and valuable document in the current security and political environment. The broad and high level representation of practically all Mediterranean countries at the conference in itself testifies to the continued relevance of the CoC in setting guidelines for civil-military relations in and beyond the OSCE area. Even though it was agreed that the Code of Conduct cannot and should not be transposed in toto to the Mediterranean Partners for Co-operation, it was concluded that some of its elements, adjusted to national needs and regional dynamics, can serve as an inspiration for shaping and reforming civil-military relations in the Mediterranean region. The experiences made by ECOWAS and the African Union having adopted similar instruments were also stressed in this regard.

The main recommendations emanating from the conferences were as follows:

- Assistance to the Mediterranean Partners for Co-operation should be guided by the principle of Mediterranean Partners' ownership and priorities, and should take into account sensitivities and specificities of the region.
- The Code of Conduct can serve as a useful inspiration to guide national and regional processes of security sector reform and governance. With its comprehensive approach, it constitutes a unique document to govern the role of armed forces in democratic societies, which is a critical issue in the current regional context of the Mediterranean.
- Sharing experiences through the provision of training, including for high level policy-makers is needed. Emphasis in this context should be placed on structural training (train the trainers, training of officers and NCOs as well as staff colleges training).
- Awareness raising campaigns and better dissemination of information is necessary. Practical examples of application should be made available to Partner States. Regional events and seminars should continue taking place, if possible hosted by Partner States.
- The Arabic version of the Code of Conduct, produced by Germany and Switzerland, was stressed as a very useful tool for outreach. The potential for institutional dialogue with the League of Arab States was underlined.
- A variety of other regional fora including the 5+5 and NATO's Mediterranean Dialogue could be involved in the effort of sharing experience with Mediterranean Partner States.



### **Additional Literature on the Code of Conduct on Politico-Military Aspects of Security**

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**Regional Conference on the OSCE CODE OF CONDUCT  
ON POLITICO-MILITARY ASPECTS OF SECURITY  
FOR THE MEDITERRANEAN REGION,**

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Malta, 11 – 13<sup>th</sup> September 2013

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**AGENDA**

**Wednesday, 11<sup>th</sup> September**

**16:15-17:00**

**OPENING SESSION**

- Moderator: Mr. Fabian Grass (CPC, OSCE)
- H.E. Dr. George Vella (Foreign Minister of Malta)
- Mr. Mathew Geertsen (CPC, OSCE)
- Prof. Stephen Calleya (MEDAC)
- Mr. Thomas Göbel (Federal Foreign Office, Germany)

**17:00-18:00**

**INTRODUCTORY SESSION ON THE OSCE CODE OF CONDUCT ON  
POLITICO-MILITARY ASPECTS OF SECURITY**

- Moderator: Mr. Mathew Geertsen (CPC, OSCE)
- Col. Prasenjit Chaudhuri (Switzerland)

**20:00**

**WELCOME DINNER**

- Hosted by the Maltese Foreign Ministry

## Thursday, 12<sup>th</sup> September

- 09:00-10:15**            **SESSION I – IMPLEMENTATION OF THE OSCE CODE OF CONDUCT BY OSCE PARTICIPATING STATES**
- Examples and experiences of implementation of the Code of Conduct by OSCE participating States
  - Moderator: LtCol. Detlef Hempel (FSC Co-ordinator on the Code of Conduct)
  - Presentations by Brig. Hamza Visca (Bosnia and Herzegovina), Cdr. Helder Fialho de Jesus (Portugal), Maj. Magin Arribas (Spain) and Ms. Bilge Koçyigit (Turkey)
  - Commentator: Dr. Alexandre Lambert (SIT, Geneva)
- 10:45-11:00**            **KEYNOTE ADDRESS BY THE OSCE PARLIAMENTARY ASSEMBLY**
- Moderator: H.E. Mr. Sergio Piazzi (PAM)
  - Mr. Makis Voridis (Chair, General Committee on Political Affairs and Security, OSCE Parliamentary Assembly)
- 11:00-12:30**            **SESSION II – NATIONAL AND REGIONAL EXPERIENCES BY OSCE MEDITERRANEAN PARTNERS FOR CO-OPERATION / LEAGUE OF ARAB STATES**
- National and regional examples, views and experiences made with regard to security sector reform, the democratic control of armed and security forces, training of armed forces in international humanitarian law, respect for human rights of armed forces or inter-state regional security co-operation by selected OSCE Mediterranean Partners for Co-operation and the League of Arab States
  - Moderator: Dr. Mohammad-Mahmoud Mohamedou (GCSP)
  - Presentations by Col. Omar Al-Dwairi (Jordan), Mr. Nabil Adghoughi (Morocco), Mr. Ridha Ben Rabah (Tunisia), and H.E. Mr. Talal Shubailat (League of Arab States) and Mr. Nor-eddine Benfreha (Algeria).
  - Commentator: Dr. Arnold Luethold (DCAF)

**14:00-16:30**

**SESSION III - NATIONAL PRESENTATION TABLES AND WORKING GROUPS**

- Presentation through national tables by selected OSCE pS and OSCE Mediterranean Partners for Co-operation of practical implementation practices, such as training manuals, national strategies/concepts, guidelines etc. with regard to training of armed forces in international humanitarian law, respect for human rights of armed forces, security sector reform and the democratic control of armed and security forces
- Co-ordinator: Maj. Thomas Schmidt (Switzerland)
- National tables presented by Austria (Mr. Gerhard Scherhauser), Jordan (Col. Omar Al-Dwairi), Malta (Maj. James Grixti), Spain (Maj. Magin Arribas) and ODIHR (Mr. Oyvind Høyen).
- Group discussions in three working groups

## **Friday, 13<sup>th</sup> September**

### **09:00-10:00           SESSION IV – PRESENTATION OF THE IDEA OF A COMPILATION OF PRACTICAL EXAMPLES FOR THE DEMOCRATIC CONTROL OF THE ARMED AND SECURITY FORCES**

- Moderator: Col. Anton Eischer (Austria)
- Presentation by Col. Hans Lüber (Switzerland)

### **10:00-10:45           SESSION IV CONT. – WORKING GROUP DISCUSSIONS**

- Continuation of the three working groups of the preceding day
- De-brief by working groups and plenary discussion

### **11:15-12:00           CONCLUDING PANEL DISCUSSION**

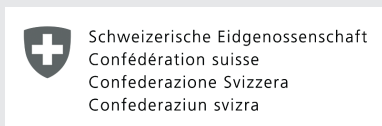
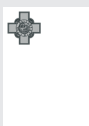
- Moderator: Dr. Derek Lutterbeck (MEDAC)
- Dr. Alexandre Lambert (SIT) and LtCol. Detlef Hempel (FSC Co-ordinator for the Code of Conduct)
- Dr. Arnold Luethold (DCAF) and Dr. Mohammad-Mahmoud Ould Mohamedou (GCSP)
- Col. Anton Eischer (Austria) and Maj. Thomas Schmidt (Switzerland)

### **12:00-12:30           CLOSING SESSION**

- Moderator: Mr. Fabian Grass (CPC, OSCE)
- Maj. Gen. Alojz Steiner (Slovenia)
- Dr. Monika Wohlfeld (MEDAC)
- Donors: Col. Prasenjit Chaudhuri (Switzerland)



# OSCE Organization for Security and Co-operation in Europe



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**STATEMENT by THE HON. GEORGE VELLA  
MINISTER OF FOREIGN AFFAIRS  
OF THE REPUBLIC OF MALTA**

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during the opening session of the OSCE seminar  
**CODE OF CONDUCT SEMINAR  
ON POLITICO-MILITARY ASPECTS OF SECURITY  
FOR THE MEDITERRANEAN REGION,**  
11<sup>th</sup> September 2013

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Distinguished guests, Ladies and Gentlemen,

**I**t is my pleasure to welcome you here today and to thank the Conflict Prevention Centre under the OSCE's Forum for Security Cooperation for having chosen Malta to host this Seminar on the Code of Conduct on Politico-Military Aspects of Security for the Mediterranean Region. While this is not the first OSCE Seminar held in Malta dealing specifically on Mediterranean related issues, yet it is the first event of its nature which is addressing contemporary issues of particular relevance to the Mediterranean region.

Malta's geo-strategic relevance in the centre of the Mediterranean has led the country to pursue a proactive foreign policy. The importance Malta attaches to security in the Mediterranean is well-known. We have constantly sought to highlight this in all international fora, not least in the Organization for Security and Co-operation in Europe. It will be recalled that it was Malta which nearly four decades ago, during the Helsinki Conference on Security and Cooperation, initiated the Mediterranean Process. It is also appropriate to recall that in its Final Act, the Helsinki Conference adopted the Mediterranean Chapter which, among other things, declared that security in the Mediterranean is closely linked to European Security, as well as to international peace and security. Indeed, what is happening in this region today is the embodiment of this concept borne out of the Helsinki Conference, and confirms the foresight of the Government of Malta in those days, when the Cold War dominated international regional politics.

The Guiding Principles of Malta's Foreign Policy clearly reaffirm Malta's intention to continue to give special attention to the Mediterranean dimension in its contribution to stability, peace and security in the region by seeking, among other things, to support neighbouring countries in their endeavours to establish functioning democracies based on the principles of justice, freedom and the rule of law.

Our foreign policy agenda is shaped and dictated from all that happens around us. We are certainly aware of the challenges that surround us but also conscious of the opportunities that lie within reach for all the peoples of the Mediterranean, and we seek to ensure that our foreign policy is geared towards bringing this to light and to fruition. In underscoring Malta's tangible contribution to the Mediterranean basin's development, I should stress that Malta promotes the OSCE Code of Conduct in all its stages but in particular in the implementation phase. The current political situation in the region and the new political dynamics emanating in this Mediterranean region have brought about different demands and different approaches to conveying transparency and accountability. But we all have one goal in common - to seek that which brings maximum benefit to the Peoples of the Mediterranean. It is for this reason that in terms of the actual needs of the Mediterranean, Malta intends to sensitize all stakeholders to contribute in a tangible way to the effectiveness of transparent implementation of the Code at all stages.

When it comes to addressing Mediterranean security challenges, the list of threats and risks is overwhelming. It runs the whole gamut from illegal migration, to human trafficking, terrorism, cultural conflicts, occupation, and security issues. Border disputes remain as do conflicts over scarce resources. In some areas, human rights and fundamental freedoms remain simply lofty ideals. However, though there is much cause for pessimism, hope will always force us to rise above the indifference and intolerance. It is in this spirit, that we should seek to strive to make this region, and its immediate neighbourhood, prosperous, stable, and secure. Malta will, as it has always done, continue to work hand in hand with its European partners, and in particular with its Mediterranean partners, in order



to adopt a proactive stance when it comes to influencing international relations in the Mediterranean region and beyond. The Mediterranean must avoid becoming the fault-line separating the glaring disparities between the North and the South.

Security is multifaceted in origin. Cooperation brings about security, but lack of security necessitates the use of forces to restore stability. This is when security/military forces come in. Malta together with the OSCE participating States recognizes the importance of submitting these security forces to democratic control and oversight. It is for this reason that we refer to the Code of Conduct on Politico-Military Aspects of Security as a landmark document in security sector governance. We appreciate that the Code obliges Participating States to provide for democratic oversight of their armed, internal, paramilitary and intelligence forces as well as the police. In respecting and implementing this Code we are also obliged to ensure that the armed forces remain politically neutral, and to guarantee that the human rights of security personnel are respected. In line with the Code we expect participating states to implement security-building measures and arms control agreements.

In a democracy, Parliaments' role in overseeing the military's conduct is critical and necessary. As the representatives of the people, Parliamentarians are mandated to ensure that the military's role is confined to guaranteeing the safeguarding of the legitimate aspirations of the people in pursuing a democratically-based society. Therefore, Parliaments must exercise the legal and constitutional rights given to them by the electorate through secret ballot, in creating the appropriate and necessary conditions of transparency and accountability which should avoid any abuses of power or any shirking of responsibility, by the security services in the course of their duties to maintain law and order. Former French Prime Minister Georges Clemenceau has been quoted as saying that "War is a much too serious matter to be entrusted to the military". Could we transpose this quote to reflect today's circumstances?

In most societies civilian control has gained special significance today.

Unfortunately, in many parts of the world, not least in neighbouring regions, societies are still struggling to build institutions for democratic governance. The constraints imposed on society by democracy, become all the more acceptable, when comparison is made with the insecurity, instability and the anarchy found in countries where democracy and democratic control are lacking. It is my Government's firm conviction that civilian control of the military and security forces is to keep these forces on track to achieve the larger purposes of a nation, rather than the other way round. This is democracy in practice. The purpose of the military is clearly to defend and protect society. Civilian control of military forces is intended to keep the military in check, assess accountability and assume responsibility.

Civilian control does offer some challenges. In some mature democratic systems civilian control has always been strong. The question today is to what extent such civilian control can actually have effect in military policy and in decision making?

If the military challenges and overrules civilian leadership and control, then democracy and the rule of law will be seriously threatened. This is undoubtedly not the path to be followed by democratic countries. Such practices stall progress towards democratic civilian-military relations. The sooner military and security forces relinquish power and subject themselves to civilian control through parliamentary scrutiny, the better for democratic governance. Malta understands situations where circumstances have led to military supremacy, and while auguring that the situation returns to normality, hopes that the transition period will be the shortest possible and the least traumatic on society and the citizens at large.

Malta confirms its commitment in the ongoing search for democracy, respect for human rights, dignity and social justice. Malta has joined other States in condemning all forms of violence by whoever, whenever and wherever these acts are perpetrated resulting in considerable loss of life and injuries. We also want to emphasise the importance of minorities and the need to respect the fundamental human rights and freedoms such as the right for freedom of expression and the right

for peaceful process. At this point we cannot fail but mention the importance of keeping all communication open in order to explore all avenues in securing the immediate cessation of hostilities, and to embark on the peaceful process of mediation and dialogue. In this context, the crucial support of all concerned countries, including those of the Mediterranean, is imperative if we are to avoid further instability in the region and beyond. The role of the EC-League of Arab States Liaison Office, which Malta proudly hosts, in facilitating this dialogue cannot be underestimated.

It is a fact that democratic political control of military, paramilitary and internal security forces is a commitment all OSCE participating States have undertaken in the framework of the OSCE Code of Conduct. As I have stressed in my Statement earlier, Parliamentary scrutiny and effective powers of oversight need to be strengthened and parliamentary authority safeguarded and promoted. It is this message which I want to stress today and which I hope will come out as one of the principal messages of this Seminar.

Malta has in the past invariably devoted particular attention to its foreign policy priorities in the Mediterranean region. Malta reaffirms its Mediterranean vocation and plans to continue to do so with added vigour in the coming years. We aspire to see the values of democracy and human rights, values which we hold dear, being enjoyed equally by all peoples in the region around us. I know that the task is huge, but committed to its Mediterranean vocation, as always, Malta considers this as a challenge and looks forward to continue playing an active role in the implementation of projects and initiatives that will contribute, in a tangible way, towards achieving more peace and more prosperity and stability in the region.

May I take this opportunity to thank the sponsoring countries, Austria, Germany, Switzerland and the OSCE Secretariat, for making it possible to hold this meeting in Malta and MEDAC for facilitating this event. I am sure that it will be a most successful Seminar. To all Participants, I wish all of you the best during your stay in Malta.



## List of Participants

<b>Albania</b>		
	Mr. Xhodi SAKIQI	Counsellor and Deputy Chief of Mission, Permanent Mission of Albania to the International Organizations in Vienna
<b>Algeria</b>		
	Mr. Nor-eddine BENFREHA	Deputy Director, Ministry of Foreign Affairs
	Col. Rabah OUALI	Chargé d'études et de synthèses, Ministry of National Defense of Algeria
	Col. Abdelhamid KHELIA	Assistant of the Director in Charge of Multilateral Relations, Ministry of National Defense of Algeria
<b>Austria</b>		
	Col. Anton EISCHER	Senior Military Adviser, Permanent Mission of Austria to the OSCE
	Mr. Gerhard SCHERHAUFER	Legal Adviser, Austrian Ministry of Defense
<b>Bosnia and Herzegovina</b>		
	Brig. Hamza VISCA	Head of International Military Co-operation Division, J5, Joint Staff of Armed Forces of Bosnia and Herzegovina



From left to right: Col. Hans Lüber, Col. Anton Eischer, Col. Prasenjit Chaudhuri, the Hon. Dr. George Vella, Mr. Thomas Göbel, Lt. Col. Dettlef Hempel, Mr. Matthew Geertsen, Dr. Mohamed Mahmoud Mohamedou, and Prof. Dr. Stephen Calleya



Family photo of the Conference Participants





Minister of Foreign Affairs, the Hon. Dr. George Vella, delivering the Keynote Opening Address at the Conference.



From left: Dr. Derek Lutterbeck, Dr. Monika Wohlfeld, H. E. Amb. Alfred Zarb,  
and Lt. Col. Detlef Hempel.



<b>Cyprus</b>		
	Capt. Andreas GENNARIS	OSCE Desk Officer, Defense Policy and International Affairs Directorate
<b>Egypt</b>		
	H.E. Dr. Magda BARAKA	Ambassador, Embassy of Egypt, Malta
<b>Finland</b>		
	Cdr. Petri ILVESARO	Military Adviser, Permanent Mission of Finland to the OSCE
<b>France</b>		
	Ms. Lydia TABTAB	OSCE Desk Officer, French Ministry of Foreign Affairs
<b>Germany</b>		
	Mr. Thomas GÖBEL	Head of Division for Conventional Arms Control, Federal Foreign Office
<b>Greece</b>		
	Cdr. Vasileios LOUKOVITIS	Defence Planning and Programming Directorate, Hellenic National Defence General Staff
<b>Italy</b>		
	Mr. Raffaele FESTA	First Secretary, Italian OSCE Delegation in Vienna

<b>Jordan</b>		
	Col. Omar AL-DWAIRI	Director of International Affairs, Jordan Armed Forces GHQ
<b>Malta</b>		
	Ambassador Alfred ZARB	Special Advisor, Ministry of Foreign Affairs
	Dr. Sharon SCICLUNA	Assistant Director, Ministry of Foreign Affairs
	Maj. James GRIXTI	Headquarters, Armed Forces of Malta
	Capt. Neil HAMPTON	Headquarters, Armed Forces of Malta
	Mr. Roderick FORMOSA	OSCE Desk Officer, Ministry of Foreign Affairs
	Ms. Eleanor SCERRI	Research Analyst, Foreign and European Affairs, Parliament of Malta
<b>Montenegro</b>		
	Ms. Sanela DOZGIC	Chief of Cabinet, Ministry of Defense
<b>Morocco</b>		
	Mr. Nabil ADGHOUGHI	Director-General of Bilateral Relations and Regional Affairs, Ministry of Foreign Affairs and Co-operation

<b>Portugal</b>		
	Cdr. Helder JESUS	Military Advisor (NATO)
<b>Slovenia</b>		
	Maj. Gen. Alojz STEINER	Military Adviser, Permanent Representation of the Republic of Slovenia to the UN, OSCE and other International Organizations in Vienna
<b>Spain</b>		
	Maj. Magin ALVAREZ ARRIBAS	Deputy Military Adviser, Spanish Permanent Representation to the OSCE
<b>Switzerland</b>		
	Col. Prasenjit CHAUDHURI	Deputy Head of Euro-Atlantic Security Cooperation Division, Head Project Organisation Swiss OSCE Chairmanship 2014, Department of Defence, Armed Forces, International Relations
	Col. (GS) Hans LÜBER	Military Adviser, Swiss Delegation to the OSCE
	Maj. Thomas SCHMIDT	Deputy Head Regional Military Co-operation, Project Officer Swiss OSCE Chairmanship 2014 DoD, Armed Forces Staff, International Relations

<b>Tunisia</b>		
	Mr. Ridha BEN RABAH	General Director, General Direction of International Co-operation, Ministry of Interior
	H.E. Mrs. Souad GUEBLAOU	Ambassador, Embassy of Tunisia, Malta
	Mr. Mounir JOMNI	Counsellor, Embassy of Tunisia, Malta
<b>Turkey</b>		
	Ms. Raziye Bilge KOCYIGIT	Counsellor, Permanent Mission of Turkey to the OSCE
<b>League of Arab States</b>		
	H.E. Mr. Talal SHUBAILAT	Executive Director, EC-LAS Liaison Office, Malta
	Mr. Ahmed ADEL	European Affairs Department, League of Arab States HQ, Cairo
<b>Parliamentary Assembly of the Mediterranean</b>		
	Dr. Sergio PIAZZI	Secretary General
	Mr. Mourad YOUSSEFI	Deputy Secretary General

<b>Speakers and Experts</b>		
	Dr. Arnold LUETHOLD	Head of Operations, Middle East Division and North Africa, Geneva Centre for the Democratic Control of Armed Forces (DCAF)
	Dr. Mohamed Mahmoud MOHAMEDOU	Head, Regional Program, Geneva Centre for Security Policy (GCSP); Visiting Professor, Graduate Institute of International and Development Studies
	Mr. Makis VORIDIS	Chair of the OSCE Parliamentary Assembly General Committee on Political Affairs and Security, MP Greece
	Dr. Alexandre LAMBERT	Academic Director / Professor, School for International Training (SIT), Switzerland
	Mr. Oyvind HOYEN	Human Rights Officer, OSCE Office for Democratic Institutions and Human Rights (ODIHR)
<b>OSCE</b>		
	LtCol. Detlef HEMPEL	FSC Chairperson's Co-ordinator for the Code of Conduct, and Military Adviser, Mission of Germany to the OSCE
	Mr. Mathew GEERTSEN	Head of FSC Support Section, Conflict Prevention Centre, OSCE Secretariat
	Mr. Fabian GRASS	FSC Support Officer, Conflict Prevention Centre, OSCE Secretariat

<b>OSCE (cont.)</b>		
	Mr. Kristijan PODBEVSEK	Project Assistant, Conflict Prevention Centre, OSCE Secretariat
<b>Mediterranean Academy of Diplomatic Studies</b>		
	Prof. Stephen CALLEYA	Director of the Mediterranean Academy of Diplomatic Studies, University of Malta
	Dr. Derek LUTTERBECK	Deputy Director and Holder of the Swiss Chair Mediterranean Academy of Diplomatic Studies, University of Malta
	Dr. Monika WOHLFELD	Holder of the German Chair in Peace and Conflict Prevention
	Ms. Audrey CASSAR	Mediterranean Academy of Diplomatic Studies, University of Malta
	Mr. Daniel SAMMUT	Mediterranean Academy of Diplomatic Studies, University of Malta

# **CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY**

**(Adopted at the 91st Plenary Meeting of the Special Committee of the CSCE Forum for Security Co-operation in Budapest on 3 December 1994)**

## **PREAMBLE**

The participating States of the Conference on Security and Co-operation in Europe (CSCE),

Recognizing the need to enhance security co-operation, including through the further encouragement of norms of responsible and co-operative behaviour in the field of security,

Confirming that nothing in this Code diminishes the validity and applicability of the purposes and principles of the Charter of the United Nations or of other provisions of international law,

Reaffirming the undiminished validity of the guiding principles and common values of the Helsinki Final Act, the Charter of Paris and the Helsinki Document 1992, embodying responsibilities of States towards each other and of governments towards their people, as well as the validity of other CSCE commitments,

Have adopted the following Code of Conduct on politico-military aspects of security:

### **I**

1. The participating States emphasize that the full respect for all CSCE principles embodied in the Helsinki Final Act and the implementation in good faith of all commitments undertaken in the CSCE are of fundamental importance for stability and security, and consequently constitute a matter of direct and legitimate concern to all of them.
2. The participating States confirm the continuing validity of their comprehensive concept of security, as initiated in the Final Act, which

relates the maintenance of peace to the respect for human rights and fundamental freedoms. It links economic and environmental co-operation with peaceful inter-State relations.

3. They remain convinced that security is indivisible and that the security of each of them is inseparably linked to the security of all others. They will not strengthen their security at the expense of the security of other States. They will pursue their own security interests in conformity with the common effort to strengthen security and stability in the CSCE area and beyond.

4. Reaffirming their respect for each other's sovereign equality and individuality as well as the rights inherent in and encompassed by its sovereignty, the participating States will base their mutual security relations upon a co-operative approach. They emphasize in this regard the key role of the CSCE. They will continue to develop complementary and mutually reinforcing institutions that include European and transatlantic organizations, multilateral and bilateral undertakings and various forms of regional and subregional co-operation. The participating

5. They are determined to act in solidarity if CSCE norms and commitments are violated and to facilitate concerted responses to security challenges that they may face as a result. They will consult promptly, in conformity with their CSCE responsibilities, with a participating State seeking assistance in realizing its individual or collective self-defence. They will consider jointly the nature of the threat and actions that may be required in defence of their common values.

## II

6. The participating States will not support terrorist acts in any way and will take appropriate measures to prevent and combat terrorism in all its forms. They will co-operate fully in combating the threat of terrorist activities through implementation of international instruments and commitments they agree upon in this respect. They will, in particular, take steps to fulfil the requirements of international agreements by which they are bound to prosecute or extradite terrorists.



### III

7. The participating States recall that the principles of the Helsinki Final Act are all of primary significance and, accordingly, that they will be equally and unreservedly applied, each of them being interpreted taking into account the others.

8. The participating States will not provide assistance to or support States that are in violation of their obligation to refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Charter of the United Nations and with the Declaration on Principles Guiding Relations between Participating States contained in the Helsinki Final Act.

### IV

9. The participating States reaffirm the inherent right, as recognized in the Charter of the United Nations, of individual and collective self-defence.

10. Each participating State, bearing in mind the legitimate security concerns of other States, is free to determine its security interests itself on the basis of sovereign equality and has the right freely to choose its own security arrangements, in accordance with international law and with commitments to CSCE principles and objectives.

11. The participating States each have the sovereign right to belong or not to belong to international organizations, and to be or not to be a party to bilateral or multilateral treaties, including treaties of alliance; they also have the right to neutrality. Each has the right to change its status in this respect, subject to relevant agreements and procedures. Each will respect the rights of all others in this regard.

12. Each participating State will maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account its obligations under international law.

13. Each participating State will determine its military capabilities

on the basis of national democratic procedures, bearing in mind the legitimate security concerns of other States as well as the need to contribute to international security and stability. No participating State will attempt to impose military domination over any other participating State.

14. A participating State may station its armed forces on the territory of another participating State in accordance with their freely negotiated agreement as well as in accordance with international law.

## V

15. The participating States will implement in good faith each of their commitments in the field of arms control, disarmament and confidence- and security-building as an important element of their indivisible security.

16. With a view to enhancing security and stability in the CSCE area, the participating States reaffirm their commitment to pursue arms control, disarmament and confidence- and security-building measures.

## VI

17. The participating States commit themselves to co-operate, including through development of sound economic and environmental conditions, to counter tensions that may lead to conflict. The sources of such tensions include violations of human rights and fundamental freedoms and of other commitments in the human dimension; manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism also endanger peace and security.

18. The participating States stress the importance both of early identification of potential conflicts and of their joint efforts in the field of conflict prevention, crisis management and peaceful settlement of disputes.

19. In the event of armed conflict, they will seek to facilitate the effective

cessation of hostilities and seek to create conditions favourable to the political solution of the conflict. They will co-operate in support of humanitarian assistance to alleviate suffering among the civilian population, including facilitating the movement of personnel and resources dedicated to such tasks.

## VII

20. The participating States consider the democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security. They will further the integration of their armed forces with civil society as an important expression of democracy.

21. Each participating State will at all times provide for and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy. Each participating State will provide controls to ensure that such authorities fulfil their constitutional and legal responsibilities. They will clearly define the roles and missions of such forces and their obligations to act solely within the constitutional framework.

22. Each participating State will provide for its legislative approval of defence expenditures. Each participating State will, with due regard to national security requirements, exercise restraint in its military expenditures and provide for transparency and public access to information related to the armed forces.

23. Each participating State, while providing for the individual service member's exercise of his or her civil rights, will ensure that its armed forces as such are politically neutral.

24. Each participating State will provide and maintain measures to guard against accidental or unauthorized use of military means.

25. The participating States will not tolerate or support forces that are not accountable to or controlled by their constitutionally established authorities. If a participating State is unable to exercise its authority

over such forces, it may seek consultations within the CSCE to consider steps to be taken.

26. Each participating State will ensure that in accordance with its international commitments its paramilitary forces refrain from the acquisition of combat mission capabilities in excess of those for which they were established.

27. Each participating State will ensure that the recruitment or call-up of personnel for service in its military, paramilitary and security forces is consistent with its obligations and commitments in respect of human rights and fundamental freedoms.

28. The participating States will reflect in their laws or other relevant documents the rights and duties of armed forces personnel. They will consider introducing exemptions from or alternatives to military service.

29. The participating States will make widely available in their respective countries the international humanitarian law of war. They will reflect, in accordance with national practice, their commitments in this field in their military training programmes and regulations.

30. Each participating State will instruct its armed forces personnel in international humanitarian law, rules, conventions and commitments governing armed conflict and will ensure that such personnel are aware that they are individually accountable under national and international law for their actions.

31. The participating States will ensure that armed forces personnel vested with command authority exercise it in accordance with relevant national as well as international law and are made aware that they can be held individually accountable under those laws for the unlawful exercise of such authority and that orders contrary to national and international law must not be given. The responsibility of superiors does not exempt subordinates from any of their individual responsibilities.

32. Each participating State will ensure that military, paramilitary and security forces personnel will be able to enjoy and exercise their human rights and fundamental freedoms as reflected in CSCE documents and

international law, in conformity with relevant constitutional and legal provisions and with the requirements of service.

33. Each participating State will provide appropriate legal and administrative procedures to protect the rights of all its forces personnel.

## VIII

34. Each participating State will ensure that its armed forces are, in peace and in war, commanded, manned, trained and equipped in ways that are consistent with the provisions of international law and its respective obligations and commitments related to the use of armed forces in armed conflict, including as applicable the Hague Conventions of 1907 and 1954, the Geneva Conventions of 1949 and the 1977 Protocols Additional thereto, as well as the 1980 Convention on the Use of Certain Conventional Weapons.

35. Each participating State will ensure that its defence policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code.

36. Each participating State will ensure that any decision to assign its armed forces to internal security missions is arrived at in conformity with constitutional procedures. Such decisions will prescribe the armed forces' missions, ensuring that they will be performed under the effective control of constitutionally established authorities and subject to the rule of law. If recourse to force cannot be avoided in performing internal security missions, each participating State will ensure that its use must be commensurate with the needs for enforcement. The armed forces will take due care to avoid injury to civilians or their property.

37. The participating States will not use armed forces to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity.

## IX

38. Each participating State is responsible for implementation of this Code. If requested, a participating State will provide appropriate clarification regarding its implementation of the Code. Appropriate CSCE bodies, mechanisms and procedures will be used to assess, review and improve if necessary the implementation of this Code.

## X

39. The provisions adopted in this Code of Conduct are politically binding. Accordingly, this Code is not eligible for registration under Article 102 of the Charter of the United Nations. This Code will come into effect on 1 January 1995.

40. Nothing in this Code alters the nature and content of the commitments undertaken in other CSCE documents.

41. The participating States will seek to ensure that their relevant internal documents and procedures or, where appropriate, legal instruments reflect the commitments made in this Code.

42. The text of the Code will be published in each participating State, which will disseminate it and make it known as widely as possible.

## QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY<sup>1</sup>

### Section I: Inter-State elements

#### 1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

- Financing of terrorism;
- Border controls;
- Travel document security;
- Container and supply chain security;
- Security of radioactive sources;

<sup>1</sup> Participating States are encouraged to highlight major changes or updates in their replies to the questionnaire, as appropriate.

- Use of the Internet and other information networks for terrorist purposes;
- Legal co-operation including extradition;
- Safe havens and shelter to terrorists and terrorist organizations.

## **2. Stationing of armed forces on foreign territory**

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

## **3. Implementation of other international commitments related to the Code of Conduct**

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

## **Section II: Intra-State elements**

### **1. National planning and decision-making process**

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?



## **2. Existing structures and processes**

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

## **3. Procedures related to different forces personnel**

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

3.2 What kind of exemptions or alternatives to military service does your State have?

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

## **4. Implementation of other political norms, principles, decisions and international humanitarian law**

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

### **Section III: Public access and contact information**

#### **1. Public access**

1.1 How is the public informed about the provisions of the Code of Conduct?

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

1.3 How does your State ensure public access to information related to your State's armed forces?

#### **2. Contact information**

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

**So far published in the series  
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Professor Guido de Marco  
(July 2011)

Towards a New Southern  
Mediterranean Region?  
(August 2011)

Omar Grech (Editor)  
**Democratic Transitions:  
Perspectives and Case Studies**  
(Summer 2012)

# About MEDAC



**T**he Mediterranean Academy of Diplomatic Studies (MEDAC) is an institution of higher learning offering advanced degrees in diplomacy and conflict resolution with a focus on Mediterranean issues.

MEDAC was established in 1990 pursuant to an agreement between the governments of Malta and Switzerland. The Academy is currently co-funded by the Swiss Agency for Development and Co-operation (SDC) and the Ministry of Foreign Affairs of Malta in the framework of the Swiss contribution to the new European Union member states. The Geneva Graduate Institute of International and Development Studies (HEID) was among MEDAC's first foreign partners. More recently, MEDAC has concluded an agreement with the Federal Republic of Germany, represented by the Foreign Office, in turn represented by the German Academic Exchange Service (DAAD) and established a German Chair in Peace Studies and Conflict Prevention.

Since its inception twenty-two years ago MEDAC has acquired a solid reputation both as an academic institution and as a practical training platform. We are fortunate to count over 630 alumni from 56 different countries who have completed successfully the post-graduate courses offered by the Academy. The EU's enlargement towards the Mediterranean, that included Malta in 2004, and the recent transformation of the political landscape throughout the Arab World have resulted in an ever increasing demand for MEDAC's programme of studies.

## Academy Courses

- Master of Arts in Diplomatic Studies (M. A.)
- Master of Diplomacy (M. Dip.)
- **NEW** Joint M.A. with George Mason University (Virginia, USA) on Conflict Resolution and Mediterranean Security
- Diploma in Diplomacy (DDS)

The programme of Master of Diplomacy (M. Dip.) course is designed for junior diplomats with some field experience. They are instructed in the same core disciplines as the M.A. students ( Diplomatic History, International Relations, International Economics, International Law as well as selected lectures in diplomacy) but with a special emphasis on diplomatic practice, languages, public speaking and on-line skills.

The course covers two semesters, from October to June, and includes field trips to Switzerland and to Germany. (See details of all courses on the website: [www.um.edu.mt/medac](http://www.um.edu.mt/medac) )