



INTERVIEW WITH ALEXANDRE LAMBERT

# The *Code of Conduct* on Politico-Military Aspects of Security: a sleeping revolution

The OSCE *Code of Conduct on Politico-Military Aspects of Security* is a hidden jewel among OSCE documents. Unparalleled in any other international organization, its ultimate goal is to regulate the role of armed forces in democratic societies. Despite the *Code of Conduct*'s revolutionary character, it remains little known beyond diplomatic and military circles. Negotiated in the Forum for Security Co-operation (FSC) and adopted at the 1994 Budapest Summit, it deepens and codifies important principles of the *Helsinki Final Act* guiding relations between states, particularly concerning the non-use of force. However, the *Code* goes far beyond this conventional framework by adding unique norms of politico-military conduct within states. Most importantly, its sections VII and VIII detail the commitment by participating States to place their armed forces, including military, paramilitary and security forces, intelligence services and the police, under democratic civilian control.

Since 1999, the participating States have annually exchanged information on their implementation of the *Code of Conduct*, on the basis of a Questionnaire which was updated in 2003 and again last year. The new Questionnaire better reflects the structure of the *Code* and introduces a number of new

sub-questions, for instance on anti-terrorism. It also requests that participating States provide information on the different types of armed forces separately.

Participating States' answers to the Questionnaire have been posted on the OSCE's public website since 2008.

Two academic experts, Alexandre Lambert and Didi Alayli, were commissioned to analyse responses to the updated Questionnaire in 2010, with a view to elaborating a reference guide to help participating States compile their answers. They presented their findings to the FSC on 15 September 2010. Ursula Froese spoke with Alexandre Lambert after the presentation.

**Ursula Froese:** The *Code of Conduct* was a revolutionary document in its time. What about today?

**Alexandre Lambert:** The *Code* hasn't lost any of its revolutionary traits. Its most powerful innovation is to introduce the principle of democratic control of the armed forces within international law in the form of a politically binding regional regime. One of the main lessons of the civil conflicts in post-communist Europe, including those in the former Yugoslavia, was that security forces operating beyond the rule of law and democratic oversight can pose a serious risk to regional and international security.

Alexandre Lambert (left) and Didi Alayli report to the Forum for Security Co-operation on the results of their study of participating States' latest information exchange on implementation of the Code of Conduct, Vienna, 15 September 2010. (OSCE/Ursula Froese)

The *Code of Conduct*, by requesting participating States to place both conventional military forces and internal security services within a clear constitutional and legal framework, has become an important international confidence-building measure in the post-Cold War era, with the more general promise to contribute to both political and economic development. As a matter of fact, sustainable economic development is conditional on political stability.

In Europe, we have achieved the highest standards in this field so far, and that's why our partner countries and other regions are so carefully observing what is happening here. For instance, both the African Union and ECOWAS have drafted their own codes of conduct and were using the OSCE as an inspiration. But there is a difference that concerns ownership. The African codes have been drafted with the technical assistance and advice of mainly non-African experts from overseas, whereas here, the participating States are also the owners of the process that led to the adoption of the *Code*. Every single provision was discussed in two years of multilateral negotiation and agreed by consensus.

### Raising awareness at the regional level

FSC Decision No. 1/08 tasked the OSCE Conflict Prevention Centre with organizing one specialized event annually to increase awareness of participating States' commitments under the *Code of Conduct on Politico-Military Aspects of Security*. This year, a regional seminar was hosted by the Republic of Belarus. Around 40 participants and experts gathered in Minsk from 21 September to 23 September to share experiences in the *Code of Conduct's* implementation in the Eastern European region.

The seminar covered the *Code of Conduct's* provisions in a holistic manner and topics of discussion ranged from confidence- and security-building measures to the human rights of armed forces personnel.

It was concluded that the *Code's* principles — such as participating States' obligation to maintain only such military forces as are commensurate with individual or collective defence needs or their right to choose security arrangements — are at the core of the current discussion on the future of security in the OSCE area.

The event also highlighted the democratic civilian oversight of the security sector as a vital element for stability and prosperity.

The Conflict Prevention Centre has organized similar events in Kazakhstan (2008) and Bosnia and Herzegovina (2009). The seminars have been funded by Switzerland and Austria.



Regional Code of Conduct seminar, Minsk, 21 September to 23 September 2010. Left to right: Igor Petrishenko, First Deputy Foreign Minister of Belarus, Vladimir Gerasimovich, Head of the Department of International Security and Arms Control, Belarus, Laura Furuholm, FSC Support Officer in the OSCE Secretariat's Conflict Prevention Centre. (Alexandre Lambert)

This places the *Code*, like all OSCE decisions, in the rank of a politically binding instrument and improves implementation.

### How is the *Code of Conduct* used by participating States?

The *Code of Conduct* is mostly used inside the FSC, where several follow-up events have taken place since its adoption and where the information exchange is regularly reviewed. Also, the Conflict Prevention Centre organizes seminars and workshops, often jointly with field operations and host countries. They usually meet in a regional setting, where sensitive security issues often remain, and invite the military experts and representatives from the foreign affairs departments and sometimes even members of parliament to jointly discuss the *Code's* implementation. And it works. So practically speaking, the *Code* is already used as a new confidence-building measure on the sub-regional level.

This is in addition to the OSCE information exchange on the basis of the Questionnaire, which is of course a principle use. But it still remains essentially inside the political-military establishment. Now, since 2008, all reports have been posted on the OSCE website. But I don't yet see any substantial efforts by participating States or the FSC to promote this new publicity on a broader scale. Given the main purpose of the *Code* to guide "the role of armed forces in democratic societies", as stated in the *Budapest Summit Document*, and the provision of paragraph 20 to "integrate the armed forces with civil society as an important expression of democracy", the *Code* must also be addressed by society at large.

So far, I see the *Code* a little like a holy cradle. It's very precious, because unique in the world, potentially revolutionary, but it's a revolution that is sleeping, has been sleeping for ten, soon 20 years. Perhaps due to its politically sensitive provisions under sections VII and VIII, there is concern that if the public accounts for it more generally, there will be more scrutiny by civil society. But my recommendation is actually to counter-react and use it in a constructive and pro-active way. Because if you can convince your public what you are actually doing, this increases your leverage and credibility as an institution. And you can say: What we are doing with this new generation of confidence-building measures is unparalleled in any other international security organization, including the United Nations.

### What are your main recommendations on improving responses to the *Code of Conduct* Questionnaire?

The updated Questionnaire has clearly improved the information exchange in 2010, both quantitatively and qualitatively. But there is room for improvement. The challenge is to find new ways to extract the maximum benefit from the time and energy spent completing it. A prospective reference guide annexed to the Questionnaire could be a help in providing more consistent, reliable and comparable information, which could then be used and analyzed by the OSCE and participating States themselves as a means to further enhancing mutual transparency and trust.

The requirement to provide detailed information on the different types of internal security forces presents new challenges. As you know, military confidence-building measures are usually managed from within either defence departments or foreign affairs ministries. Many provisions of the *Code* emphasize the dimension of internal security. At the same time, states are not only restructuring but also increasingly outsourcing their security services. This adds a new complication to the reporting process because they have to co-ordinate across agencies and departments. The blurring of internal and external security requires collaboration with interior and finance ministries, or even border guards, customs services and immigration agencies. So perhaps there should be more dialogue on how states actually gather information when they establish the Questionnaire.

How does the *Code of Conduct* regulate the role of non-state actors in military operations?

Paragraph 25 [see box] of the *Code* is, broadly speaking, the “irregular forces” paragraph, which includes the opportunity to seek assistance. Irregular forces can be created by governments or inserted by non-governmental actors or even brought in from abroad in the sense of a covert operation. In an increasingly interdependent world, it has become less likely that two countries go to war against each other. Instead, internal conflicts have multiplied, while the root causes of conflicts do often have trans-national features. In other words: most instabilities and conflicts crystallize *within* countries but have considerable potential to rapidly spread across borders and destabilize entire regions. Sometimes it’s very difficult to figure out who is behind the activities that trigger the use of force and collective violence — also in view of the increasing number of non-state actors involved in contemporary, asymmetric armed conflicts. In any case, when it comes to the role of “irregular forces”, we have recently witnessed such a situation in southern Kyrgyzstan.

Unfortunately, the wording of paragraph 25 is one of the least clear in terms of semantics. Even paragraph 26 on paramilitary forces is somewhat watered down to a level where interpretations can broadly vary.

I have to say honestly there are a number of countries that do very detailed reporting on both paramilitary and internal security forces, but most just say they don’t have them, but then report on them indirectly in other items of the Questionnaire. So there is, unfortunately, what I call a deadlock of information on paramilitary and internal security. In order to enhance the effectiveness of the information exchange on the *Code*, ministries of the interior as well as specialized forces and security services could be more systematically implicated in the exercise.

Let me be very clear: I’m looking at the matter from the perspective of an academic and intellectual. From a political point a view, I give all the participating States a lot of credit for having had the courage and

#### Excerpts from *Code of Conduct*:

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.

forward-looking vision to embark on this exercise because, once again, this is really unparalleled in any other region of the world.

You have been calling the *Code of Conduct* a confidence-building mechanism. What is the connection between it and the Vienna Document 1999?

They are quite separate. The *Code*, if you wish, is a post-Cold War update of the *Helsinki Final Act* and especially its Decalogue, which is a normative blueprint of customary norms among states and their respective conduct. The *Code* builds on this heritage of comprehensive security beyond the conventional limits of politico-military affairs.

The *Vienna Document* is much more specifically focused on the politico-military dimension of security and essentially addresses conventional arms control. It is not only one of the most sophisticated sets of confidence- and security-building mechanisms (CSBMs), it also includes a very well-organized verification regime. Verifying the implementation of the *Code* by participating States would be a very complex undertaking, as it would require combining elements of all three security dimensions of the OSCE. So far, there hasn’t been even a dialogue on how to do this.

One could nevertheless imagine including some of the provisions of the *Code of Conduct* into the *Vienna Document* verification regime. When the delegations go and visit each other, they could perhaps consider adding items that are specific to the *Code*; it would also add value to the CSBM regime. This has been discussed. My perception is that there is not yet consensus on it. But it could be an opportunity to enhance the implementation process of the *Code*.

Do you think the *Code of Conduct* should be more widely publicized?

My answer, as someone coming from civil society, is affirmative. But if I put myself into the shoes of somebody from an OSCE participating State, I would think twice about how to do that. Confidence-building measures among states must not necessarily be shared by civil society, nor is it evident that broader public scrutiny and participation would automatically enhance the implementation process of politico-military documents. As long as these measures are transparent *within* those military-diplomatic ties, and there is confidence and trust established among all relevant parties, 90 per cent of the job is done. But since the *Code* really takes a comprehensive approach to security and addresses issues that go far beyond the boundaries and competencies of politico-military establishments, its ultimate implementation will require the participation of parliamentarians and civil society.

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