



Organization for Security and Co-operation in Europe

The Secretariat

**Conflict Prevention Centre
Operations Planning Unit**

Vienna, 8 June 2004

OSCE MECHANISMS AND PROCEDURES*

Human Dimension

1. The Vienna Mechanism
 - 1.1. Activation up to date
2. The Moscow Mechanism
 - 2.1. Activation up to date

Politico- Military Dimension

Mechanisms for Risk Reduction

3. Consultation and co-operation regarding unusual military activities
 - 3.1. Activation up to date
4. Voluntary hosting of visits
5. Measures regarding hazardous incidents of a military nature
 - 5.1. Activation up to date

Early Warning

6. Provisions relating to early warning and preventive action
7. The Berlin Mechanism
 - 7.1. Activation up to date

Peaceful Settlement of Disputes

8. The Valletta Mechanism
9. Convention on conciliation and arbitration within the OSCE

Reference documents

* Updated summary of all the OSCE Mechanisms and Procedures, including their activation up to date, as well as a list of the reference documents. Please note that the list may not be exhaustive.

Human Dimension

1. *The Vienna mechanism*

The Vienna Mechanism, adopted at the Vienna Follow up meeting in 1989, provides for the exchange of information on questions relating to the human dimension. It consists of four separate phases, where the participating States may:

- I. respond to requests for information made by other participating States and exchange information relating to the human dimension;
- II. hold bilateral meetings (should these be requested by other participating States) with a view to examine and resolve situations and specific cases relating to the human dimension;
- III. notify to all participating States of situations and cases in the human dimension;
- IV. discuss the issues raised under the Mechanism, at the Review Conference, Human Dimension Implementation meetings, meetings of the Senior Council or Permanent Council.

1.1. Activation up to date

The mechanism was activated extensively between January 1989 and April 1992, in the context of East-West relations. Some examples:

1. during 1989-1990, the UK invoked the Vienna Mechanism in relation to human rights abuses in Romania, Czechoslovakia, the GDR and Bulgaria¹;
2. Turkey invoked it against Bulgaria over treatment of its Moslem minority²;
3. Hungary invoked it against Romania over treatment of the Hungarian minority in Transylvania³;
4. in 1991 it was used to draw the attention to the civil war in Yugoslavia, and the military actions of Soviet forces in Lithuania⁴;
5. in 1992 Austria invoked the mechanism with respect to Turkey's treatment of its citizens of Kurdish descent in south eastern Turkey⁵;
6. in 1992 the Russian Federation activated the first phase of the mechanism (exchange of information) with regard to Estonian citizenship legislation⁶.

2. *The Moscow Mechanism*

The Moscow Mechanism compliments and strengthens the Vienna Mechanism, and includes three procedures that are directly linked to it:

- the establishment of a **resource list**, comprising up to six experts appointed by each participating State, for a period of three to six years, that should become operational as soon as at least 45 experts have been appointed;

¹ Jennifer J. Preece, *National Minority Rights Enforcement in Europe: a difficult balancing act*, The International Journal of Peace Studies, vol. 3 No.2, July 1998.

² *Ibid.*

³ *Ibid.*

⁴ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

⁵ *US Department of State Dispatch Supplement Vol. 3 No.6*, 15 September 1992.

⁶ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

- after a request for information, or for a bilateral meeting, under the Vienna Mechanism, the requesting State may suggest that the other State should invite a **mission of experts** (up to three) to “address a particular clearly defined question on its territory related to the human dimension”. Such a mission may gather information that is necessary for carrying out its tasks and, if appropriate, use its good offices and mediation services to promote dialogue and co-operation among interested parties. According to the state concerned, the mission could be tasked to carry out further functions, such as, *inter alia*, fact-finding and advisory services. Within three weeks after its establishment, the mission should submit its observations to the inviting State. The latter is requested to transmit to the participating States the observations of the mission and a description of any action it has undertaken or intends to take upon it, no later than two weeks after the submission of the observations. . The observations and comments submitted by the inviting State may be discussed in the Permanent Council and be followed by any possible action.
- If the State refuses to establish a mission of experts within ten days, or if the requesting State judges that the issue in question has not been resolved, the requesting State may initiate the establishment of a **mission of rapporteurs** (up to three). A participating State with the support of at least six other participating States should initiate such a mission, and the consent of the requested state is not necessary. The rapporteurs should establish facts, report on them and give advice on possible solutions to the questions raised. The mission should then submit its report, to the participating States or States concerned two weeks after the last rapporteur has been appointed. The requested State, unless the States concerned agree otherwise, is required to transmit its observations to the OSCE Institution (ODIHR) no later than two weeks after the submission of the report.

New procedures not linked with the Vienna Mechanism are the following:

- the voluntary invitation of a mission of experts by an OSCE participating State;
- the establishment of a mission of experts or rapporteurs following a decision of the Permanent Council or Senior Council, upon the request of any participating State;
- the establishment of an “emergency” mission of rapporteurs in cases of “a particularly serious threat” to the fulfilment of human dimension provisions, if at least ten OSCE participating States agree.

2.1. Activation up to date

The Moscow Mechanism has been activated on a number of occasions:

1. in 1992 a mission of rapporteurs was sent to Croatia and Bosnia and Herzegovina, under the so-called “emergency procedures”⁷;
2. in 1992 Estonia invited a missions of experts to study citizenship and language legislation and its implementation⁸;
3. in January 1993 Moldova invited a mission of experts to study the implementation of minority rights and inter-ethnic relations⁹.
4. in December 2002, Germany, the USA, Austria, Canada, the United Kingdom, Greece, Ireland, Italy, Norway and Sweden promoted the establishment of a fact-finding mission

⁷ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999. 21 – CSO. Jour/2, 27 April 1992.

⁸ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

⁹ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

to examine the conduct of investigations resulted from the attack held on the President of Turkmenistan¹⁰.

There have also been a number of failed attempts to activate this mechanism, in regard to Russia and Estonia in 1992¹¹; Turkey and Austria in 1992¹²; the Committee of Senior Officials, which in June 1993 decided to send a mission of *rapporteurs* to Serbia and Montenegro to investigate human rights violations- the mission failed due to Serbia-Montenegro's refusal to issue the necessary visas¹³; and Turkey and the Nordic countries in 1994¹⁴.

Politico-Military Dimension

Mechanisms for Risk Reduction

The Mechanism for Risk Reduction developed in the course of the negotiations in the framework of the Conference on Confidence- and Security- Building Measures (CSBMs) and Disarmament in Europe was for the first time set forth in the Vienna Document 1990¹⁵. All its further gradual modernisation resulted in the present version contained in the Vienna Document 1999 (VD 99), Chapter III "Risk Reduction."

The Mechanism includes three main elements as follows:

- the mechanism for consultation and co-operation regarding unusual military activities;
- voluntary hosting of visits to dispel concern about military activities; and
- co-operation regarding hazardous incidents of a military nature

3. Consultation and co-operation regarding unusual military activities

The mechanism for consultation and co-operation regarding unusual military activities is a special instrument of crisis prevention in the event of a threat posed by the employment of armed forces. For this purpose, the VD-99 stipulates that States, whose armed forces are being employed in unusual and unscheduled activities outside their peacetime locations, agree to a consultation mechanism. The mechanism is triggered by a participating State's request for an explanation of the activity by other State that is a subject security concerns. The reply to the request has to be given within 48 hours.

In the second phase of this mechanism, every state involved may request a meeting of the States concerned with the participation, if required, of other participating States. The OSCE's CiO will chair the meeting. Should the matter not be clarified or settled, one of the states directly involved has the right (in the third and final phase) to request a meeting of all

¹⁰ OSCE- PC.DEL/1025/02, 20 December 2002.

¹¹ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ As a supplement to the arrangements for Risk Reduction, as well as to supplement and enhance the capabilities outlined in Chapter III of the Helsinki Document 1992, in 1993 the participating States also adopted a catalogue of Stabilising Measures for Localised Crisis Situations. The catalogue is intended to facilitate the decision-making in the appropriate OSCE bodies, and the search for specific measures for temporary application in support of the political process. It does not commit any participating State to agree to the adoption of any of the measures. However, it does indicate the readiness of the participating States to explore in good faith their applicability in a specific situation.

participating States. In this case, the PC and the FSC jointly will serve as the forum for such a meeting. The task of these two OSCE bodies is to jointly assess the situation and to recommend appropriate measures for stabilising the situation and halting activities that give rise to security concerns.

3.1. Activation up to date

In practice, this mechanism was activated only on three occasions, during the Yugoslav crisis:

1. in June 1991, Italy invoked it in response to Yugoslav military activities near the Italian border¹⁶;
2. in July 1991, Austria called for a meeting to consider Yugoslav military activities near the Austrian border and in Austrian airspace¹⁷;
3. in August 1991, Hungary invoked the mechanism asking the Yugoslav government for information on overflights of the Hungarian territory¹⁸.

4. Voluntary hosting of visits

Voluntary hosting of visits is another alternative in order to help dispelling concerns about military activities. This mechanism envisages that a State, which is conducting such a military activity, takes the initiative and invites other participating States, especially those which are understood to have concerns, to visit the areas on the territory of the host State where the activity is taking place. The VD-99 contains provisions with regard to modalities and programme of such a visit.

5. Measures regarding hazardous incidents of a military nature

The VD-99 also contains co-operative measures regarding hazardous incidents of a military nature on the territory of a participating State that might have some negative impact. In order to react immediately and to prevent possible misunderstanding, points of contact have been established. Through them each participating State can inform other participating States about such an incident and provide explanations as appropriate. Matters related to such issues may be discussed by participating States in the FSC or at the Annual Implementation Assessment Meeting.

5.1. Activation up to date

The mechanism was invoked for the first time in January 1992, by Portugal on behalf of the EC in the wake of the downing of a helicopter carrying EC monitors over the Yugoslav territory¹⁹.

Early warning

6. Provisions relating to early warning and preventive action

The provisions related to early warning situations within the OSCE area, which have the potential to develop into crises, included armed conflicts, date back to the Helsinki Document

¹⁶ *US Department of State Dispatch Supplement Vol. 3 No.6*, 15 September 1992.

¹⁷ *Idid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

(1992). According to them, participating States have the right to draw the attention of the Senior Council to a given situation. This can be done through the CIO by, *inter alia*:

- any participating State directly involved in a dispute;
- a group of 11 participating States not directly involved in the dispute;
- the High Commissioner on National Minorities in situations he deems escalating into a conflict or exceeding the scope of his action;
- the Consultative Committee of the CPC following the use of the mechanism for consultations and co-operation as regards unusual military activities;
- the use of the Human Dimension Mechanism or the Valletta Principles for Dispute Settlement and Provisions for a CSCE Procedure for Peaceful Settlement of Disputes.

The establishment of the Permanent Council has strengthened OSCE capabilities for early warning, as OSCE participating States can now use this forum to draw the attention of the OSCE to potential crisis situations at any given moment.

7. The Berlin Mechanism

The Berlin Mechanism, which was adopted in June 1991 at the Berlin meeting of the CSCE Council Ministers of Foreign Affairs, outlines measures that can be applied in the case of serious emergency situations that may arise from a violation of one of the Principles of the Helsinki Final Act or as the result of major disruptions endangering peace, security or stability. It provides that, if any participating State concludes that such an emergency situation is developing, it may seek clarification from the State or the States involved. The requested State or States should provide within 48 hours all relevant information in order to clarify the situation. Should the situation remain unresolved, since Budapest Meeting in 1994, any participating State involved in the procedure may request the CIO to call an Emergency Meeting of the Committee of Senior Officials (now the Senior Council). Before 1994 it was necessary for 12 States to declare their support for the mechanism to activate a meeting of the Senior Council. As in the case of the provisions relating to early warning and preventive action, the establishment of the Permanent Council allows the OSCE to deal with emergency situations practically at anytime without formally triggering the Berlin Mechanism.

7. 1. Activation up to date

The Mechanism has been used on few occasions:

1. in 1991 the USA, Austria, Hungary and the then WEU countries called for an emergency meeting of the Committee of Senior Officials in response to the eruption of the full-scale conflict in Yugoslavia. Seven additional meetings were eventually held²⁰;
2. in 1993 in regard to Nagorno Karabakh²¹;
3. in 1993 Hungary tried to have an Emergency Meeting regarding the Gabcikovo Dam on the Danube, but failed to gain support of 12 States²².

Peaceful Settlement Of Disputes

8. The Valletta Mechanism

The fifth principle of the Helsinki Final Act raises the issue of the peaceful settlement of disputes, advocating the use of negotiation, enquiry, mediation, conciliation, arbitration,

²⁰ US Department of State Dispatch Supplement Vol. 3 No.6, 15 September 1992.
03 – ADDCSO. Jour/1, 10 October 1991.

²¹ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

²² J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

judicial settlement or other peaceful means to settle disputes so that they do not threaten international peace and security. It took almost twenty years to formalise this principle and to create a mechanism for peaceful settlement of disputes. Created at a meeting of experts in January February 1991, and adopted at the Berlin Ministerial Council in 1991, the Valletta Mechanism was the first formal CSCE procedure for peaceful settlement of disputes.

The Mechanism was slightly revised and simplified at the Ministerial Council in Stockholm in 1992. It Mechanism consists of one or more persons selected from a register of qualified candidates and nominated by the Director of the CPC, and tasked to seek contact with the parties to the dispute, separately or jointly. They may offer general or specific comment or advice, that may be confidential and that does not bind on the parties. The mechanism may also use, if the parties so agree, the premises and facilities of the International Bureau of the Permanent Court of Arbitration.

This mechanism was never used and its non-usage can be attributed to several factors. First of all, the mechanism is itself a compromise, which requires extremely complicated and time-consuming procedures to be initiated. Consensus is possible only at the expense of an exception clause, which could be used by the participating States to object to the establishment or continuance of the procedure. If another party to the dispute considers that the mechanism should not be established or continued because the dispute raises issues concerning its territorial integrity or national defence, the Mechanism may be not established or continued and the other party to the dispute may bring that circumstance to the attention of the Senior Council. Secondly, the mechanism is limited to inter-state disputes, whereas today intra-state disputes are more common. The parties to a dispute may at any time, by mutual agreement, modify or adapt the above-mentioned procedure.

9. Convention on conciliation and arbitration within the OSCE

Adopted at the Ministerial Council in Stockholm in 1992, the Convention goes beyond the level of politically binding agreements, entering the domain of legally binding ones. It is the first OSCE document adopted to which not all States are bound, as it binds only those participating States that have legally become part to it and that also cover the expenses of the Court on Conciliation and Arbitration, which has been established with the aim of facilitating the settlement of disputes between States parties, through conciliation and, where appropriate, arbitration. This resulted in a number of objections, specifically that it could undermine existing obligations and alter the political and flexible OSCE process by introducing a rigid legal instrument²³.

It provides for the establishment of a **Court of Conciliation and Arbitration** composed of Conciliation Commissions and Arbitral Tribunals with headquarters in Geneva.

The Court is not a permanent body, but a roster of conciliators and arbitrators - only when a dispute is submitted to it an *ad hoc* Conciliation Commission or an *ad hoc* Arbitral Tribunal is established. The Conciliation Commission hears cases brought before it by the common consent of two or more States and it presents a report to the parties, proposing a solution to the dispute. If no agreement is reached within a period of thirty days, an Arbitral Tribunal can be constituted. The decisions of the Tribunal are binding on the parties that have agreed to submit the Commission's report to arbitration.

²³ B. Meyer, *Dispute Settlement Procedures and Crisis Management*, pag. 66.

The Convention came into force in December 1994 but since then it has not been used. Main reason of its non-usage is that only 33 of the participating States have signed it ratified/acceded to it²⁴. As long as a sizeable number of participating States will not participate in it as well as in other legal instruments, the Convention will unlikely be used²⁵.

²⁴ List of States Parties as of 26 June 2003.

²⁵ J. Cohen, *Conflict Prevention in the OSCE, an Assessment of Capacities, Chapter 3*, October 1999.

Reference Documents

1. *Concluding Document of the Vienna Follow-up Meeting*, section on *Human Dimension of the CSCE*, paragraphs 1- 4, Vienna 1986-1989.
2. *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, Chapter 1, paragraphs 1-16, Moscow 1991.
3. *Decisions of the Rome Council Meeting*, Annex A, Rome 1993.
4. *Helsinki Document 1992*, Chapter 3, paragraphs 3-5.
5. *Vienna Document 1999*, paragraphs 16, 17.3.
6. *Stabilising Measures for Localised Crisis Situations*, DOC.FSC/2/96, 25 November 1993.
7. *Provision for a CSCE procedure for peaceful settlement of disputes, Report of the CSCE Meeting of Experts on Peaceful Settlement of Disputes*, Section V- XVI, Valletta 1991.
8. *Summary of Conclusions from the Berlin Council Meeting*, Annex 2, Berlin 1991.
9. *Summary of Conclusions from the Stockholm Council Meeting, Decision on Peaceful Settlement of Disputes*, Annex 1, Stockholm 1992.
10. *Summary of Conclusions from the Stockholm Council Meeting, Decision on Peaceful Settlement of Disputes*, Annex 2, Stockholm 1992.
11. *Summary of Conclusions from the Stockholm Council Meeting, Decision on Peaceful Settlement of Disputes*, Annex 3, Stockholm 1992.
12. *Summary of Conclusion from the Stockholm Council Meeting, Decision on Peaceful Settlement of Disputes*, Annex 4, Stockholm 1992.

