

THE OSCE ROLE IN CONFLICT PREVENTION BEFORE AND AFTER VIOLENT CONFLICT: THE CASES OF UKRAINE AND MOLDOVA

P. Terrence Hopmann

Introduction: The OSCE Role in Conflict Prevention

It has become commonplace to assert that conflicts are easier to resolve before they become violent than afterwards. This view has been expressed forcefully by Max van der Stoel, the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe (OSCE):

It is evident from the experience of Bosnia, of Chechnya, of Nagorno-Karabakh, of Georgia and elsewhere, that once a conflict has erupted, it is extremely difficult to bring it to an end. In the meantime, precious lives have been lost, new waves of hatred have been created and enormous damage has been inflicted. It is my firm belief that money spent on conflict prevention is money well spent, not only because it is cheaper, but especially because it saves so many lives.

As van der Stoel suggests, once Humpty-Dumpty has fallen from his wall, it is extremely difficult to put him back together again. And so it is with states; once conflicts of interest reach the stage of violence, peaceful accommodation may become extremely difficult to achieve. Indeed, negotiation theory suggests that the situation may not be "ripe" for negotiation until a "hurting stalemate" has set in, at which time the situation "has become uncomfortable to both sides and ... appears likely to become very costly." At this point, by definition both parties have suffered great losses and have become sufficiently desperate that solutions which might have previously been unacceptable later became more palatable by comparison with the pain they were suffering or expected to endure in the future. Typically it takes considerable time, often years, before parties to intense conflicts reach this point of a hurting stalemate when they become amenable to a serious search for negotiated solutions to their differences. During the interim, all parties lose a great deal, especially in terms of human lives, as van der Stoel indicated above.

Preventive diplomacy offers the possibility of avoiding a good deal of the pain and suffering typically associated with violent conflict and the tense stalemate which often follows such violence. If it is usually necessary to wait until a "hurting stalemate" is mutually recognized by the disputing parties before a mediator can intervene and initiate meaningful negotiations, it is also important to recognize that a much earlier point of intervention may also have been available before the conflict turned violent in the first place. Furthermore, intervention at this stage is also more likely to lead to mutual accommodation than is the case after a period of violent conflict and even after the development of a hurting stalemate. Michael Lund has enumerated some of the most important reasons for this assertion in his recent book on preventive diplomacy:

... the issues in the dispute are fewer and less complex; conflicting parties are not highly mobilized, polarized, and armed; significant bloodshed has not occurred, and thus a sense of victimization and a desire for vengeance are not intense; the parties have not begun to demonize and stereotype each other; moderate leaders still maintain control over extremist tendencies; and the parties are not so committed that compromise involves loss of face.

Since 1992, the Organization for Security and Cooperation in Europe has engaged in preventive diplomacy throughout the Eurasian region, especially in the regions of the former Soviet Union and former Yugoslavia. The principle center of this activity has been housed in two OSCE organs: 1) The Conflict Prevention Center (CPC), created by the Charter of Paris

in November 1990 and based in Vienna, establishes and sends into the field "missions of long duration" to observe, monitor, and report on potential conflict situations and frequently to assist disputing parties to resolve their differences by providing "good offices" or other forms of conciliation and mediation; 2) The High Commissioner on National Minorities (HCNM), created at the Helsinki OSCE Summit in July 1992 and based in the Hague, may enter on short notice into regions where conflicts involving national minorities threaten to create tensions or violence, especially when these conflicts threaten to spill over international borders, and he primarily utilizes low profile activity to defuse tensions and avoid violence. Together these two institutions provide the core of the OSCE's conflict prevention mechanism. Indeed, since the first missions were sent into the field in August 1992, the function and range of involvement of these OSCE missions and of the office of the High Commissioner have expanded considerably to embrace the following activities:

A) Conflict Prevention:

The principle focus of these activities is to identify and respond to brewing conflicts to prevent the outbreak of violence. This requires attention to "early warning" in order to detect situations that might lead to violent conflict. Protests, demonstrations and riots may provide early warning, as may repressive actions by governments to suppress dissent. Parties to disputes may come directly to OSCE missions and field offices to report threats to the peace that they have witnessed or experienced. In the present context, these warnings usually appear in the midst of conflicts among nationalities, ethnic, linguistic, or religious groups, or in situations where socio-economic classes have been severely disadvantaged. Warning may include many kinds of incipient conflicts, but among those that have been most prominent include nationalist claims to establish separatist regimes, irredentist claims of secession and unification with another state, concerns about the possible "spillover" of an ongoing conflict across international borders into neighboring states, and warning about potential unauthorized external intervention in ongoing internal conflicts within member states.

Early warning is not enough to trigger an appropriate response, however. The warning must be rapidly delivered to the central OSCE institutions in Vienna, the Hague, or Warsaw, and to key member governments. Once they attend to these warnings, there must also exist a political will among member governments and the overburdened OSCE authorities to respond to those warnings. It is then necessary to decide upon the appropriate mode to respond, whether it will take the form of verbal protest or denunciation, imposition of sanctions, creation of a mission of long-term duration, intervention by a third party to provide good offices or to assist in mediation, or any other means at the disposal of the OSCE.

Finally, the OSCE conflict prevention role requires that the organization have the capacity to intervene in a brewing dispute and to try to head it off before the parties resort to violence. There is little doubt that it is easier to obtain a political solution to a dispute at this stage than it is after a legacy of violence and death have created images of implacable enemies and motives for revenge and retribution in the minds of the survivors. The principal organs of the OSCE available to perform this conflict prevention function include the Chairman-in-Office who may decide to call the OSCE into action or who may intervene directly himself or through his special representatives; the Conflict Prevention Center, which generally receives warnings from the OSCE missions and field offices about brewing conflicts and may offer suggestions or instructions to those field offices about how to respond; the High Commissioner on National Minorities, who may travel to areas of potential conflict involving national minority issues on a moment's notice and who may issue warnings to the Permanent Council or, in cases of great urgency, who may intervene himself as a third party to try to assist the disputants to resolve their conflicts; and the Permanent Council, which generally receives reports from the CPC, the HCNM, and the field missions, and which has the authority to authorize special mission activities, to dispatch a special representative, to impose

sanctions on disputing parties, and even to call for the creation of a monitoring or peacekeeping force.

Between 1991 and 1997, the major OSCE conflict prevention activities have taken place in Ukraine (especially regarding separatist claims in Crimea), in the former Yugoslav Republic of Macedonia (especially the prevention of the "spillover" of conflicts originating in the Federal Republic of Yugoslavia, particularly the Kosovo region, and in Albania), and in the Federal Republic of Yugoslavia (regarding separatist claims in Kosovo, Sandjak, and Vojvodina). Of these regions, extensive violence has occurred only in Kosovo, where the long-simmering conflict turned violent in 1998.

B) Conflict Management and Resolution:

In those regions where violent conflict has occurred but where fighting has largely ceased, the focus of OSCE activities has been on conflict management in order to avert the reappearance of violence and on trying to resolve the underlying issues to remove the conditions that led to conflict in the first place. A number of activities have featured prominently in the OSCE's performance of these functions in Eurasia over the past decade.

In a few instances, the OSCE has played an active role in the negotiation of cease-fires where conflicts are in progress; however, in the vast majority of cases, fighting has simply ceased either because one party achieved its immediate objective and the other was unable to resist by force, because the parties became exhausted and turned to other means to pursue their conflicts, or because an outside party intervened, such as Russia, to help bring an end to the fighting. Once a cease-fire is in place, typically some kind of peacekeeping arrangement has been set up under the auspices of the Commonwealth of Independent States (CIS) or the United Nations. In those cases where the CIS or the Russian Federation alone has been responsible for peacekeeping, the OSCE has been mandated to observe the peacekeepers, to assure their neutrality and to verify that they do not themselves instigate incidents that might lead to a renewal of violence. These OSCE activities have been most prominent in the South Ossetia region of Georgia, the Transdnistria region of Moldova, and in Tajikistan.

Once a cease-fire is in place, the primary attention of the OSCE has turned toward promoting a resolution of the underlying conflict that led to the violence, in the hope of establishing a more stable solution that does not depend primarily on an often precarious cease-fire. A number of techniques have been utilized. The High Commissioner on National Minorities has often played a significant role in trying to move parties to a dispute along the path of resolution. One technique employed by Ambassador van der Stoep is to organize seminars, typically in conjunction with the nongovernmental Foundation on Inter-Ethnic Relations, which works closely with the office of the High Commissioner in the Hague. As will be elaborated below, this technique was used to bring leaders and experts from Ukraine and Crimea together to deal with the status of Crimea within the Ukrainian state. The High Commissioner has also undertaken "shuttle diplomacy," traveling between disputing parties and listening to their grievances and suggestions, and then following up with specific recommendations directed to the parties involved.

A second approach often utilized by the OSCE, especially by the missions of long duration, has been to provide "good offices" and other fairly passive forms of mediation to assist parties to a dispute to reach agreement. The OSCE mission head can frequently serve as a go-between or as a mediator in meetings between disputing parties. For example, the OSCE missions have frequently served explicitly as mediators between the government of Moldova and the breakaway region of Transdnistria and between the government of Georgia and the separatist regime in South Ossetia. The mission in Dushanbe has also mediated between the government of Tajikistan and the opposition, composed of rival clans, which have used violent means in an effort to bring down the central government. Finally, the OSCE Assistant Group in Chechnya, under the leadership of Ambassador Tim Guldemann of Switzerland,

played a critical role in mediating the agreement reached at Khasavyurt in May 1996 between the Chechen leaders and the Russian government that eventually ended that bloody war. A third approach at mediation has been to establish formal groups of states operating under the auspices of the OSCE to try to assist disputing parties to resolve their differences peacefully. These may take the form of "contact groups," "friends" of a particular country, or a formal group such as the "Minsk Group" which was established in 1992 to try to mediate the conflict over Mountainous Karabakh. The Minsk Group is currently co-chaired by the United States, France, and the Russian Federation, and it frequently operates at senior diplomatic levels, including the foreign ministers of its member countries, to try to hammer out a political solution to what has been one of the most intractable and deadly conflicts in post-Cold War Eurasia.

Finally, where agreements have been reached, the OSCE may play a role in overseeing their implementation. For example, the OSCE has set up special missions to assist in the implementation of bilateral agreements between Russia and Latvia concerning a Russian radar station at Skrunda and with Russia and both Latvia and Estonia regarding a joint commission on military pensioners. Its field missions may also be mandated to supervise specific agreements, as, for example, the mission in Moldova is charged with monitoring the 1994 treaty between Russia and Moldova (not yet ratified by the Russian Duma) on the withdrawal of the Russian 14th Army and associated equipment and supplies stored in the region of Moldova on the left bank of the Dniester river. The OSCE may undertake a peacekeeping operation under its auspices, perhaps with assistance from NATO, other military alliances, or individual member states, to oversee political agreements between disputing parties. The first operation of this sort was the Kosovo Verification Mission to monitor compliance with the agreement brokered by Richard Holbrooke in October 1998, calling for a cease-fire between the ethnic Albanian separatists in Kosovo and the federal police and army. The possibility of a full-scale peacekeeping force under OSCE auspices has been anticipated as part of a political settlement, yet to be achieved, between Azerbaijan and the Armenian community in Mountainous Karabakh since the 1992 Helsinki Summit, and at the 1994 Budapest Summit the OSCE created a High Level Planning Group to prepare for such an operation. Since a political settlement remains elusive in early 1999, there is no agreed mandate under which an OSCE peacekeeping force might function.

C) Post-Conflict Security-Building:

The OSCE has also frequently been engaged in promoting long-term peace and security in regions where conflicts have occurred and where a political settlement has been formally achieved, but where the bitterness and destruction of war have left a legacy of hatred and animosity that must be overcome. This has often involved efforts to promote reconciliation between the parties to the conflict that go beyond a formal settlement of the dispute and that move toward a deeper resolution. It may also involve assistance with building democracy, in this case not so much as a prophylactic against violence but in order to create non-violent means to resolve differences that were previously handled with coercion and violence. The construction of civil society, holding of elections, assistance in the creation of new constitutions and the promotion of the rule of law, and all other aspects of the OSCE human dimension activities may be stressed in these situations.

In addition, the OSCE may assist in the verification of disarmament agreements between disputing parties. It may arrange and provide training for civilian police and other institutions required to maintain law and order. Since economic distress is frequently a major obstacle to post-conflict rehabilitation, the OSCE may assist the parties in identifying donors to obtain external economic relief or in helping humanitarian organizations become established in zones where violence has created severe social needs. In short, it provides assistance to help relieve the conditions that breed conflict and make reconciliation difficult to realize. Finally,

in a number of cases the OSCE has assisted with the return of refugees and internally displaced persons to their pre-war homes, by advising government on the legal provisions regarding property rights, for example, that may be necessary for such a process to work fairly and effectively. In some cases, such as the Eastern Slavonia region of Croatia, the OSCE has worked directly with returning refugees to facilitate their return.

The most dramatic illustration of this OSCE role is in the implementation of the Dayton Accords on Bosnia-Herzegovina. In this case, the OSCE was charged specifically with preparing and supervising all national, republic-level, and municipal elections, and with implementing the results of those elections including, after the municipal elections in the autumn of 1997, assisting the return of elected officials to those communities from which they had been forcibly evicted during the fighting. It was placed in charge of implementing the regional stabilization and arms control measures under Articles II and IV of the Dayton Accords, including supervising the disarmament of combatant forces, the surrender of weapons by individuals, and aerial surveillance to verify compliance with the arms control provisions and to enhance confidence among the parties to the conflict. Finally, the OSCE has played a leading role in promoting the development of pluralistic and independent media and the use of fair techniques in connection with elections and other political activities. In short, with the exception of the direct military enforcement role under the leadership of IFOR and SFOR, the OSCE has played the leading role in the implementation of the Dayton Accords, especially involving political dimensions of the security-building process.

Similarly, the OSCE mission in Croatia has played a key role in the post-conflict process in that country. In January 1998, approximately 250 persons under the OSCE took over tasks formerly undertaken by the UN Transitional Administration in Eastern Slavonia (UNTAES). A principal responsibility for mission officials, made up solely of civilians, has been to assist and oversee the Croatian government's implementation of agreements concerning the two-way return of refugees in an effort to undo the ethnic cleansing that took place in the course of the fighting in that region of Croatia. Finally, the OSCE played a major role not only in resolving the conflict that broke out in Albania in early 1997, but also in the process of rebuilding political and social order in Albania after the fighting was brought to an end. In order to illustrate in some detail both the strengths and limitations of the OSCE in fulfilling the various security roles that it has undertaken, the following sections will examine in greater detail two conflicts in which the OSCE has been extensively involved. Although most missions involve some combination of the various activities mentioned above, I will discuss in detail these two cases, the first in Ukraine where the focus was primarily on preventive diplomacy, and the second in Moldova where the emphasis was on post-conflict security-building and the resolution of the underlying conflict involving the status of Transdniestria. These two cases provide a basis for comparing the OSCE's role after the outbreak of violence in contrast to its capability to intervene before a crisis has reached the stage of open violence. Both exhibit some significant similarities that set them apart from many of the ethno-political conflicts that have broken out since the end of the Cold War. In both cases, separatist movements have originated among Russians who represented the dominant group in new states that emerged after the breakup of the Soviet Union. But in both cases the primary basis of the separatist movement was more political than ethnic in nature. Ethnic Russian leaders in both regions expressed regret at the disappearance of the Soviet Union, and there was significant backing in both communities for the putschists in 1991 and for the anti-Yeltsin forces in the Russian parliament in 1993. In both cases, significant Soviet military bases remained after 1991, the Black Sea Fleet in the case of Crimea and the 14th Army in the case of Transdniestria. Although these were the principal lines of cleavage, both countries also experienced conflict originating from Islamic communities that also constituted an ethnic minority in their societies, the Crimean Tatars in the case of Ukraine and the Gagauz in the case of Moldova. Yet, the outcome in these two cases differed in one fundamental respect.

When the situation in Moldova reached the crisis stage in 1992, a war broke out leaving almost 1000 people dead. By contrast, intense crisis did not arise in Ukraine until 1994, and by this time the OSCE conflict prevention machinery was in place and able to intervene before the outbreak of violence. Therefore, widespread violence was headed off in Ukraine in a situation which otherwise might have led to equal or greater violence than that experienced in Moldova, and furthermore with a risk of involving Russia due to its extensive interests in the region. Therefore, exploring the OSCE intervention in Ukraine prior to the outbreak of violence provides an interesting comparison with the case of Moldova, where the OSCE entered the conflict only after the brief war with Transdniestria had come to an end and a cease-fire was already in place.

Preventive Diplomacy in Ukraine: The Crimea Crisis

The major role of the OSCE mission in Ukraine involved direct intervention to prevent conflict in the face of a brewing crisis over the status of Crimea. Indeed, a largely ethnic Russian population was heavily concentrated in several regions of Ukraine, including eastern regions around cities like Donetsk and in the south around the city of Odessa. But conflict became most critical in the Crimean peninsula, which had been an autonomous region within the Union Republic of Ukraine during the Soviet period. The situation was made especially explosive by the presence of the former Soviet Black Sea Fleet based in Crimea and particularly by the headquarters city of Sevastopol, a major base for the Soviet Navy, whose status itself became a major subject of dispute between Ukraine and the Russian Federation. A secondary issue with which the OSCE became involved had to do with the economic and political status of a large number of Crimean Tatars, dispersed throughout the Soviet Union, who began to return to Crimea in large numbers after Ukrainian independence.

Originally the homeland of the Crimean Tatars who were deported to Central Asia during World War II, Crimea was part of Russia until 1954 when it was given to Ukraine as a "gift" by Nikita Khrushchev. This change of status had few practical consequences during Soviet times, although during the Gorbachev period Crimean Russians began to agitate in favor of independence from Ukraine. Indeed, prior to the breakup of the Soviet Union, a referendum was held in Crimea that indicated an overwhelming desire to create an autonomous republic within the Soviet Union outside of Ukraine. Opinion diverged at that time about whether it should be a truly independent state or an autonomous region within the Russian Federation, but there was a general consensus that it should separate from Ukraine. In the last days of the Soviet Union, the Supreme Soviet of the Ukrainian Soviet Socialist Republic granted Crimea's request to become an autonomous republic within the UkrSSR, and this was entered into the Crimean constitution on June 6, 1991. At this late date Ukraine's leaders apparently did not foresee the sudden collapse of the Soviet Union or the consequences of an autonomous Crimea within an independent Ukraine.

With the breakup of the Soviet Union in 1991, the Crimean Russians, who constituted about 67% of the population of the peninsula, suddenly found themselves to be a minority in the new Ukrainian state. The crisis in relations between a newly independent Ukraine and Crimea developed in several stages. At the outset, a citizens movement of ethnic Russians opposed to Crimea's status as part of an independent Ukraine began to organize in the spring of 1992. Fuel was added to the fire when the Russian Supreme Soviet adopted a resolution shortly thereafter proclaiming that the transfer of Crimea to Ukraine in 1954 lacked legal force. At first Ukraine's leadership reacted moderately, and they agreed to grant Crimea full political autonomy without territorial separation and more economic rights vis-à-vis the government in Kiev. However, Crimeans began to press for even greater concessions from Ukraine, which in turn caused Ukrainian nationalists to insist that Crimea be recognized an integral part of Ukraine.

On May 5, 1992, Crimea adopted an Act of State Independence and on the following day a constitution proclaiming the Republic of Crimea as a sovereign state. A referendum was called for August 1992 to ratify the declaration of independence. The Supreme Council of Crimea proposed to negotiate treaty arrangements with Ukraine on an equal footing. One week later the Ukrainian Rada ordered the Crimean declaration annulled within two weeks. In June, the Ukrainian parliament passed a new law delineating the division of power between Ukraine and Crimea, and Crimea's leaders agreed in return to drop the referendum on independence. This modus vivendi ended the immediate crisis, but the issue continued to simmer within Crimea.

In January 1993, President Kravchuk of Ukraine appointed a special representative to Crimea to pursue negotiations at the grassroots level. At the same time he interfered in Crimean politics by supporting a former colleague from the Soviet era, Mykols Bahrov, former first secretary of the Crimean Communist Party, in the campaign for President of Crimea. Bahrov, however, was soundly defeated by an unabashedly pro-Russian candidate, Yuri Meshkov, who became the first president of Crimea. Immediately upon assuming office, Meshkov set out on a confrontational path, and the Crimean parliament reconstituted once again those sections of the 1992 constitution that maintained that Crimea was not an integral part of Ukraine.

The Conference for Security and Cooperation in Europe first became involved in Crimea in late 1993, when the High Commissioner on National Minorities opened contacts with Ukrainian authorities regarding the status of ethnic Russian populations in various parts of Ukraine. Max van der Stoep paid his first visit to the region in February 1994, followed up by a visit to Donetsk in the Donbass region of Eastern Ukraine and to Simferopol, capital of Crimea, in May 1994. On May 15, 1994, he addressed a letter to Ukrainian Foreign Minister Anatoly Zlenko, in which he recommended a settlement based on principles which would "reaffirm the need to maintain the territorial integrity of Ukraine, but which, on the other hand, would contain a complete programme of steps to solve various issues concerning the implementation of the formula of substantial autonomy for Crimea, especially in the economic field." Zlenko replied on June 7, agreeing to most of van der Stoep's recommendations, but he also noted that the May 20 decision by the Crimean parliament violated the Ukrainian constitution. He stated bluntly: "This illegal decision provoked by the irresponsible policy of the present leadership of the Crimea and aimed at undermining the constitutional order of Ukraine and its territorial integrity cannot be qualified other than an obvious attempt by separatist forces to put the internal political stability of Ukraine at risk and provoke tension in the relations between Ukraine and Russia."

In part on the basis of the report of the High Commissioner to the CSCE's Committee of Senior Officials in Prague, in August 1994 the CSCE created a mission of long duration to Ukraine, with a special focus on the problems of Crimea. This mission, which arrived in November 1994, had its headquarters in Kiev and a regional office in Simferopol, the capital of Crimea. Its mandate included: "... providing objective reporting ... on all aspects of the situation in the Autonomous Republic of Crimea (Ukraine), or factors influencing it, and efforts towards the solution of its problems; ... to facilitate the dialogue between the central government and the Crimean authorities concerning the autonomous status of the Republic of Crimea within Ukraine; preparing reports on the situation of human rights and rights of persons belonging to national minorities in the Autonomous Republic of Crimea (Ukraine);..." The limited mandate permitted the OSCE's mission in Ukraine only to engage in the process of facilitating negotiations rather than in active mediation or other measures of preventive diplomacy, and in part for this reason much of the onus for preventive diplomacy fell on the shoulders of High Commissioner Max van der Stoep.

In September 1994, Crimean President Meshkov began to issue a series of unilateral declarations, abolishing the Supreme Council of Crimea as well as local councils. However,

the Presidium of the Supreme Council declared that Meshkov's actions violated the laws of both Crimea and Ukraine. President Kuchma of Ukraine also stepped in and told both Meshkov and Sergei Tsekov, chair of the Supreme Council, that he would "not allow the use of force to settle the conflict between the branches of government in Crimea." He ordered his deputy prime minister Marchuk to go to Crimea to mediate in negotiations between the Crimean president and parliament. The Ukrainian Rada simultaneously passed a law giving Crimea only until November 1 to bring its constitution fully in line with the Ukrainian constitution. In early 1995, the Supreme Council of Crimea ratcheted up its defiance by declaring that the state property of Ukraine in Crimea belonged to Crimea and by threatening to hold a referendum on independence during the April 1995 municipal elections. The Ukrainian Rada, in response, tried to dismantle Crimean autonomy altogether. On March 17, 1995, it annulled the 1992 Crimean constitution, abolished the Crimean presidency, its law on the constitutional court, and its election laws, while also bringing criminal charges against President Meshkov. President Kuchma also decreed that the Crimean government was to be fully subordinated to the Ukrainian government. In response, Sergei Tsekov, speaker of the Crimean parliament, called on the OSCE to make a legal assessment of the decisions taken by the Ukrainian parliament in the light of international law.

The OSCE mission began intensive consultations with Ukrainian officials, and a meeting of OSCE ambassadors was also held at the Hungarian Embassy in Kiev. On this basis, the OSCE concluded that Ukrainian authorities had acted within their constitutional authority, and that many of the decisions taken by the Rada had been provoked by Crimean separatists. They noted that Ukraine had refrained from taking the most radical steps favored by some politicians in Kiev, so that Crimean autonomy remained intact, even though the central government had substantially increased its veto power over decisions taken by the regional authority. On the other hand, they deplored the cancellation of the Crimean local election laws which had guaranteed multiparty representation, especially for Tatars and other minorities, far more effectively than the Ukrainian election laws. They also expressed their concern that the actions of the Rada had provoked an escalation of tensions and the possible radicalization of Crimean Russians. They further urged the restoration of Crimea's autonomy status of 1992, concluding with the following observation:

... no efforts should be spared by the OSCE, by the HCNM and the Mission to Ukraine, also by the Council of Europe, to point out to Ukrainian authorities the urgency of establishing a Constitutional Court system as guarantor not only of a meaningful Autonomy Status for Crimea but also for a substantive Ukrainian democracy based on Council of Europe standards. It is highly unsatisfactory to have the Ukrainian Parliament play lonely and supreme "judge" of constitutional frictions between Kiev and Simferopol.

The OSCE Head of Mission, Andreas Kohlschütter, warned against the dangerous consequences that could ensue if external parties were to interfere in the situation, presumably referring to the possible support by politicians and military authorities in the Russian Federation for the Russian community in Crimea. In this vein he argued for a major effort by the OSCE to promote dialogue and to introduce a voice of "moderation and compromise into the decision-making process on all sides," which constituted the essence of "quiet and preventive diplomacy," which he urged OSCE member states to support also through their bilateral contacts with all parties involved in this conflict.

As a result of these rising tensions, the High Commissioner on National Minorities decided to step up his activity in the region. He became actively engaged as a "go between" in an effort to help the parties adjust their constitutions to conform with each other. High Commissioner van der Stoep organized a conference in Locarno, Switzerland, on May 11-14, 1995, which came on the heels of an announcement by the Crimean parliament of its intention to hold a referendum on the reinstatement of the 1992 constitution. On May 15, the High Commissioner proposed a formula for an agreement intended to head off escalating tensions

between the parties. He suggested that the Crimeans cancel the referendum, while expressing support for the implementation of a number of provisions in a draft Ukrainian law of June 1992 on the division of powers that had not gone into force. Specifically, he recommended that some essential principles of this draft text should be incorporated in parallel constitutions of Crimea and of Ukraine that would grant Crimea irrevocable autonomy in many key areas, a right to appeal to the Ukrainian Constitutional Court if it considered that Ukrainian legislation infringed on its autonomy, while also acknowledging Crimea's status as an Autonomous Republic within the state of Ukraine. He also proposed that the parliaments of Ukraine and Crimea create "an organ of conciliation with the task of suggesting solutions to differences arising in the course of the dialogue about relevant legislation."

These recommendations were generally well received in Kiev, and Ukrainian authorities acknowledged that the decision by the authorities in Simferopol to cancel the referendum served as "evidence of a certain influence of recommendations developed in Locarno." Based on this success, a second round table was held in September 1995 in Yalta focusing on the narrower topic of the reintegration of deported peoples (Tatars) returning to Crimea. In 1996, the High Commissioner focused on both the constitutional issue and on provisions for education of minorities (both Ukrainians and Tatars) in Crimea.

Meanwhile, for a variety of reasons, the Crimean leadership acquiesced in most of Kiev's demands. Not the least of the factors enabling Ukraine to preserve its territorial integrity is the fact that the Crimean separatists received little support from the Russian government. Crimea's almost complete economic dependence on financial support from Kiev made autonomous action virtually impossible to sustain. And there was little public outcry in Crimea to the steps enacted by the authorities in Kiev, as fewer than 200 persons came out to protest the dismissal of President Meshkov. Indeed, in July 1995 the speaker of the Crimean parliament, Sergei Tsekov, lost a vote of confidence in the parliament and was replaced by a much more conciliatory speaker, Yevhen Supruniuk. Furthermore, the central government had gained control of the law enforcement agencies in Crimea, especially over the structures of the Ministry of Interior throughout the region. When the Crimean parliament abolished the presidency and replaced it with the post of prime minister, Kiev also successfully maneuvered to have a sympathetic candidate, Anatolii Franchuk, elected to that position.

The more moderate Crimean leadership was also inclined to follow the recommendations of the OSCE's High Commissioner. On November 1, 1995, a new constitution on the status of the Autonomous Republic of Crimea was adopted that incorporated many of the suggestions from the Locarno conference, except that it failed to guarantee representation for the Crimean Tatar community as the High Commission had strongly encouraged. The OSCE mission in Ukraine also strongly urged the government in Kiev to institute economic development projects in Crimea in order to capitalize on the economic potential of the region. They proposed creating a regional development bank with capital controlled by both Kiev and Simferopol, along with a free economic zone to attract investment. The latter proposal, however, set off a dispute between Ukrainian and Crimean authorities about who would make up for the lost tax base. The OSCE mission recommended changes in Ukraine's tax code that threatened to deprive Crimea of a significant portion of its tax revenues, while urging both parties to look for ways they could benefit simultaneously from the promotion of economic growth in the region. The OSCE mission also encouraged development of ocean-front property and beaches along the Black Sea coast to try to restore the tourist industry, which had been a major source of revenue during the Soviet period. They urged initiatives to restructure the extensive military industries located in the region, which had declined following the end of the Cold War. They recommended large-scale privatization of hotels and resort facilities, as well as former defense industries, and a systematic effort to attract foreign investment into these sectors of the economy. In short, the mission emphasized the

importance of overcoming the conflict between the center and the region so that both could profit from the great economic potential that Crimea offered.

At the same time a major threat to economic development and social conditions in Crimea emerged due to the return of a large number of Crimean Tatars from other parts of the former Soviet Union where they had been displaced many decades earlier. According to official government statistics, there were some 262,000 Tatars living in Crimea in January 1997, compared to only 38,000 in 1989. Many of those returning were not considered to be citizens of Ukraine and were thus deprived of voting rights. Almost all faced serious problems due to a serious housing shortage and massive unemployment. A round table was organized by the High Commissioner on National Minorities in Yalta on September 20-22, 1995, to consider the problems of the reintegration of the deported peoples into Crimea. Initially the Tatars had largely sided with the government in Kiev, which appeared to offer greater protection to them against efforts on the part of the Russian majority in Crimea from discriminating against them.

However, as relations improved between Simferopol and Kiev, Tatar frustration with the Ukrainian government began to mount. The Tatars also began to voice claims for "national autonomy" as an indigenous people, without claiming a specific territorial jurisdiction. In July 1997, the OSCE mission encouraged the government of Ukraine to give a sympathetic hearing to Tatar grievances and proposals, including simplifying requirements for attaining Ukrainian citizenship, recognizing Tatar as an official language, canceling limits on the resettlement of Tatars in Crimea, giving the Tatar people a special status as an "indigenous people," granting them their own administrative units, and finally guaranteeing their representation in Crimean and Ukrainian state institutions. In this way they sought to prevent the mounting hostility among the Tatars from boiling over, just at a time when the crisis between Crimean Russians and Ukrainian authorities appeared to be waning.

Simultaneously, negotiations continued between Crimean Russians and the government in Kiev concerning the status of Crimean autonomy within the Ukrainian state. Supruniuk, the new parliamentary leader in Simferopol, pursued a more conciliatory policy than his predecessors and assured Kiev that the separatist threat was over. At the same time, he tried to gain the greatest autonomy possible through the adoption of the new Crimean constitution and by taking control of Crimea's internal economic policy. This effort, however, met with delaying tactics on the part of the Ukrainian Rada.

In order to speed up the process of closing the gaps between the two constitutions, the OSCE's High Commissioner on National Minorities organized a third round table at the Dutch coastal resort of Noordwijk on March 14-17, 1996. He brought together key participants from both disputing parties along with four technical experts on topics such as law and economics. This conference revealed agreement on most essential issues, except for some twenty points of dispute, only a few of which were of major significance. On the basis of this discussion, the High Commissioner again wrote to the Ukrainian Foreign Minister on March 19, 1996, urging the government of Ukraine to adopt the constitution of the Crimean Autonomous Republic without delay, except for those specific provisions which remained in dispute. Following a visit to Ukraine on April 3-4, 1996, he addressed yet another letter to Ukrainian authorities, suggesting specific provisions to try to overcome the remaining issues in dispute. He recommended that matters such as defense, security, and control over the continental shelf should remain under the exclusive jurisdiction of the central government, while many other functions should come under Crimean jurisdiction. He also urged that most disputes on economic matters be referred to outside experts for adjudication.

Immediately thereafter the Ukrainian Rada adopted a new law concerning Crimea that accepted 116 of the 136 articles of the Crimean constitution. On June 28, 1996, after intense debate, the new Ukrainian Constitution was adopted reconfirming the status of Crimea as an autonomous republic within Ukraine. The OSCE mission noted that this constitution was in

general in line with international standards regarding the protection of human and minority rights. Nonetheless, no detailed agreement on the division of political power between Kiev and Simferopol was concluded, and secessionist sentiment remained high on the peninsula. The remaining differences concerned the fundamental issues of citizenship and language, which had been at the center of the conflict from the outset. The Crimean article on citizenship claimed that Ukrainian citizens permanently residing in Crimea are also citizens of the Autonomous Republic of Crimea, a provision unacceptable to the Ukrainian Rada. Similarly, the Crimean constitution recognized three state languages - Russian, Ukrainian, and Tatar, with Russian as the "official" language - and this clearly clashed with the Ukrainian constitution which recognized only Ukrainian as the state language.

In summary, the quiet preventive diplomacy of the OSCE's High Commission on National Minorities, and the efforts the OSCE's long-term mission in Kiev and Simferopol to promote constructive dialogue between the disputing parties, have contributed significantly to averting violence in the Crimean crisis. It was especially successful in heading off a potential escalation of the crisis into violence which appeared likely in 1994 and 1995. Crimea's autonomy within the Ukrainian state has been clearly stated, even if the details of the division of authority have not been fully resolved. Therefore, the diplomatic progress has been sufficient, in the presence of an environment that would appear to make violence counterproductive, to partially resolve the political issues underlying the Crimean dispute, while preventing its violent escalation. In that respect, at least, the OSCE involvement in Ukraine must be considered on balance to represent a successful effort at preventive diplomacy.

Prof. P. Terrence HOPMANN
Brown University and U.S. Institute of Peace,
Providence, Rhode Island, USA.