



# Mediation and Dialogue Facilitation in the OSCE

Reference Guide



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Reference Guide

OSCE Conflict Prevention Centre

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# Introduction

As the world's largest regional security organization, the OSCE possesses longstanding experience in facilitating political dialogue and engaging in mediation activities with the aim of preventing, managing or resolving conflicts. Already in the 1975 *Helsinki Final Act* participating States committed themselves to the peaceful settlement of conflicts and to the use of such means as negotiation, mediation, conciliation, arbitration and judicial settlement. The 1992 *Helsinki Document* further strengthened OSCE structures and enhanced the OSCE's role with wide-ranging provisions on early warning, conflict prevention, crisis management and conflict resolution.

Today, mediation is widely recognized as one of the most effective means for the prevention, management and resolution of conflicts both in terms of costs and results. Faced with the emergence of new conflicts and the persistence of protracted conflicts, international and regional organizations resolved to strengthen their capabilities for effective mediation and dialogue facilitation. In this context, it has been recognized that both mediation and dialogue facilitation need to be approached as a professional activity requiring specialized knowledge, expertise, and operational guidance, as well as sustained political, financial and administrative support.

Within the OSCE, informal discussions among participating States took place between 2009 and 2011 in the framework of the 'Corfu Process' and the 'V to V Dialogues'. These led to the adoption of OSCE Ministerial Council Decision No. 3/11 on *Elements of the Conflict Cycle* (MC. DEC/3/11), which, *inter alia*, tasked the OSCE Secretary General to prepare a proposal on how to maximize the continuity, consistency and effectiveness of OSCE engagement in conflict mediation and to strengthen the role of OSCE mediators. The Decision also called for the development of



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a systematic mediation-support capacity within the Secretariat's Conflict Prevention Centre (CPC), incorporating four elements: 1) training and capacity-building, 2) knowledge management and operational guidance, 3) outreach, networking, co-operation and co-ordination, as well as 4) operational support. This reference guide contributes to enhancing knowledge management and operational guidance related to OSCE mediation and dialogue facilitation activities.

Furthermore, in July 2011 the United Nations (UN) General Assembly requested in its resolution 65/283 on '*Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution*' the development of guidance for more effective mediation, taking into account, *inter alia*, lessons learned from past and ongoing mediation processes. During 2011 and 2012 the UN led a broad consultation process on the development of the guidance.

The UN Guidance is a reference document which provides advice to mediators on the design and effective management of mediation processes. It gives an outline of the logic of mediation and identifies eight fundamental principles that mediators and their support staff need to consider. The Guidance makes it clear that each conflict situation needs to be addressed within its specific context. Regional organizations can contribute to this by 'translating' the general UN Guidance into their regional contexts. Therefore, the purpose of this reference guide is to provide recommendations surrounding the eight fundamental principles of the UN Guidance as they pertain to the OSCE context.

# Chapter I: Conceptual Framework of Mediation and Dialogue Facilitation in the OSCE Context

## 1. OSCE mediation and dialogue facilitation

The OSCE originated in the détente phase of the early 1970s, when the Conference on Security and Co-operation in Europe (CSCE) was created as a multilateral mechanism to facilitate dialogue between the East and West. After the end of the Cold War and with the increasing shift of attention from inter-state to intra-state conflicts, participating States gave the CSCE a broad mandate for early warning, conflict prevention, conflict management and post-conflict rehabilitation.

In the 1975 *Helsinki Final Act* participating States agreed to use negotiation, mediation and conciliation for the peaceful settlement of conflicts. Further key documents were agreed on, which define the mandate, instruments and mechanisms of the OSCE and its structures throughout all phases of conflict. These include: the 1990 Charter of Paris for a New Europe; the January 1992 Prague Document on Further Development of CSCE Institutions and Structures; the July 1992 Helsinki Document – The Challenges of Change; the December 1992 Stockholm Ministerial Council Document; the 1999 Istanbul Charter for European Security; the 2002 Ministerial Council Decision No. 8 on the Role of the OSCE Chairmanship-in-Office; the 2003

Strategy to Address Threats to Security in the Twenty-First Century; the 2010 Astana Commemorative Declaration – Towards a Security Community; and the 2011 Ministerial Council Decision No. 3/11 on Elements of the Conflict Cycle, Related to Enhancing the OSCE’s Capabilities in Early Warning, Early Action, Dialogue Facilitation and Mediation Support, and Post-Conflict Rehabilitation. These are in line with the UN General Assembly’s resolutions A/RES/65/283 (2011), A/RES/66/291 (2012) and A/RES/68/303 (2014) on strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution.

### Key definitions

Based on the OSCE Mediation-Support Framework (SEC.GAL/110/13), this reference guide uses the following broad working definitions of mediation and dialogue facilitation.

**Mediation:** Mediation can be defined as a “structured communication process, in which an impartial third party works with conflict parties to find commonly agreeable solutions to their dispute, in a way that satisfies their interests at stake.” Mediation processes include four main phases: the preparatory phase for agreeing on negotiations (‘talks-about-talks’), mediated negotiations, agreement, and implementation.

**Dialogue facilitation:** The key features of dialogue facilitation are the same as for mediation. However, dialogue facilitation represents a distinct approach insofar as it is “a more open-ended communication process between conflict parties in order to foster mutual understanding, recognition, empathy and trust. These can be one-off conversations, or go on over a longer period of time. Although dialogues can lead to very concrete decisions and actions, the primary aim is not to reach a specific settlement, but to gain a better understanding of the different perspectives involved in a conflict.”

**Mediation support:** Mediation support is defined as the operational capacity to assist dialogue facilitation and mediation activities. This includes “a

number of accompanying measures that aim to strengthen a mediation effort.” Operational elements of mediation support may include training and capacity building; knowledge management and operational guidance; outreach, networking, co-operation and co-ordination; and operational support, including process design.

Mediation support also acknowledges that mediation processes are team efforts and that they require knowledge, expertise, operational guidance, technical capacity and other forms of resources. Therefore, mediation support provides a range of services to assist the efforts of high level OSCE mediators and their teams.

### Actors and specific instruments, mechanisms and procedures

The *Chairperson-in-Office (CiO)* takes the lead in OSCE activities to prevent, manage and resolve conflicts in the OSCE area. The CiO can, for example, establish direct contact with conflict parties and facilitate dialogue and negotiations. In response to a crisis or to support mediation efforts, the CiO can appoint *Personal or Special Representatives or Envoys*. The CiO can also task the *OSCE Secretary General* or the *Director of the CPC* to facilitate dialogue in a crisis situation, as was done in 2004 during the political crisis in Ukraine and in 2010 during the crisis in southern Kyrgyzstan.

Some *heads of OSCE field operations* are involved in dialogue facilitation and mediation in protracted conflicts or in regional and local disputes. These efforts may also be conducted by *field operation staff* on behalf of the head of mission. Heads of missions and field operation staff also support *Personal/Special Representatives/Envoys* of the CiO in their mediation efforts.

The *High Commissioner on National Minorities (HCNM)* engages in quiet and preventive diplomacy by confidentially facilitating dialogue in cases of tensions involving national minorities. The *Office for Democratic*

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*Institutions and Human Rights (ODIHR)*, through its *Director* and staff, can also facilitate dialogue on issues related to the OSCE's human dimension.

The *OSCE Parliamentary Assembly (PA)* is involved in dialogue facilitation, especially on the parliamentary level, through the *PA President*, *her/his Special Representatives* and working groups on specific conflicts, regions or critical issues.

OSCE mediation and dialogue facilitation actors work in close coordination with each other based on the principle of respect for their specific mandates.

Some OSCE mechanisms on the peaceful settlement of disputes available to the CiO for her/his good offices, mediation and conciliation efforts include the *Valletta Mechanism* and the *Provisions for an OSCE Conciliation Commission and for Directed Conciliation*. Thirty three participating States acceded to the 1992 *Convention of Conciliation and Arbitration of the CSCE*, which established a Court of Conciliation and Arbitration, consisting of a Conciliation Commission and an Arbitral Tribunal to assist in settling disputes brought before them by signatory states. Other OSCE mechanisms and procedures that entail some form of third-party dialogue include the *Mechanism for Consultation and Co-operation as Regards Unusual Military Activities* of the *Vienna Document* and the *Stabilizing Measures for Localized Crisis Situations*.

There are also other OSCE mechanisms which can be utilized for the peaceful settlement of crisis/conflict situations even though they do not specifically mention the role of a third party. For example, the 2001 Ministerial Council Decision No. 3 on *Fostering the Role of the OSCE as a Forum for Political Dialogue* (MC(9).DEC/3) allows the Permanent Council (PC) and the Forum for Security Co-operation (FSC) to provide a platform for dialogue, with the FSC providing 'third party' expert advice on issues of a politico-military nature.<sup>1</sup>

### Gender

Both women and men can act as agents for change in conflict and peace-making, but the roles, experiences, needs and interests of women and men (as well as boys and girls) tend to be different.<sup>2</sup> Therefore, if mediators and conflict parties do not adopt a gender perspective, the process and its outcome will not be sustainable. It is therefore important that mediators embrace a gender perspective from the beginning and throughout all phases of the process.

Including women leaders, gender experts and women organizations at all levels and in all phases of the mediation process helps to identify the gender dimension of substantive issues on the agenda and to incorporate other critical issues that could possibly be ignored. It will also help to take into account women's needs, vulnerabilities, capacities, priorities and interests, therefore rendering the process more inclusive and comprehensive.<sup>3</sup> As men and women tend to have different negotiation styles, the inclusion of women also ensures that a broader set of mediation skills is used in the process. This can significantly increase the efficiency of the process. At the same time, the thorough collection of data from both men and women about the conflict's impact provides for a more differentiated understanding of substantive issues, which can improve the effectiveness of the process. Addressing conflict-related patterns of gender-based violence in the process can also foster a more sustainable peace settlement.

However, owing to persisting stereotypes, women remain the largest group of stakeholders regularly excluded from official negotiation

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1 For more details on OSCE mechanisms and procedures and a compendium of documents see OSCE/CPC: OSCE Mechanisms & Procedures. Summary/Compendium, Vienna 2011.

2 Cordula Reimann: Gender and Peace Mediation. Peace Mediation Essentials, Bern/ Zürich 2012, p.3, at: [http://www.css.ethz.ch/publications/pdfs/Peace\\_Mediation\\_Essentials\\_Gender.pdf](http://www.css.ethz.ch/publications/pdfs/Peace_Mediation_Essentials_Gender.pdf) (30 September 2013).

3 OSCE: Enhancing Gender-Responsive Mediation – A Guidance Note, Vienna, September 2013, p.7.

processes.<sup>4</sup> UN Security Council resolution 1325 on ‘Women, Peace and Security’ from October 2000 therefore called for: an increase in the participation of women at decision-making levels in conflict resolution and peace processes, a gender-sensitive approach to peacebuilding, the protection of women and girls from gender-based violence and the protection of their rights and needs during and after armed conflict.<sup>5</sup> The OSCE has also acknowledged the need to enhance women’s participation in peace negotiations and to promote a gender perspective in mediation and dialogue facilitation. Ministerial Council Decision No. 14/05 on *Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation* and Ministerial Council Decision No. 3/11 on *Elements of the Conflict Cycle*, among others, urge the Organization and participating States to ensure the increased participation of women in all phases and at all levels in conflict prevention and resolution. In 2013, the OSCE Secretariat issued a Guidance Note on Enhancing Gender-Responsive Mediation in support of this effort.

## 2. Types of OSCE mediation and dialogue facilitation engagements

The comparative strengths of the OSCE in the area of dialogue facilitation and mediation stem from its broad mandate for early warning, conflict prevention, conflict management and post-conflict rehabilitation as well as its wide-ranging membership of 57 participating States. The OSCE has a flexible institutional structure and its consensus-based decision-making process gives legitimacy to all OSCE actions.

On this basis, the OSCE has been engaged in mediation and dialogue facilitation activities since the early 1990s, predominantly in South-Eastern Europe, Eastern Europe, the South Caucasus and Central Asia. Overall, six

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4 Institute for Inclusive Security: Bringing Women into Peace Negotiations, Strategies for Policymakers, Nr.2, October 2009, S.1.

5 UNSCR 1325, at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1325%282000%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1325%282000%29) (30 September 2013).

types of OSCE mediation and dialogue facilitation engagement can be distinguished, each requiring a different set of skills, processes and resources:

### **1. Conducting official mediation in established formats related to the ‘protracted conflicts’ in the OSCE area**

The OSCE’s engagement in conducting official mediation dates back to 1992. Since then, OSCE mediation efforts have been carried out within institutionalized negotiation frameworks in three different conflicts, which have evolved over time:

- The five-sided negotiations and, since 2005, the so-called “5+2” process on the Transdniestrian settlement;
- The Joint Control Commission for the settlement of the Georgian-Ossetian conflict and since 2008 the Geneva International Discussions;
- The Minsk Group process in relation to the Nagorno-Karabakh conflict.

### **2. Facilitating dialogue in the event of a political crisis**

This type of OSCE mediation and dialogue facilitation effort relates to the prevention, management and resolution of various types of crises and conflict situations within participating States, including pre- or post-electoral crises, civil unrest, inter-ethnic and communal violence, or the breakdown of law and order. Examples include the crises in Albania in 1997, in the former Yugoslav Republic of Macedonia in 2001, in Ukraine in 2014 and in Kyrgyzstan in 2005 and 2010. The CiO, his/her Personal and Special Representatives, the Secretary General, the Director of the CPC, heads of missions and their field operation staff, the HCNM, the ODIHR and the OSCE PA have all been involved, either directly by facilitating dialogue or mediating between the conflict parties, or indirectly by supporting national and local efforts.

### **3. Facilitating dialogue between participating States**

The OSCE is also involved in dialogue facilitation between participating



States. For example, in 2009 the HCNM assisted Hungary and Slovakia in their dialogue in connection with the promulgation of amendments to Slovakia's State Language Act. Also in 2009, the HCNM assisted Russia and Ukraine in their dialogue on the educational situation of their kin-minorities.

#### **4. Facilitating dialogue to foster the inclusion of national minorities in state institutions**

With regard to the protracted conflicts, the HCNM and the PA have also facilitated dialogue related to minority issues and parliamentary dialogue respectively. The HCNM works to identify and seek an early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States or within the OSCE area. This involves containing and de-escalating tensions involving national minorities within the OSCE area, alerting the Organization to risks by providing early warning, and engaging in early action where a situation has the potential to deteriorate into conflict. Two formal early warnings, as defined in the HCNM mandate, have been issued: one on the former Yugoslav Republic of Macedonia in 1999 and another on Kyrgyzstan in 2010. The High Commissioner does not require the approval of the Permanent Council or of the state concerned to get involved.

#### **5. Facilitating dialogue between communities at the local level; building capacities of local actors in conflict prevention and mediation**

The OSCE's involvement in dialogue facilitation at the local level is mainly carried out by OSCE field operations, for example, in Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kyrgyzstan and Tajikistan. Past activities have included the facilitation of inter-communal dialogue, the facilitation of dialogue between local authorities and minority communities and capacity building for local mediation and dialogue mechanisms. These all have the long-term goal of transforming relationships between stakeholders, facilitating reconciliation and preventing new conflict.

## **6. Supporting high-level processes through confidence-building and/or technical problem solving**

Heads of missions and field operation staff also facilitate, sometimes with the support of specialized international NGOs, informal engagements to build trust between representatives of the conflict parties. The OSCE's mediation efforts in the protracted conflicts have, in the case of Moldova and Georgia, been complemented by confidence-building measures (CBMs)<sup>6</sup>. These measures have been proposed, planned, supported and facilitated by OSCE field operations together with the co-mediators, observers and donors, and jointly carried out with the conflict parties.

Some OSCE field missions have supported dialogue activities that seek to include civil society and vulnerable groups in the broader settlement processes. These processes have aimed at solving problems at the technical level, for example by developing ideas for the official negotiation process.

## **3. Mediation and dialogue facilitation in different phases of the conflict cycle**

Mediation and dialogue facilitation are instruments that can be used in all phases of the OSCE conflict cycle. The role of the mediators and their approaches and strategies will depend on the specific phase.

### **Conflict prevention**

Conflicts can be most effectively dealt with at an early stage, i.e. before they escalate into violence and become complex or entrenched. In the early phase of an emerging conflict, mediation and dialogue facilitation can be effective, as they are flexible and relatively cost-effective tools that can bridge the gap between early warning and early action. Preventive diplomacy can include efforts by high-ranking diplomats or politicians from international

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<sup>6</sup> For more information, see OSCE Guide on Non-military Confidence-Building Measures (CBMs)

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organizations or states – often taking the form of quiet diplomacy and shuttle diplomacy – as well as the efforts of non-governmental organizations and eminent individuals. The earlier preventive efforts are undertaken, the better the chances for successful prevention.

In 1994, the HCNM engaged in intensive preventive diplomacy efforts in Ukraine by facilitating dialogue between the Ukrainian central Government and Crimean authorities, as the latter of which were demanding unification with Russia. The efforts of the HCNM, supported by the then OSCE Mission to Ukraine (currently an OSCE Project Co-ordinator in Ukraine) led in 1995-1996 to a compromise solution on the autonomy of Crimea.

### Conflict management

Once a conflict has escalated into violence, shuttle diplomacy to reduce tension and ultimately end violence takes place, and ceasefire negotiations become a priority. Opportunities for talks among conflict parties, where conflict causes can be addressed, need to be identified during the conflict management phase. OSCE mediation and dialogue facilitation can use informal efforts to encourage the parties to (re-)start political negotiations; to build trust between the conflict parties; and to build national and local ownership, including that of civil society, over the subsequent phase of mediated negotiations.

Formal mediation and dialogue facilitation efforts of the then Swedish Chair of the OSCE's Minsk Group and the Russian Federation led to the signing on 12 May 1994 of the ceasefire agreement between the Defence Ministers of Armenia and Azerbaijan and the commander of the armed formations of Nagorno-Karabakh. The ceasefire agreement was a result of intensive shuttle diplomacy and the use of a partially power-based, directive mediation approach.

### Conflict resolution

Mediation typically begins with extensive pre-negotiations during which the framework of the negotiations, including the principal agenda, process and main participants are agreed on. Depending on the context, formal processes profit from the support of informal efforts. The latter can, for instance, help to restart official negotiations after breakdowns or deadlocks by building confidence, strengthening relationships and generating ideas for formal political negotiations. The longer a conflict persists, the more complex the set of issues and actors, and the more numerous the third parties engaged in mediation and dialogue facilitation tend to become.

The settlement process of the Transdniestrian conflict in Moldova consists of formal political negotiations in the so-called “5+2” format. The ‘five’ consist of the co-mediators (the OSCE, Russia and Ukraine) and the sides to the conflict (Moldova and Transdnistria). The ‘two’ consist of the observers (the European Union (EU) and the United States (US)). The format also includes joint working groups that bring together the sides in order to build confidence. This format is accompanied and supported by informal efforts facilitated by international and national non-governmental organizations with the political, financial and sometimes operational support of the OSCE and/or individual participating States.

### Post-conflict rehabilitation

During the implementation of agreements, formal mediation efforts may need to continue to help resolve possible disputes that may arise from the implementation itself. This is critical so as to avoid a breakdown of the agreement or a relapse into violent conflict. Informal engagements can also be used as complementary mechanisms in this phase with a view to ensuring a transition to long-term peacebuilding and reconciliation. Communities can also be engaged in third-party-supported dialogue processes in order to facilitate the implementation process and to peacefully address any additional issues that may emerge.

Following the large-scale ethnic violence in southern Kyrgyzstan in June 2010, a third-party-supported dialogue process was established by the OSCE to facilitate and assist inter-ethnic dialogue and post-conflict reconciliation between Kyrgyz and Uzbek communities. It was designed around four complementary and interdependent platforms for dialogue: religion, youth, women, and economic factors. Each platform aimed at bringing together and building trust between members of the two communities to try to bridge some of the ethnic divides. The dialogue process was meant as a short-term intervention to reduce the level of individual and collective aggression between the communities as well as to address needs stemming from the post-conflict setting.

#### **4. Limits of Mediation and Dialogue Facilitation**

Despite their potential to prevent, manage and resolve conflicts, mediation and dialogue facilitation have a number of limitations.

##### **Readiness of the parties to negotiate**

Given their voluntary character, the success or failure of mediation and dialogue facilitation depends foremost on the conflict parties themselves. They need to be open to a negotiated settlement of the conflict, agree to third-party mediation, commit to the process, negotiate in good faith and have the political will to reach and implement agreements. In the absence of such political will, the possibilities for meaningful mediation and dialogue facilitation are very limited.

Third parties will need to approach the conflict parties in a consistent and co-ordinated manner. International and regional organizations may not be unified in applying the necessary measures to provide conflict parties with positive and negative incentives to accept mediation. There are also cases where ‘insider’ mediators or non-governmental groups have fostered the readiness of the parties to enter into negotiations. If conflict parties are not ready to engage in mediation, third parties can only try other means to

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foster trust between the parties, such as CBMs, while in parallel continuing to offer their services as mediators and trying to convince the parties of the need to negotiate.

### External actors

The lack of unity of purpose to support a mediation process at the regional and international levels may limit its success. Competition among the main international stakeholders as well as unilateral actions by neighbouring states and regional powers might reduce the commitment of conflict parties to negotiate in good faith and encourage them to play third parties against each other. For the OSCE, a lack of consensus among participating States in the Permanent Council limits the potential of mediation engagements. It also significantly limits the amount of financial, human and other resources required by the OSCE to support the process.

### Outcome

Any peace agreement negotiated by the conflict parties with the help of mediators has to respect relevant international legal obligations, especially international humanitarian law, international human rights and refugee law, and international criminal law. Most importantly, mediators cannot endorse peace agreements that include sweeping amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights, including sexual and gender-based violence.<sup>7</sup> Therefore, the accepted outcome of the mediation or dialogue facilitation process may be limited by these restrictions.

### Do no harm

Like any external intervention, international mediation and dialogue facilitation have consequences. To minimize negative side effects, OSCE

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<sup>7</sup> UN Guidance for Effective Mediation, p.17.

mediators and dialogue facilitators should be guided by the ‘Do No Harm’ principle in the planning, implementation, and evaluation of their activities. ‘Do No Harm’ requires the mediator to avoid conducting the process in a way that causes harm to the conflict parties, including women and other stakeholders, or in a way that exacerbates the conflict.

External mediators can do harm in many ways, usually unintentionally through lack of proper assessment. Experience has shown that a perceived lack of impartiality, for example through a badly timed engagement with a weaker conflict party, can exacerbate existing tensions between parties. The promotion of CBMs that make the status quo more bearable for the parties can also contribute to the unwillingness of the parties to negotiate a final settlement. If CBMs are not carried out jointly they risk deepening the divide between the conflict parties.

Unintended negative effects of mediation and dialogue facilitation efforts can be minimized by implementing a conflict sensitive approach according to the ‘Do No Harm’ principle. This includes maintaining a thorough and continuous analysis of the conflict and the impact of the OSCE mediator’s activities, as well as continuously adapting the mediation strategy in accordance with the impact assessment.

### **5. Professional support to mediation and dialogue facilitation**

International mediators are faced with a multitude of new challenges. They have to deal with a variety of highly complex substantive issues for which they require extensive specialized expertise. This requires systematic support for mediation and dialogue facilitation efforts throughout all phases of a conflict. Mediators also need to aim for comprehensive settlements and mobilize international support for their implementation. They need to respond to the growing demands of civil society and ensure the participation of underrepresented groups in peace processes. Mediators also have to ensure respect for international legal norms and principles related to the

protection of human rights and for international criminal justice throughout the process<sup>8</sup>.

To help meet these challenges, international and regional organizations, such as the UN, the EU and the OSCE, have recognized the need to improve the effectiveness of their mediation efforts. The analysis of past and ongoing mediation and dialogue facilitation efforts brought these organizations to very similar conclusions. They all recognized the need to provide their mediators with expert support, with an emphasis on helping mediators make peace processes more inclusive, especially with regard to the participation of women and civil society, and on strengthening national and local mediation capacities. They all acknowledged the importance of developing co-operation, co-ordination and partnerships among international, regional and sub-regional organizations, as well as with NGOs and other actors involved in mediation.

To increase the effectiveness of mediation, several organizations created specific mediation-support structures. In 2006, the UN Secretary General (UNSG) established a Mediation Support Unit in the Department of Political Affairs and, in 2008, created a Standby Team of Mediation Experts deployable within three days in support of UN mediation efforts. In 2009, the Council of the EU adopted a Concept on Strengthening EU Mediation and Dialogue Capacities. In 2011, a Mediation Support Team was created within the European External Action Service.

Within the OSCE, discussions on strengthening the effectiveness of OSCE mediation efforts were part of the informal consultations held among participating States between 2009 and 2011 in the framework of the '*Corfu Process*' and the '*V to V Dialogues*'. These consultations aimed at strengthening OSCE capabilities in conflict prevention, conflict management and post-conflict rehabilitation. They led to the adoption, in December 2011, of Ministerial Council Decision No. 3/11 on *Elements of the Conflict*

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<sup>8</sup> Ibid.



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*Cycle* (MC.DEC/3/11), the most comprehensive OSCE decision taken on the conflict cycle since the 1992 *Helsinki Document*. MC Decision No. 3/11 thus created the basis for maximizing OSCE engagement in mediation and dialogue facilitation through (1) the designation of a mediation-support focal point within the CPC; (2) the development of a systematic mediation-support capacity within the CPC; and (3) the strengthening of the role of OSCE mediators at all levels.

The OSCE Secretary General subsequently appointed as mediation-support focal point the CPC's Operations Service, which assumed the responsibility to implement activities related to mediation support in close consultation and co-operation with the CPC's Policy Support Service and other executive structures. This includes training and capacity building; knowledge management and operational guidance; outreach, networking, co-operation with other mediation actors; and operational support.



EXIT



# Chapter II: Reference Guide on Effective Mediation and Dialogue Facilitation in the OSCE Area

The references included in this chapter do not provide an exhaustive overview of all possible scenarios and challenges or options available to OSCE mediators and dialogue facilitators. They should, therefore, be applied with common sense and judgment, according to the specific circumstances in which a concrete dispute develops and OSCE mediation and dialogue facilitation efforts are undertaken.

This chapter provides recommendations for OSCE mediators and their teams on how to tackle each phase of the mediation cycle (pre-negotiation, negotiation and implementation). Highlights from the UN Guidance for Effective Mediation are used as a reference followed by OSCE specific ideas on how to put the UN guidance into practice through existing OSCE mechanism, tools and processes.

# 1. Preparedness

Highlights from the UN Guidance for Effective Mediation on preparedness:

- Commit resources to respond rapidly and to sustain support for the mediation process, including deployment of personnel on a continuous basis for medium- and long-term engagements.
- Select a competent mediator with the experience, skills, knowledge and cultural sensitivity for the specific conflict situation. The mediator should be considered objective, impartial and authoritative and be a person of integrity. The mediator needs a level of seniority and gravitas commensurate to the conflict context and must be acceptable to the parties.
- Reinforce the mediator with a team of specialists, particularly experts in the design of mediation processes, country/regional specialists and legal advisers, as well as with logistics, administrative and security support. Thematic experts should be deployed as required.
- Undertake conflict analysis and regular internal assessments of the process in order to make adjustments to the mediation strategies as needed.
- Provide proper preparation, induction and training to mediators and their teams. All team members should understand the gender dimension of their respective areas of expertise.
- Include a balance of men and women on mediation teams. This also sends a positive signal to the parties with regard to the composition of their delegations.

## Conflict analysis

The first step in preparing for mediation or dialogue facilitation is a systematic analysis of the conflict. This analysis should be comprehensive and geared towards helping the mediation team develop a well-informed mediation strategy. The aim of an initial analysis is to gain an understanding of the conflict, in particular, its history and current phase as well as key causes and actors. In order to gain a comprehensive picture of the conflict, the sources of information used need to be comprehensive and balanced. It is particularly important to reach out to women in the analysis phase in order to ensure that the views of women on all sides of the conflict are included. The conflict analysis will enable the mediator to decide with whom and on what level to engage, on which issues to concentrate, how to gain the necessary leverage and how to design the subsequent process.

Conflict analysis, however, has to be a continuous effort throughout all phases of a mediation process so as to understand the changing dynamics. This allows the mediator to adapt or correct the strategy as necessary, to identify 'windows of opportunity', to foresee possible developments, to design contingency plans and to quickly react to new developments. The analysis should be kept strictly confidential to avoid it being leaked and used against the mediator by intransigent actors.

### Actors

Actors comprise the individuals, groups (including sub-groups) and institutions which contribute to conflict and/or are affected by it in a positive or negative manner. This part of the analysis should focus first on the actors directly involved in the conflict, i.e. the conflict parties and their stated positions as well as their interests and underlying needs with regard to the issues at stake (see below). Attention should be paid to the kind of resources actors can leverage, the actual/potential impact of their actions on the conflict setting, the scale of their support and power, their internal structures, as well as their leadership structures, including groups more willing to negotiate and intransigent groups. The balance of power within and between

the conflict parties, their relationships, i.e. the level of mistrust, interaction and communication on different levels, as well as potential overlaps of interests should be analysed.

It is equally important to make sure that the analysis covers the key actors on all relevant levels. The analysis should not only focus on formal actors but also take account of civil society actors, business communities, women's and youth organizations or faith-based groups which have a stake in the conflict and could be potential partners or spoilers in the framework of the mediation process. The analysis should also cover actors that may not be directly involved in the conflict but have the means to influence the situation, for instance through specific relations with the conflict parties. It is therefore highly advisable to take a close look at neighbouring states, regional and global powers as well as international governmental and non-governmental organizations. Such examination should include the level and nature of their interests in the conflict and/or its resolution, the leverage they may hold on the conflict parties (or some of their factions), and their own mediation efforts.

### Causes and issues

If possible, the analysis should focus on framing the conflict and identifying the key issues disputed between the conflict parties. In addition, it should identify the most important structural (root) causes of the conflict, and any proximate causes that have served or could serve as conflict drivers or accelerators. This is important to ensure a thorough understanding of what exactly is contested, to trace the history of different issues and to grasp the significance of specific conflict dynamics. The gender dimension of key issues as well as structural and proximate causes needs to be assessed. The analysis of conflict causes and issues should also be used to make a closer examination of possible mitigating factors and issues that could be leveraged to bridge divisions between the conflict parties.

An inclusive conflict analysis will always be a mixture of desk research and fact-finding through personal consultations, discussions, and inter-

views. To gain a good understanding of the conflict, the analysis should be based on information from the broadest possible set of interlocutors and a wide range of reliable sources.

### Forming a mediation team

The next step for the mediator is to form a team. The role of the team is to support the OSCE mediator and ensure that the process is professionally and effectively implemented. The mediator can also consider appointing a chief of staff to manage operational issues on the mediator's behalf. The OSCE mediation team should minimally include the following expertise: political analysis and strategy; mediation processes and tactical questions; inclusivity and gender strategy; administration and logistics; security; and media relations. Expertise in relevant thematic areas, such as constitutions, security sector reform, national minorities, power sharing, cultural heritage, and natural resources, can be included on a long- or short-term basis over the course of the process.

It is advisable for the mediator to draw on expertise from the OSCE structures, including the country-specific expertise provided by experts from field operations and the regional desks within the CPC's Policy Support Service. Participating States may also be approached to second experts to the team. The Mediation Support Team within the CPC's Operations Service is available to support process design and provide specialized thematic expertise, upon request. Thematic expertise can also be drawn from within the HCNM's office and ODIHR. Due consideration must be given to gender balance in the mediation team, as well as cultural and linguistic skills.

The mediator can also request that her/his team be trained and/or coached upon appointment to ensure that the team becomes fully functional as swiftly as possible. Such training and coaching also provides a team-building function, helping the new team to learn to work together quickly.



## Choosing a venue

The choice of meeting venue is important to the process. The venue of negotiations should be selected carefully and done in a way that it contributes to building confidence between the parties. The venue should also facilitate a setting that is conducive to open discussions and full concentration on substantive negotiations. Breakout rooms should be available at all times. The venue must also be a safe place where the security of all participants can be guaranteed. In the case of intra-state conflicts, if no safe venue can be found inside the country, negotiations need to be held abroad. The venue of negotiations often also has a significant symbolic meaning for the conflict parties.

The neutrality of the venue can take different forms. Negotiations can be held in the conflict country, for example, in the offices of an OSCE field presence or at the embassy of the country holding the Chairmanship. If the conflict takes place in the territory of two or more countries, negotiations could rotate between neutral venues in the territories controlled by the conflict parties.

Low security concerns and the availability of neutral venues in the territories controlled by the conflict parties have made it possible to rotate meetings in the Transdniestrian settlement process. Meetings at the level of the political leadership, political representatives and technical experts have taken place both in the Moldovan capital, Chisinau, and the administrative centre of Transdniestria, Tiraspol. The meetings in Tiraspol are held in an office of the OSCE Mission to Moldova and, in Chisinau, the meetings are held either in the office of the OSCE Mission, the embassies of the Russian Federation, Ukraine or the US, or in the office of the EU Delegation.

If security or political-symbolic concerns cannot be overcome, other solutions for a neutral venue need to be identified. These could be neutral venues in a location considered by all conflict parties as jointly controlled, in a no-man's-land between the territories controlled by the conflict parties, or in a venue abroad.

Negotiations within the Joint Constitutional Commission of Moldovan and Transdniestrian representatives were delayed by several months in 2003 because the conflict parties could not agree on a venue for the talks. The Moldovan side demanded that meetings take place in the Moldovan Parliament in Chisinau as they considered it to be the only legitimate national legislative organ in Moldova. The Transdniestrian side demanded that the tradition of rotating meetings between Chisinau and Tiraspol be continued. A compromise was found when the OSCE Mission to Moldova opened an OSCE office in Bender for the purpose of holding Joint Constitutional Commission meetings. According to the July 1992 Moscow Agreement, Bender is a city that is under the joint control of the conflict parties and also serves as the seat of the Joint Control Commission (JCC), which oversees the Security Zone between the sides.

After the August 2008 war in Georgia, the security and political-symbolic concerns of the Georgian Government and the South Ossetian de facto authorities made it impossible to hold rotating meetings between the territories controlled by the conflict parties, as was done in earlier phases of the settlement process. The meetings of the Incident Prevention and Response Mechanism (IPRM) – co-facilitated by the EU Monitoring Mission to Georgia (EUMM) and the OSCE – were moved to a no-man’s-land at the village of Ergneti, located between checkpoints of the conflict parties’ territories. At the same time, it was necessary for the meetings of the Geneva International Discussions – co-facilitated by the EU, the UN and the OSCE – to take place outside of the territory of Georgia, at the UN premises in Geneva.

Holding negotiations abroad, however, carries the risk that representatives of the conflict parties may lose contact with realities on the ground. This could result in representatives negotiating exclusively on the basis of the leadership’s interests. Therefore, negotiations should be taken back to the conflict country as often as possible to enable parties to report back to and consult with their constituencies, and thus to undergo a ‘reality check’.

Whether abroad or in the conflict country, the negotiation venue needs to be accessible to all participants and provide space for meetings, including confidential side meetings, as well as separate spaces for the conflict parties and the mediators. It must also have all necessary security and office infrastructure and possess functional communication equipment to enable the conflict parties to quickly report back to their political leaderships and receive guidance. Special cultural and religious needs should also be considered.

Meetings are normally organized by an appointed host. As the basic functions of mediators include hosting, arranging and supporting meetings, they are responsible for identifying and preparing a venue for the meeting and any related activities. This includes ensuring the availability of sufficient funding, preparing all logistical elements, and providing administrative staff, transportation and security. The host thus plays an important role and provides leverage in the process.

### Financial planning

Mediation and dialogue facilitation are relatively cost effective means to resolve conflicts. However, when considering a mediation role, the OSCE needs to ensure the availability of sufficient funds before engaging. The mediator will have to make a thorough estimation of costs, including the cost of staff in the mediation team, travel, meeting venues and special events in the framework of negotiations.

In joint mediation efforts, where several mediators co-operate and all third parties have the right to convene meetings and organize special events, the costs of the process can be shared. An international mediator working alone will need to ensure considerably more funding. Mediators can also request financial and other support from international third parties, such as interested participating States.

In all three of its mediation efforts related to protracted conflicts – the Transdniestrian settlement process, the Geneva International Discussion and the Minsk Group process – the OSCE shares the costs with several co-mediators, co-facilitators, and observers as well as other participants and sponsors. In the Transdniestrian settlement process, the host of any negotiation meeting or of any special event usually covers all related costs with the exception of travel and accommodation for the co-mediators and co-observers. Other OSCE participating States have funded specific events in the framework of the settlement process. For example, Germany hosted and funded several large CBM conferences, which were held to review progress and problems in the CBM working groups as part of the “5+2” process. In another instance, Finland hosted and funded a workshop for participants of the Transdniestrian settlement process on European autonomy regulations.

The mediator will also need to ensure substantial financial, material and other resources for the parties to implement the agreement. The mediator and her/his team may also need to stay engaged and participate in monitoring. They will need to make a detailed calculation of the costs of implementation and the resources required. Based on these calculations, the participating States and organizations can be approached to request funding.

Within the OSCE, there are several possible ways to fund mediation and dialogue facilitation efforts, as well as activities undertaken during the implementation of the agreement. Field operations, OSCE institutions and units of the Secretariat prepare budgets for anticipated mediation and dialogue facilitation efforts during the yearly Unified Budget Process. The Chairmanship does the same with regard to the Chairmanship Fund, which is also part of the OSCE’s Unified Budget. However, the government of the rotating OSCE Chairmanship reserves additional funds in its national state budget for activities related to its OSCE Chairmanship, which could also potentially be allocated to mediation activities.

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There are three options for field operations, institutions and Secretariat units to request and receive additional funding from participating States. Upon the request of the Secretary General and a decision of the Permanent Council, additional funding can be provided on an interim basis from the OSCE Contingency Fund. This funding is for the initial implementation of a new OSCE activity that has been agreed by the Permanent Council but cannot exceed 25 per cent of its estimated costs. A subsequent decision on a Supplementary Budget needs to be taken by the Permanent Council to cover the remaining costs of the new activity and to replenish the Contingency Fund. Alternatively, a field operation, institution or Secretariat unit can request a Supplementary Budget immediately, without use of the Contingency Fund. Finally, extra-budgetary funding can be requested directly from those participating States interested in donating to an extra-budgetary project that has been developed by an OSCE structure.

In response to the political crisis in Bishkek, Kyrgyzstan in April 2010, the OSCE Centre in Bishkek was granted approval by the Permanent Council for the use of the OSCE Contingency Fund to immediately implement a number of emergency support measures. After the crisis in Southern Kyrgyzstan erupted in June 2010, the Permanent Council approved a Supplementary Budget for further response activities of the Centre in Bishkek, including funds to strengthen local capacities in early warning, conflict prevention and conflict resolution, as well as to replenish the Contingency Fund. When, in November 2010, the Permanent Council approved the concept of the OSCE Community Security Initiative in Kyrgyzstan (CSI) as another response to the crisis, the necessary additional funds were secured through extra-budgetary contributions from a number of participating States which donated financial resources to an extra-budgetary project developed by the Centre in Bishkek.

## 2. Consent

Highlights from the UN Guidance for Effective Mediation on consent:

- Understand whose consent is necessary for a viable mediation process to start. If only some of the conflict parties have agreed to the mediation, the mediator may need to engage with the consenting parties and gradually expand the consent base.
- Cultivate consent, in order to create the space for, and a good understanding of, mediation. Informal contacts allow parties to test the waters without committing to a fully-fledged mediation process; this can help address possible fears or insecurities.
- Use confidence- building measures at different stages to build trust between the conflict parties and between the mediator and the parties, as well as confidence in the mediation process.
- Be consistent, transparent and even-handed in managing the mediation process, and respect confidentiality.
- Periodically assess whether the process has sufficient consent and be prepared for fluxes in consent throughout the mediation, working to bring the conflict parties back into the process and drawing on the influence of their backers or other third parties as appropriate.

### Mandate to mediate

A clear mandate is mandatory for OSCE mediation efforts. All OSCE structures, institutions and field operations are strictly guided by the respect for their mandates, which have been formally agreed by participating States through decisions of OSCE Summits, Ministerial Councils or the Permanent Council. The formal character of these mandates gives clout to mediation and dialogue facilitation engagement.

However, OSCE mandates are not formulated so specifically that they necessarily indicate mediation and/or dialogue facilitation as specific tools to be used in their implementation. Instead, mandates are phrased in broad terms and define overall objectives with the aim of providing strategic and practical guidance. Thus, they are written in a way that avoids reducing the flexibility to use a broad range of tools for mandate implementation, including mediation and/or dialogue facilitation. For example, the mandates of field operations established to deal with specific conflicts include such phrasing as: “facilitate a lasting comprehensive political settlement of the conflict in all its aspects”<sup>9</sup>; or to assist “the parties to the conflict in pursuing negotiations on a lasting political settlement of the conflict”<sup>10</sup>. The formal mandates from participating States are then usually reconfirmed in joint statements, protocols or decisions of the conflict parties, thus ensuring acceptance of the OSCE as a mediator.

For OSCE mediators to be able to fulfil their mandates, a functional relationship with the host country is of utmost importance. In intra-state conflicts, there is an asymmetry between the conflict parties as the government side is an OSCE participating State able to withdraw consensus on further OSCE engagement. However, access to and regular contact with non-state actors involved in intra-state conflicts are basic conditions for successful

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9 From the mandate of the Personal Representative of the Chairperson-in-Office on the Conflict Dealt with by the OSCE Minsk Conference (PRCiO).

10 From the mandate of the OSCE Mission to Moldova.

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OSCE dialogue facilitation efforts. OSCE mediators, therefore, need to act with the utmost care and sensitivity with regard to the form, frequency and content of their interaction with non-state conflict parties.

In situations when a newly emerging dispute does not explicitly lie within the mandate of an existing field operation, relations with the host country government are a decisive factor in enabling OSCE dialogue facilitation activities. In some cases, a relationship of trust between the host country government and a field operation or a specific head of mission has led participating States to formally accept or informally acquiesce to a dialogue facilitation role for a field operation regarding a dispute that was not explicitly covered by its mandate.

When disputes erupted between the central Government of the Republic of Moldova and the authorities of the autonomous region of Gagauzia in 1999 and 2000, Moldova accepted the temporary dialogue facilitation role of the OSCE Mission to Moldova. In December 2000, after intensive shuttle diplomacy, the Mission organized a workshop with high-ranking representatives of the Moldovan Government and Parliament, and the Executive Committee and People's Assembly of Gagauzia during which existing disputes were discussed and possible compromise solutions developed.

## Timing of mediation

The ultimate decision as to whether the OSCE can engage in mediation or dialogue facilitation depends first and foremost on the willingness of the conflict parties to negotiate and to accept the OSCE as mediator or facilitator. The OSCE will have to assess, as part of the conflict analysis, whether the conflict is ready to be mediated. The mediator can help the conflict parties recognize that there is a negotiated way out of hostilities and a mutually acceptable solution to their dispute. For mediation to have a chance to succeed, the leadership of the parties must have enough cohesion and support for compromise solutions within their own political structures and populations.



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To understand whether the parties are ready to negotiate, objective indicators need to be identified. These include increasing political, economic, financial or human losses or indicative changes in leadership or allies. Furthermore, an assessment needs to be made as to whether the conflict parties perceive a possibility for compromise solutions to their disputes and feel confident that they have the necessary support within their structures and constituencies to engage in negotiations.<sup>11</sup> If not, an assessment of what the OSCE could do to increase the readiness of the parties to negotiate is required.

The mediator can also encourage or initiate CBMs between the conflict parties. If negotiations on substantive issues are not yet accepted, consultations on CBMs might be a possible way to explore non-politicized areas of common interest. In such consultations, the aim is to encourage the parties to co-operate in a mutually benefitting way. This will result in the improvement of relations and trust between the conflict parties, which is necessary to advance to negotiations on substance at a later stage.<sup>12</sup>

The OSCE Mission in Moldova initiated and supported CBMs between the Moldovan Government and Transdniestrian de facto authorities to overcome the resistance of the conflict parties to negotiate and to strengthening mutual trust so as to allow the talks to (re) start. Such measures were used both before the initial start of settlement negotiations in 1994 and after a major breakdown of the process in 2006.

If none of these options work, the mediator can identify incentives with which to encourage the parties to negotiate. Such incentives could include diplomatic pressure, and legal, economic and financial measures. In some extreme cases, military measures may be used but only if mandated by the UN Security Council. There are a few positive incentives the OSCE

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11 William Zartman/Alvaro de Soto: *Timing Mediation Initiatives*, United States Institute for Peace, Washington, D.C. 2010, pp.11-27.

12 See OSCE Guide on Non-Military Confidence-Building Measures (CBMs), Vienna 2012.

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can offer, such as co-operation, advice and expertise. The OSCE can also make use of the support of its participating States to provide incentives, if required.

The Economic Rehabilitation Programme in the zone of the Georgian-Ossetian conflict was initiated by the OSCE to build trust through economic co-operation and create conditions for the restart of negotiations. It ran for two years, from 2006 to 2008. The European Commission as well as several OSCE participating States funded the programme.

In support of the OSCE's mediation efforts in the Transdniestrian conflict in Moldova in 2005, the EU deployed the Border Assistance Mission to Ukraine and Moldova (EUBAM). Its goal was to help provide transparency on the flow of goods and to fight smuggling over the Transdniestrian sector of the Moldovan-Ukrainian border, which is not under the control of the Moldovan Government. The possibility to profit from EU asymmetric trade preferences motivated many Transdniestrian enterprises to legalize their foreign trade under Moldovan law and thus to reintegrate into the Moldovan legal and economic space.

Should none these efforts be successful in convincing the conflict parties to agree to negotiations, it is necessary to revert to a 'policy of positioning'. This means the mediator uses every opportunity to remind the conflict parties of the increasing costs and losses caused by continued conflict, the advantages of a peaceful settlement, the need to start negotiations and the existence of feasible, mutually acceptable compromise solutions, as well as the mediator's continued readiness and availability.<sup>13</sup>

The mediator must always analyse the reasons why the parties agree to negotiate so as to determine their commitment to the process. Parties may agree to mediation in an attempt to gain time or to receive third party confirmation of their positions and instrumentalize the mediation efforts

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13 Zartman/de Soto, Timing Mediation Initiative, p.43-44.

for other aims. If the parties lack real commitment to the process, the success of the mediation will be unlikely.

### Selecting a mediator

Next, a decision needs to be taken as to whether and, if so, how to engage in mediation or dialogue facilitation. Depending on the nature of the conflict several roles might be appropriate for the OSCE. These would be determined based on: an assessment of the OSCE's comparative advantage; the credibility and the acceptance of the OSCE as a mediator to the conflict parties; the political support of participating States; the mandate of an OSCE institution or field operation; the agreement of a host country government and key regional powers; and the available financial resources.

If the above conditions indicate the possibility for a more direct approach, the OSCE has different options for involvement, and an assessment of the most appropriate option is needed. Options can include: 1) the involvement of the CiO, 2) the nomination of a CiO Personal/Special Representative or Envoy to facilitate dialogue or mediate on behalf of the Chairmanship, 3) the nomination of the Secretary General or the Director of the CPC to facilitate dialogue or mediate on behalf of the Chairmanship, 4) the involvement of the HCNM or the Director of ODIHR, 5) mediation/dialogue facilitation by the head of a field operation and mission staff, 6) the establishment by the Permanent Council of a new field operation whose head of mission is tasked to mediate 7) dialogue facilitation efforts of the OSCE PA, or 8) joint mediation efforts with other organizations and/or participating States.

If direct involvement is not politically feasible, the OSCE and its institutions or field operations can consider taking on an indirect role in support of the process. Such roles include: 1) political support to the mediation efforts; 2) technical assistance to the efforts, and 3) financial support.

Due to sensitivities regarding a direct OSCE role following the June 2010 crisis in Southern Kyrgyzstan, the OSCE Centre in Bishkek expanded its technical assistance and financial support to local mediation teams in the Osh and Jalal-Abad Provinces and in Osh City. The OSCE support was delivered through two experienced local NGOs and in co-operation with local authorities, and was designed to help prevent and address inter-ethnic disputes and resolve tensions with law-enforcement organs.

When an institutional decision has been made to engage in mediation, a lead mediator will be selected and appointed. The mediator must be acceptable to the main parties of the conflict. In addition, the mediator should possess certain qualities and skills in order to be able to mediate successfully. The mediator should be clear and honest with the conflict parties. The mediator should establish a clear framework for the talks including rules and principles for negotiation. The mediator should also prepare the conflict parties for a difficult process which may progress slowly and experience possible setbacks. The mediator should act consistently and predictably, and communicate accurately. The mediator should also show serious commitment to the process and a fair outcome, and consult parties and stakeholder groups actively and inclusively.

The OSCE mediator and her/his team should also prepare diligently for the process and for each meeting with the parties as well as demonstrate good knowledge of the conflict and the context within which the conflict is taking place. The mediator should also have sufficient knowledge of the country and the region. Mediation requires careful, emphatic listening and taking the interests and needs of all stakeholders equally seriously. Mediators should give honest feedback and not only tell the parties what they want to hear. The mediator should never make false promises. He/she has to respect confidentiality while being transparent about his/her own activity, show respect for cultural differences and demonstrate inter-cultural competency.

# 3. Impartiality

Highlights from the UN Guidance for Effective Mediation on impartiality:

- Ensure and seek to demonstrate that the process and the treatment of the parties are fair and balanced, including through an effective communications strategy.
- Be transparent with the conflict parties regarding the laws and norms that guide their involvement.
- Do not accept conditions for support from external parties that would affect the impartiality of the process.
- Avoid association with punitive measures against conflict parties by other actors and minimize public criticism of the parties as much as possible, while maintaining frank exchanges in private.
- Handover to another mediator, or mediating entity, if you feel unable to maintain a balanced and impartial approach.

## Building credibility and managing impartiality

Mediation and dialogue facilitation are voluntary processes and depend on the consent of the conflict parties. This is why the mediator must build good relations with all conflict parties and earn their trust. Such efforts will have to continue throughout all phases of the mediation process. In this regard, the mediator's seniority, experience, skills and conduct are decisive.

The credibility of the mediator also depends on the credibility and reputation of the organization she/he represents and the international and domestic support he/she can muster for the mediation efforts. For an organization like the OSCE which has few incentives to offer, impartiality is the central resource in terms of building and maintaining credibility.

Being impartial, however, does not mean being neutral. The OSCE and its representatives undertake their efforts on the basis of OSCE principles and commitments and the norms of international law. Impartiality means even-handed conduct by the mediator towards the conflict parties.

Impartiality is often difficult to manage. Even when mediators follow all good standards of conduct, they will inevitably face accusations of bias and partiality. Such accusations can be part of the conflict parties' tactics aiming at scoring points with the public, or at putting pressure on or trying to discredit the mediator. Mediation requires a high degree of perseverance as well as self-reflection to differentiate between tactical accusations of bias and serious concerns about impartiality.

Throughout their mediation and dialogue facilitation efforts in the Transnistrian and Georgian-South Ossetian conflicts, the OSCE Missions to Moldova and Georgia have been criticized by both sides for allegedly being biased. The sides have tried to discredit the Missions and to mobilize other international third parties to intervene as potentially new or additional mediators. Such campaigns often materialized when the Missions were proposing specific compromise solutions or draft agreements to the sides. As

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the criticism usually came from both involved sides simultaneously, its purpose to discredit the impartial compromise line of the Missions was obvious and usually understood as such by the international community.

# 4. Inclusivity

Highlights from the UN Guidance for Effective Mediation on inclusivity:

- Identify the level of inclusivity needed for the mediation to start and required for a durable peace that addresses the needs of all affected by the conflict.
- Communicate with any party or actor necessary to address the conflict, with the knowledge of the other negotiating parties.
- Promote understanding among conflict parties of the value of broader participation and minimize preconditions for participation in the process.
- Ensure systematic and structured consultation with women's groups early in the process to allow for meaningful participation, with specific efforts to include them in the mediation process.
- Encourage conflict parties to include women in their delegations.
- Develop mechanisms to broaden participation in the process, and to engage and include the different perspectives within civil society and other stakeholders, throughout the various phases of the peace process.



### Who gets a seat at the table?

All major stakeholders in a conflict should be included in the mediation process. This is because an inclusive process has the best chance to be seen as legitimate, to address all important substantive issues and to achieve comprehensive and sustainable peace agreements. However, the mediator needs to strike a balance between inclusivity and efficiency. The more inclusive a process is in terms of participants and issues, the more complex it will get, and the more difficult the task of co-ordination and ensuring efficiency of the process will be. Since not everybody can have a seat at the negotiation table, additional mechanisms need to be put in place to include those not present in the official talks. Parallel dialogue processes for broader direct participation can be established.

For the effective settlement of an armed intra-state conflict, parties with de jure or de facto decision-making power in terms of ending or continuing conflict need to be at the negotiation table. If a conflict party is excluded from the process it may have an interest in sabotaging negotiations or any agreement implemented from the outside. Therefore, if it is not possible to include all parties in the formal talks – for example, because the government refuses to sit at one table with non-state actors, a conflict party is an internationally or nationally proscribed group, or a non-state actor is unwilling to take part – the mediator needs to find ways to ensure inclusivity in the process, such as through shuttle diplomacy or proximity talks.

In the settlement process of the Nagorno-Karabakh conflict, no direct interaction exists between representatives of Azerbaijan and the de facto authorities of Nagorno-Karabakh. The consultation of the de facto authorities of Nagorno-Karabakh is therefore conducted by the Co-Chairs of the OSCE's Minsk Group and the Personal Representative of the CiO as well as through contacts between the de facto authorities and Armenia.

To foster the legitimacy of the process, civil society also needs to be included in the negotiation process in a way that ensures that their voices

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are heard and that their needs and interests are addressed in the official negotiations. This does not necessarily mean having a seat at the table.

The decision as to who to include in the process, as well as when and how, is ultimately made by the conflict parties. The OSCE mediator should promote an understanding of the advantages of an inclusive process. The mediator should ensure an equal number of women and men in the team and encourage the conflict parties to do the same in their negotiation delegations. Respected civil society actors, religious leaders, elders or scholars could also be included in negotiation delegations. If this is not possible, the mediator should suggest specific mechanisms that enable regular consultations with civil society. The mediator can also encourage civil society to organize parallel processes to engage broader society and feed their views and ideas into the formal process through channels the mediator can help to create. Similar processes could be initiated with non-decision-making mid-level officials of and advisers to the conflict parties in order to feed ideas into the formal negotiations.

In the Transdniestrian settlement process, the CiO, her/his Special Representatives and the Head of the OSCE Mission regularly hold formal and informal consultations with Moldovan and Transdniestrian civil society actors and organizations. In 2012, on the initiative of the Special Representative of the Irish OSCE Chairmanship, a Civil Society Forum was initiated to inform and consult with civil society organizations in the settlement process.

The mediator cannot automatically count on a constructive contribution of civil society to the peace process. Some civil society actors hold hard-line positions, reject the mediator, or, at worst, reject the whole process and actively block it.

## Gender and mediation

There are multiple reasons to why OSCE mediation teams must embrace a gender perspective in the mediation processes they conduct:

### **Compliance with normative and policy frameworks**

The principles of gender equality and women's empowerment are firmly grounded in international law and have to be addressed in all legislation, policies and processes created by international, regional, national and community stakeholders.

### **Inclusivity**

Ensuring the systematic and structured participation of women leaders, gender experts and women's organizations helps to identify the gender dimensions of substantive issues on the negotiation agenda and this contributes to creating a truly inclusive conflict settlement or peace process.

### **Comprehensiveness**

Women have or are forced into different roles in crises, conflicts and post-conflict settings. Enhancing female representation and taking into account women's needs, capacities, priorities and interest as well as vulnerabilities in peace and mediation processes generates a more comprehensive response that is more likely to create a stable and secure peace.

### **Efficiency**

Adopting a gender perspective is likely to install a broader set of female and male mediation skills and qualities in conflict settlement and can increase the efficiency of the overall mediation process.

### **Effectiveness**

Thorough information gathering from both men and women about the impact of a crisis or conflict provides for a more balanced set of facts and can help the mediation process effectively accomplish its goals.

### Sustainability

Including all segments of the population in the mediation and conflict-settlement process can have a major impact on the sustainability of peace. This is because the discussion by diverse stakeholders of a breadth of issues they might otherwise not have discussed can have a crucial influence on the post-agreement stability and security.

Gender-responsiveness should be taken into account in all phases of a mediation process. These include: the mediation process design; awareness raising among stakeholders at the negotiation table; enhancing the representation of women throughout the process; ensuring effective relations with women's organizations; developing a gender responsive agenda; and in the drafting and implementation of agreements.

Each of these phases is discussed extensively in the OSCE Guidance Note on Enhancing Gender-Responsive Mediation. OSCE mediators and mediation teams should familiarize themselves with the Guidance Note.<sup>14</sup>

Gender-responsive mediators, assisted by their teams, need to raise awareness and gather support among parties at the negotiation table in order to ensure that women are included in the negotiations themselves and that they contribute to the decisions and final outcome of the entire process. Measures to do so include: acting as a role model by including women and men in mediation teams and pro-actively enhancing female participation in negotiation processes; convening separate information sessions where gender experts explain the tools and benefits of gender awareness; offering training to build expertise for negotiation delegations or their advisers; and by using favourable arguments that present gender equality as an issue of shared interest rather than an outside imposition.

The international legal and policy framework on 'Women, Peace and Security' calls upon stakeholders to address the under-representation of

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<sup>14</sup> <http://www.osce.org/gender/107533>

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women in peace negotiations. Third-party mediators should hold themselves accountable and increase the number of female mediators by using gender parity principles. The mediation team can convey a message of inclusiveness to negotiating parties and lead by example. The mediation can use tools such as affirmative action, quotas, mentoring schemes and the provision of gender expertise.

To enhance inclusivity and ownership, the mediator can reach out to women's organizations at the national and local level. In some cases, consultation mechanisms with women's organizations within the formal setup of the mediation can be established. If such formal mechanisms are not feasible, parallel forums may constitute safe spaces for women to exchange views as well as discuss and draft their own agenda. However, parallel forums should be used cautiously so as to avoid running the risk of marginalizing the impact of women on the negotiation process.

Mediators play an important role in identifying the gender dimension of issues on the agenda. These should not only take into account the protection and security of women in the transition and reconstruction phases, but also their political and economic empowerment. Virtually every substantive issue on the negotiation agenda has a gender dimension, which will affect individuals differently depending on their gendered roles and responsibilities.

# 5. Ownership

Highlights from the UN Guidance for Effective Mediation on ownership:

- Consult closely with the conflict parties on the design of the mediation process.
- Inform civil society and other stakeholders about developments in the peace process and create opportunities and support for them to engage on procedure and substance.
- Guide conflict parties and help them generate ideas for discussion, ensuring they can claim credit for agreements reached.
- Identify which conflict parties may need support to strengthen their negotiation capacity and facilitate access to capacity-building support.
- Encourage and enable conflict parties to inform and consult with their constituencies, including the rank and file, during the mediation process.
- Be aware of the specific cultural approaches to negotiation and communication and leverage those approaches to the greatest advantage of the process.
- Design a communications strategy to manage expectations, in terms of what, and the speed at which, the process can deliver.

### Local ownership

An OSCE mediator should always make clear that the parties are the decision-makers in the process. Third parties can only play an advisory role, facilitating discussions and protecting the process from undue influence from other external actors. The mediator needs to work closely with the conflict parties on the design of the process, the agenda and the drafting of agreements, and at the same time ensure opportunities for civil society and other stakeholders to give their input. The mediator needs to avoid the impression of imposing solutions. During the implementation phase, the conflict parties also need to be in the lead with the mediator providing support. To promote ownership of the process by the broader society, the mediator should communicate regularly with civil society groups and other stakeholders and be open to linking the process with parallel processes organized by civil society.

Conflict parties, civil society groups and other stakeholders may sometimes need to improve their negotiation skills and ability to prepare for mediated negotiations. The OSCE mediation team should identify early on if such capacity-building needs exist.

From 2004 to 2007, the European Centre for Minority Issues (ECMI), with funding from individual OSCE participating States and in consultation with the OSCE Mission to Moldova, carried out a series of capacity-building activities in support of the Transnistrian settlement process. ECMI worked with the team of the Moldovan chief negotiator, but the Transnistrian Side rejected an offer to work with ECMI. ECMI also worked with Moldovan and Transnistrian civil society representatives to build their capacities to better understand and effectively engage in the settlement process. ECMI furthermore worked with the Moldovan Parliament and the People's Assembly of the autonomous region of Gagauzia to better define the division of competencies between central and regional authorities and to improve the functioning of Gagauzia's autonomy.

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Similar capacity building efforts might be necessary to enable the conflict parties, civil society groups and other stakeholders to effectively contribute to the implementation of agreements and to long-term peacebuilding. Local capacities for early warning, conflict prevention and dispute resolution will need continued support. OSCE mediators can work with a range of experienced specialized agencies, such particular United Nations Funds and Programs and international or regional NGOs.

In 2007, the OSCE Centre in Bishkek launched a pilot project of local mediator teams in several localities in the Osh Province in Southern Kyrgyzstan. After the April and June 2010 crises, the Centre expanded this activity with another 25 local mediation teams to the Jalal-Abad and Chuy Provinces and in 2011 with another nine. To build the capacities of these teams, mediation training was provided to their members by specialized international NGOs.

### Managing information

Confidentiality is a key requirement for a successful mediation process. It is critical in the pre-negotiation and early negotiation phases when mutual trust is typically low or lacking, relations between the parties are tense, positions uncompromising and the constituencies of the parties mobilized.<sup>15</sup> Confidentiality during the process allows the parties to explore options for potential compromises which their constituencies are not yet ready to accept and which they, therefore, could not admit to discussing without losing face and coming under pressure from hardliners.

Working for conflict prevention in the extremely sensitive area of inter-ethnic relations, the HCNM traditionally engages in quiet preventive diplomacy involving OSCE participating States and various ethnic communities throughout the OSCE area. The confidentiality of the HCNM's dialogue facilitation work enables the parties involved to soften their stances on disputed issues and find co-operative solutions without losing face.

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<sup>15</sup> Swisspeace: Mediation Process Matrix, Bern 2012, p.3.



Confidentiality has thus been key in making this OSCE institution a successful and unique instrument for early warning and conflict prevention.

Members of the OSCE Mission to Moldova regularly participate in NGO events to inform civil society on both sides of the Dniester about the Transdnestrian settlement process. They also support specific events for Moldovan, Transdnestrian and Gagauz NGOs to provide them with specific knowledge about early warning, conflict prevention, crisis management and post-conflict rehabilitation. The Mission has also tried to engage radical Transdnestrian youth organizations and representatives of hard-line Moldovan and Transdnestrian NGOs in the process.

Later in the negotiations when parties are getting closer to an agreement, the constituencies of the conflict parties need to be carefully prepared for possible concessions and compromises. Once an agreement is reached, the constituencies need to be properly informed about the content and implementation modalities of the agreement. It is important to make them fully understand its implications and to ensure support for implementation. This is especially true if the agreement is to be approved by a popular referendum.

Informing and preparing civil society and the broader public in timely manner can create additional leverage on the parties to sign an agreement as the expectations raised by informing and persuading their constituencies will make a withdrawal more difficult. If the communication on compromises and envisaged agreements comes too late, there might not be enough time to prepare the constituencies and hardliners might mobilize them to thwart the agreement in a referendum.

### Working with the media

A certain level of communication with the public and the media is necessary in OSCE mediation processes. It is impossible to run an inclusive process without the mediator and the parties informing civil society, grassroots ac-

tors and the broader public about the negotiations. Such communication can promote an informed understanding of the process, generate internal and external support, diffuse rumours and conspiracy theories about the negotiations, and counteract divisive strategies by intransigent actors, propaganda and media campaigns.<sup>16</sup>

Managing the right balance between confidentiality and public information throughout the process is therefore a task the mediator and the conflict parties should ideally handle jointly. It is necessary for the mediation team to include media and communications experts that are in charge of thoroughly analyzing the information environment in the conflict area and preparing a media strategy. The mediator should also encourage the conflict parties to agree on ground rules for confidentiality and dealing with public information. Drafting joint press releases at the end of negotiation sessions can help streamline the communication with the media and to build confidence between the parties.

Following the April 2012 round of “5+2” talks, members of the delegations made statements in the media that did not accurately represent the conclusions of the meeting and thus caused confusion. As a remedy, starting in July, the mediator organized collective media briefings that took place after each round of talks. The briefings were broadcast via video link to the OSCE offices in Chisinau, where local journalists from both sides would gather. The CiO Special Representative chaired the briefings, flanked by the Head of the OSCE Mission to Moldova as well as the two chief negotiators, who jointly presented the conclusions of the meeting. This proved to be highly useful as it minimized the risk of misinterpretation and rumours, and built trust between the parties.

Even if such basic rules are agreed, the conflict parties may sometimes continue to use the media for propaganda purposes, either against each

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<sup>16</sup> Ibid; Ingrid A. Lehmann: *Managing Public Information in a Mediation Process*, United States Institute of Peace, Peacemaker’s Toolkit, Washington, D.C. 2009, p.6.

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other or the mediator. If the specific conflict situation allows, a mediator and her/his team can look for allies in civil society and the local media and try to promote freedom of the media, confidence-building and co-operation between journalists from each Side of the conflict, as well as professional journalism and conflict-sensitive reporting.

In both the Transdniestrian and the Georgian-South Ossetian conflicts, many official and private media outlets of the involved conflict parties have a long record of biased reporting, misinformation and propaganda. The OSCE, as a co-mediator in the two settlement processes, has worked intensively with journalists from all conflict sides through the OSCE Mission to Moldova and the (former) Mission to Georgia. The aim of this long-standing work is to prevent the creation or escalation of tensions through the spread of rumours and propaganda, to promote accurate reporting on the settlement process, and to improve the access of the population to reliable and balanced information. The Missions have continuously promoted the independence of the media and professional journalism, organized trainings for journalists on conflict-sensitive reporting facilitated by international and national media NGOs, and brought together journalists from the different conflict parties for the purpose of co-operation and confidence building.

# 6. International law and normative frameworks

Highlights from the UN Guidance for Effective Mediation on international law and normative frameworks:

- Be briefed and familiar with the applicable international law and normative frameworks.
- Ensure that the parties understand the demands and limits of applicable conventions and international laws.
- Ensure that communications with the conflict parties and other stakeholders on legal matters and normative expectations are consistent; this is particularly important in instances of co-led or joint mediations.
- Explore with the conflict parties and other stakeholders the timing and sequencing of judicial and non-judicial approaches to address crimes committed during the conflict.

## Different types of parties

Asymmetries can exist between conflict parties. The parties may have different levels of power, capacities, resources and international recognition. The OSCE mediator should work towards an agreement with all parties to the conflict that a formal role in the negotiations may be necessary for the negotiations to succeed. However, a formal role in the negotiation process does not imply formal recognition of an entity by the OSCE. It should therefore not be confused with the question of international recognition or status.

At the start of the Geneva International Discussions no agreement could be found on the status of the representatives of South Ossetia and Abkhazia at the negotiation table. Both demanded equal status with the negotiation delegation of Georgia and refused to take part in the plenary sessions. Eventually, following a proposal of the Co-Chairs of the EU, the UN and the OSCE, it was agreed not to hold any plenary sessions, but to meet in two separate working groups in which the representatives of all involved sides take part as individual equal participants.

It is important to allow negotiation participants to make decisions on behalf of the conflict parties they represent. Any final agreement needs to be approved, signed and implemented by all conflict parties who participate in the process, including armed non-state actors. All conflict parties should enjoy the same rights, obligations and treatment within the peace process. The mediator should therefore try to ensure even-handed treatment of conflict parties in the negotiations, but promote the recognition of existing inequalities outside of the negotiation framework in order to counteract purposefully wrong interpretations.

Although deeply divided over status questions for years, during most of the Transdniestrian settlement process, the Moldovan and Transdniestrian sides tacitly agreed to ignore the status question at the negotiation table. When status questions reappeared after the restart of negotiations in late 2011, the sides eventually agreed, in April 2012, to a proposal of the Head

of the OSCE Mission and the CiO Special Representative on Principles and Procedures for the Conduct of Negotiation, including the principle of equality of participants to the negotiations. The Principles and Procedures, however, explicitly stated that the principle of equality was “not a precedent for the settlement, nor a basis for the evaluation by any side of the current legal status of the sides”.

Should the conflict parties decide to allow civil society representatives, community leaders or other actors (representatives of the private sector, religious groups, etc.) to participate in negotiations, their role and responsibilities in the process need to be clarified.

In the Transdniestrian settlement process, the Russian Federation, the OSCE and Ukraine act as co-mediators. In 2005, the Moldovan side demanded the inclusion of the EU and US as additional co-mediators. When the Transdniestrian side disagreed, the OSCE facilitated a compromise according to which the EU and US were invited to act as observers to the process. In a special protocol, the rights and obligations of the observers were specified, which excluded them from convening and chairing sessions, from signing documents and from decision making.

### Managing negative influencers

Some actors may grow nervous as an agreement gets close and they may want to disturb or block the process. The internal divisions within conflict parties often deepen towards the end of the process and hard-line factions may refuse to compromise and break away from moderate forces. To respond appropriately, the OSCE mediator should try to identify such potential actors during the conflict analysis phase, understand their needs and interests and closely manage them throughout the process.

Radical political forces among the Kosovo Serb majority population in the northern Kosovo<sup>17</sup> municipalities refused to participate in the local elections announced for November 2013 although the Government of Serbia had called on the Kosovo Serb population to vote. When the OSCE CPC and the OSCE Mission in Kosovo (OMiK) facilitated – in the framework of the EU-led dialogue between Belgrade and Pristina – the specific dialogue on local elections in northern Kosovo, it became clear that the radical political forces would not be able to totally obstruct the election process. As a consequence, after repeated invitations to the radical forces to participate, elections were organized in the northern municipalities. Eventually, the radical forces were only able to obstruct elections in three polling centres where they were later successfully repeated.

The OSCE mediator can use inducement or socialization to positively engage negative influencers in the process. Inducement refers to positive measures to address the grievances of intransigent actors with the aim of making them join the process or fulfil their obligations under an agreement reached earlier. Such positive measures could include security guarantees if the intransigent actor acts out of fear, material benefits if the grievance is due to lack of fairness, or some degree of legitimacy and recognition if the grievance is related to justice.

Socialization entails establishing a set of norms for acceptable behaviour of the parties within the process and for external parties that seek to join the process. Under this strategy, the OSCE mediator can encourage adherence to these norms through incentives, while continuously persuading the parties of the value of the normative behaviour. If neither of the two strategies seems to yield results, the mediator may also communicate that the process will be taken forward with or without the intransigent actor to

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<sup>17</sup> All references to Kosovo, whether to the territory, institutions or population, in this text should be understood in full compliance with United Nations Security Council Resolution 1244.

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make the latter reconsider the advantages of participation, or the mediator can threaten to withdraw from the process altogether.<sup>18</sup>

Although exclusion can strengthen the commitment of constructive actors to the process, the exclusion strategy may also alienate an actor and turn it into a 'spoiler.' The OSCE mediator should always be very cautious when using an exclusion strategy. If direct inclusion is not possible, the mediator can engage with intransigent actors directly or indirectly in a separate process in order to listen with empathy and try to make them consider alternatives to their hard-line positions.<sup>19</sup>

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18 Stedman, Spoiler Problems in Peace Processes, pp.12-14.

19 Amy L. Smith/David R. Smock: Managing a Mediation Process, United States Institute of Peace, Peacemaker's Toolkit, Washington, D.C. 2008, pp.41-42.



## 8. Coherence, co-ordination and complementarity

Highlights from the UN Guidance for Effective Mediation on coherence, co-ordination and complementarity:

- Mediation initiatives with two or more entities should be based on a coherent mandate from the relevant entities with a single lead mediator.
- Acceptability of the mediating body and their mediator by the conflict parties and the potential effectiveness of the mediation should be key considerations when deciding leadership in the process.
- Organizational capacity, capability and available resources should be considered in deciding on the division of labour within the mediation environment.
- Mediation actors should work together to agree on the degree of transparency and co-ordination mechanisms for information sharing.
- International actors should consider establishing co-ordination mechanisms, such as groups of friends or international contact groups, to provide consistent political and resource support for the mediation effort.

## Co-ordination and co-operation with other third parties

It is important to recognize that there may have been mediation attempts by other third parties prior to the appointment of the OSCE mediator. Some of these may include so-called ‘insider mediators’, trusted individuals from within the community in crisis. Other organizations may appoint mediators prior to and after the appointment of an OSCE mediator. It is important to map them out and reach out to them early on as the involvement of several mediators in a peace process can be very useful. A single mediator can face difficulties with an overload of tasks, continuous outreach to a multitude of stakeholders, and political pressure. In contrast, a well-co-ordinated team of mediators – each with comparative advantages, specific skills, expertise, resources and leverage – can divide the labour and provide different incentives and guarantees to conflict parties. Including respected local intermediaries with inside knowledge in the process can help the OSCE mediator manage impartiality, strengthen the commitment of conflict parties, and increase local ownership and the legitimacy of the process.<sup>20</sup>

Within the framework of the Transdnestrian settlement process, the OSCE Mission to Moldova and the co-mediators of the Russian Federation and Ukraine are closely co-operating with specialized international and joint Moldovan-Transdnestrian NGOs in carrying out track parallel processes with civil society, academic experts and community groups that feed into the formal negotiations. The Mission has also engaged the OSCE PA, of which the Moldova Team has facilitated several joint events for Moldovan and Transdnestrian parliamentarians.

However, unco-ordinated or even competing mediation efforts are widespread. This is especially the case when external mediators are divided on regional political issues and have a different perception of the causes and

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<sup>20</sup> For the role of local mediators see Simon Mason et al: Insider Mediators: Exploring Their Key Role in Informal Peace Processes, Berlin 2009, at: <http://www.css.ethz.ch/publications/pdfs/Insider-Mediators.pdf> (20. November 2013).

solutions to a conflict. However, a lack of co-ordination and co-operation between mediators can also result from personal or inter-organizational competition for visibility and reputation, as peace-making is a prestigious activity in which an increasing number of actors are involved. In such cases, mediators might have good intentions, but the mixed messages they may send to conflict parties can be problematic.

To avoid competing processes and to achieve synergy, mediators need to co-operate and co-ordinate their efforts closely. Mediators may choose to identify a lead mediator to guide and co-ordinate the process in order to enhance the coherence of their efforts. They can also develop a joint strategy and agree on a division of labour. As part of the joint strategy, the mediators should agree on mechanisms for co-ordination and the exchange of information. A joint communication strategy will further ensure that the mediators speak with one voice and that any possible internal differences are kept strictly confidential.

For the Geneva International Discussions dealing with the conflicts in Georgia, the UN, the EU and the OSCE agreed on a joint mediation effort, and developed a joint strategy during late 2008 and early 2009. Since then, they have reviewed their strategy and approaches to substantive issues during regular joint visits to Tbilisi, Tskhinvali and Sukhumi, as well as in separate Co-Chair meetings before every round of negotiations. During negotiations, the three Co-Chairs jointly facilitate the two Working Groups on security and humanitarian issues. At the end of each negotiation round, the three Co-Chairs hold a joint press conference. The EU and the UN also co-facilitate the IPRM in Gali, whereas the EU and the OSCE co-facilitate the IPRM at Ergneti. Both mechanisms deal with security issues at the administrative boundary lines and other issues affecting the daily life of the population.

The three Co-Chairs of the OSCE's Minsk Group dealing with the Nagorno-Karabakh conflict, Russia, France, and the US, pursue a strict line of agreed communication with the media. After each visit to the region or meeting with representatives of one or both of the conflict parties, the Co-Chairs agree and issue a joint statement.

### Working with outside actors

Dealing with the external context of a conflict can be a major challenge for mediators. The OSCE mediation teams should carefully analyze all relevant external actors, their interests, their relations to the conflict parties, their leverage and resources, as well as their possible contributions to the process. On this basis, a mediator then develops a strategy on how to engage with them. The mediator can choose to try to mobilize their support and use their leverage in the process as well as to counteract undue unilateral external involvement.

Neighbouring states and regional powers usually have strong interests in the conflict settlement (for example, owing to national security and protection of kin minorities). Depending on their relations with the conflict parties, their leverage and resources can be useful. If they are ready to support the OSCE mediator, their influence can be leveraged for various purposes.

It is important for the OSCE mediator and her/his team to recognize that not all outside actors have a positive influence on the process. In such cases, outside actors need to be included in the conflict actor mapping, and required strategies for their management must be drawn up.

Outside actors can be organized under one umbrella, typically called a 'group of friends' in support of the mediation process. Such 'friends' can be states, international governmental or non-governmental organizations and individuals. Ideally, the members of the group are trusted by the parties and have a positive influence on them. The members of the group of friends

are also typically committed to support the process over the long term. The group can exist on different levels (for example, in the capitals, at the level of heads of delegations of participating States in Vienna or representation in the region through the embassies of the group members' states). It is useful to keep such groups relatively small so that they are manageable.<sup>21</sup>

In November 2009, the OSCE Mission to Serbia established an informal group 'Friends of South Serbia' at the level of representatives of OSCE participating States' embassies and offices of international organizations accredited in Belgrade. The aim of this initiative was to mobilize support from the international community in Serbia for the OSCE Mission's efforts to promote social integration and facilitate dialogue between the ethnic Albanian population and its political leaders in South Serbia, and the Serbian central Government authorities. Given the continuing grievances of the ethnic Albanian population and the lack of government attention, the initiative also aimed at co-ordinating and strengthening the dialogue of the international community in Belgrade with the Government of Serbia about the situation in the South of the country, and preventing a reescalation of the situation into open conflict, as experienced in 2000 to 2001. Since the end of 2009, the 'Friends of South Serbia' has met regularly to discuss and analyze developments in South Serbia affecting the ethnic Albanian population. The Friends have organized joint visits, developed joint strategies and coordinated their messages, responses and activities. In several local disputes and incidents, the voice of the 'Friends of South Serbia' has helped to calm tensions and build support for activities proposed by the OSCE Mission.

Another option for the OSCE mediator to engage outside actors is to establish a 'contact group'. Such groups usually include the major powers interested in the settlement of the conflict in question. At its best, such a strong group can lend serious leverage to the mediator's efforts. However, not all contact groups are successful and can sometimes be counterpro-

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<sup>21</sup> For the different groups/mechanisms presented here see: Teresa Whitfield: Working with Groups of Friends, United States Institute of Peace, Peacemaker's Toolkit, Washington, D.C. 2010, pp.26-35.

ductive to the mediation process. This is especially true when some of the contact group members are considered parties to the conflict. Alternatively, the OSCE mediator can also resort to ad hoc arrangements that allow the mediator engage selected external actors in support of specific activities at different stages of the process.

In the Transdniestrian settlement process, the conflict parties selected and expanded the group of external actors involved by initially agreeing on the Russian Federation as mediator and later inviting the OSCE and eventually Ukraine as co-mediators. In 2005, the parties expanded the group by inviting the EU and US as observers to the process. Outside the “5+2” format, the mediators have not established or encouraged any further group or mechanism through which other interested external actors could support the process. At different stages, the co-mediators have received the support of individual OSCE participating States for specific purposes. The UK, for example, promoted confidence building measures between civil society, business and grassroots actors from the conflict sides, whereas Germany supports the official CBM process within the “5+2” format. Germany has also supported, through a specialized NGO, capacity building for the offices of the parties’ chief negotiators aiming at strengthening the analytical and negotiation skills of their staff.

During and after the June 2010 crisis in Southern Kyrgyzstan, the OSCE Centre in Bishkek initiated regular (initially daily) donor co-ordination meetings to exchange information on international assistance and to coordinate its crisis response activities with other international organizations and states. During these meetings, the Special Representative of the Kazakh OSCE Chairmanship, the Special Representative of the UNSG and the EU Special Representative for Central Asia (respectively the highest ranking OSCE, UN and EU officials in Bishkek) informed donors about their ongoing efforts with Kyrgyz authorities to respond to the crisis and to facilitate dialogue between local communities, regional authorities and law enforcement organs with the aim of long-term conflict prevention and reconciliation.

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The mediator and her/his team will need to invest substantial time in engaging with and handling other external actors. Whatever group, mechanism or ad hoc arrangement a mediator opts for, the intergroup dynamics often develop into a complex and time-consuming process. This is especially true in cases of regional polarization and requires flexibility and resources on the part of the mediator.

# 9. Quality of peace agreements

Highlights from the UN Guidance for Effective Mediation on the quality of peace agreements:

- The agreement should aim to resolve the major issues and grievances that led to the conflict, either by addressing the root causes directly or by establishing mechanisms to address them over time through democratic processes.
- Where a comprehensive settlement appears unattainable, the mediator should establish with the conflict parties, and through broader consultations, what is the minimum that needs to be achieved in order to commence a peaceful approach to dealing with the remaining aspects of the conflict.
- Agreements should be as precise as possible in order to limit the points of contention that would have to be negotiated during the implementation phase.
- Agreements should incorporate clear modalities for implementation, monitoring and dispute resolution to address disagreements that may arise during implementation.



## What to include in the agreement?

Mediation and dialogue processes can result in a variety of outputs. Dialogue processes do not typically result in a formal agreement. The results of dialogue processes can range from a joint declaration or jointly-agreed recommendations for further action, to improved relations among the parties which can be measured, for example, by the reduction of violent incidents.

A mediated negotiation process may result in a series of small agreements on selected issues, in a declaration on the way forward, or in a comprehensive peace agreement, which concludes all of the topics discussed during the process. Other outputs from the process may include: cease-fire agreements; procedural agreements on ground rules for the mediation process; agreements on basic principles for the conflict settlement; various intermediary technical agreements; and agreements on international guarantees and implementation modalities.

It is important to build a shared understanding with the parties of the expected result of the process. An agreement on the framework of the conflict settlement process can build trust and confidence between the parties. Typically agreed on during the so-called 'pre-negotiation phase', possible topics for such an agreement include: the structure and format of the talks; overall issue-areas to be addressed; rules for decision making; participation or guidelines for participation; communication, including confidentiality and handling of information given to the constituencies and the media; timeframes; the sequence of the process; and the role of the mediator.<sup>22</sup>

The parties may also simply agree on the principles for the conflict settlement process. Such an agreement can include issues, such as: non-use of force and peaceful settlement of all disputed issues; the protection of the rights of all citizens; the basis of future power-sharing arrangements; and basic guarantees. Achieving such pre-negotiation agreements is often a

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22 Smith/Smock, *Managing a Mediation Process*, p.38.

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long and difficult process. Including all such issues into the final settlement agreement, however, can be an even bigger challenge that can take months or even years of further negotiation. It is worth investing time in agreeing on the framework for the settlement process as reaching such a milestone can also help build trust among the parties and help the OSCE mediator to take the parties through the subsequent phases.

In November 2007 at the OSCE Ministerial Council Meeting in Madrid, the Co-Chairs of the OSCE Minsk Group, which mediates in the Nagorno-Karabakh conflict, presented the Foreign Ministers of Armenia and Azerbaijan with a confidential proposal on the basic principles for the settlement of the conflict (the Madrid Principles) on which the Co-Chairs had been working with the parties since 2005. These principles included, among others: the return to Azerbaijan of territories adjacent to Nagorno-Karabakh held by Armenian forces; a land corridor connecting Nagorno-Karabakh with Armenia; the return of refugees and IDPs to Nagorno-Karabakh; an interim status for the region, including guarantees for security and self-governance; international security guarantees for Nagorno-Karabakh, including an international peacekeeping operation; and, in the future, a legally binding expression of will of the population of Nagorno-Karabakh on the status of the region. Although the Co-Chairs have continued their work on the Madrid Principles with the conflict parties since then, no mutually acceptable version of the document has been agreed.

In the Transdniestrian settlement process, the sides signed in May 1997 in Moscow a ‘Memorandum on the Bases for the Normalization of Relations between the Republic of Moldova and Transdnistria’ (the Moscow Memorandum). In the Memorandum, the sides, *inter alia*, reconfirmed that they would: not resort to the threat or use of force; establish between them state-legal relations; build their relations within a common state; and that Transdnistria would have the right to participate in the conduct of the foreign policy of Moldova and maintain its own international economic, scientific-technical and cultural contacts. Immediately after the signing of the Memorandum, the OSCE and its Russian and Ukrainian

co-mediators engaged in various attempts to translate the principles of the Moscow Memorandum into a legally binding settlement agreement. However, the principles agreed in the Memorandum, especially the term “common state”, were interpreted by the sides in different ways. As of today, all attempts to translate the Memorandum into a final settlement document have failed and, as a consequence, the principles agreed in the Memorandum are frequently put into question.

The OSCE mediator should refrain from rushing towards a settlement. In more complicated processes, it may be useful for the mediator to suggest to the parties a series of intermediary or technical agreements as a way to strengthen their commitment to the process.<sup>23</sup>

Ideally, a peace agreement should be comprehensive and based on the views, needs and interests of all conflict stakeholders and sectors of society. It should address all key issues relevant to the conflict and be forward looking. The agreement should recognize and express respect to all relevant international humanitarian, human rights and refugee laws, as well as recognized democratic standards and the rule of law.

At the same time, the agreement needs to be realistic and sufficiently precise. Mechanisms for settling any implementation-related disagreements should be agreed upon. Issues related to particular groups, especially ethnic and linguistic minorities, should be clearly stated. Each topic in the agreement should be looked at from the perspective of both women and men and clearly articulate any gender dimensions. This is to avoid that a seemingly gender-neutral agreement impacts negatively on the equality, well-being, security and other needs of women and men.

The OSCE mediator has to assess how comprehensive and detailed a settlement agreement should be. There is no one-size-fits-all solution. Some agreements can fail in spite of their comprehensiveness and detail

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23 OSCE, OSCE Guide on Non-Military Confidence-Building Measures (CBMs), p.37.

whereas others might succeed in spite of not being comprehensive and detailed. A simpler agreement can concentrate on a few core issues that can be successfully settled while establishing mechanisms to address any possible remaining issues over time through peaceful and democratic processes.

### Implementation and monitoring

The signing of a peace agreement marks the beginning of an implementation phase, during which the agreement has to be put into practice. The implementation of a peace agreement is often even more challenging than its negotiation. Problems during the implementation phase may result in the failure of entire peace process. The effective implementation of a peace agreement needs good planning, continuous co-ordination, extensive monitoring and verification, as well as continued dialogue among the parties.

The most frequent reasons for non-implementation of peace agreements and other agreements signed during a mediation process are a lack of political will, shortcomings of the agreements, and insufficient capacities for effective implementation on the side of the conflict parties.

In the framework of the Transdniestrian settlement process, dozens of intermediary decisions and agreements have been signed over the last 20 years in different spheres between the sides, most of which have been only partially or not at all implemented. Both sides usually lacked confidence in the good-faith implementation of the agreements by their counterpart. At the same time, a lack of implementation modalities, timelines and guarantees in the agreements further compounded the situation. Both sides also lacked the political will to implement agreements or the implementation was blocked on the lower levels. The leaderships of both sides were not willing to overcome these blockages to ensure implementation.

The OSCE mediator needs to start thinking about agreement implementation already during the negotiation and drafting phase. When discussing each agenda point, it is necessary to consider the modalities for im-

plementation by asking questions, such as: What action would be required from each of the parties? How can progress be measured? What sanctions will there be for non-implementation, if any? What timelines are realistic?

To support the parties in implementing the agreement, mechanisms for its monitoring and verification should be included in the text. Such mechanisms can take various forms, ranging from national mechanisms (such as round tables), national commissions and joint committees, to mixed national-international implementation councils and conciliation commissions, to purely international mechanisms, like contact groups. International third parties can take part in such mechanisms to monitor the implementation and to facilitate dialogue for the resolution of disputes that emerge during implementation.

The OSCE Mission to Tajikistan (now OSCE Office in Tajikistan), which was originally established to promote dialogue between regional and political forces as well as the respect for human rights, provided assistance to the Commission on National Reconciliation. The Commission was set up as an implementation mechanism for the 1997 General Agreement on the Establishment of Peace and National Accord which ended the civil war in Tajikistan (1992 to 1997). Together with eight states from the region, the UN and the then-called Organisation of the Islamic Conference (OIC), the Mission acted as guarantor of several protocols of the General Agreement dealing with political issues, refugee return and military matters. It also formed the part of the Contact Group that monitored implementation and provided expertise, consultations and other good offices. The Mission facilitated agreement-implementation in the spheres of human rights and the establishment of democratic, political and legal institutions by providing advice, expertise, capacity building and other contributions.

The OSCE Spillover Mission to Skopje (now OSCE Mission to Skopje) supported the implementation of the redeployment of police forces to former crisis areas. This was agreed under the August 2001 Ohrid Framework Agreement, which ended the violent conflict between ethnic Albanian

fighters and state security forces in the former Yugoslav Republic of Macedonia. OSCE Confidence-Building Monitors and Police Advisors, supported by the EU and NATO, helped to rebuild confidence between local Albanian communities and law enforcement organs through the on-site monitoring and verification of incremental police redeployment, by facilitating dialogue between local communities and the police, and by mediating in local disputes. The Mission also trained and assisted the integration of ethnic Albanian police cadets into the police force and their deployment to Albanian inhabited areas.

The implementation of an agreement needs broad, substantial and sustainable financial support and expertise. Typically this is beyond what any single mediating entity can provide on its own. An OSCE mediator will need to mobilize other international actors as monitors and guarantors for the peace agreement and get commitments from key donors to fund the implementation. The early involvement of key donors and the prospect of their political and financial support for the agreement can be a strong incentive for the conflict parties to adhere to the difficult concessions they have had to make.

The implementation of the agreement, and ultimately the success of the settlement process, is primarily dependent on the will of the parties and the broader society, men and women alike. Therefore, the mediator needs to foster local ownership of the agreement and its implementation. To do so, she/he must engage the broader society by making the local population guarantors of the agreement and giving them a stake in its implementation.



# Annex I: Examples of OSCE Mediation and Dialogue Facilitation Engagements

This annex presents examples of mediation and dialogue facilitation engagements in Eastern Europe, South-Eastern Europe, the South Caucasus and Central Asia that have been undertaken by OSCE CiO Personal and Special Representatives, senior OSCE Secretariat staff, OSCE field operations, the HCNM, ODIHR, and the OSCE PA. These examples illustrate the variety of OSCE's mediation and dialogue facilitation efforts and have been selected to highlight specific challenges, lessons learned and best practices. The list of examples is not comprehensive and there are many other mediation and dialogue facilitation efforts that have been carried out by the different OSCE executive structures.

## **1. The “5+2” negotiations on the Transdniestrian conflict**

In July 1992, the Presidents of Moldova and the Russian Federation signed the 'Agreement on Principles of a Peaceful Settlement of the Armed Conflict in the Transdniestrian Region of the Republic of Moldova' (Moscow Agreement). In the agreement, a ceasefire was established after four months of intense armed conflict between Moldovan state authorities and the de facto authorities of the breakaway Transdniestrian region, which is situated mainly to the east of the river Dniester/Nistru. Since the signing of the Moscow Agreement, international mediation efforts have been ongoing to help the conflict sides achieve a final settlement agreement. Mandated in February 1993 by the OSCE participating States to facilitate negotiations



towards a lasting political settlement of the conflict, the OSCE Mission to Moldova joined the mediation efforts of the Russian Federation in April 1993 and was followed by Ukraine in September 1995.

In October 2005, the so-called “five-sided format” of three international co-mediators and the sides to the conflict was extended to include the EU and the US as observers. The negotiation format was renamed to “5+2”. Nearly ten years on, a final settlement agreement is still not in sight. Although there is no imminent threat of an armed re-escalation of the conflict, tensions remain high at the political level. This has led to repeated breakdowns and long, sometimes multi-year, pauses in official negotiations. These political tensions are also regularly played out in local disputes and incidents that are considered prone to escalation within the Security Zone. The Security Zone was established between the sides by the Moscow Agreement and is controlled by a tri-partite Russian-Moldovan-Transdnistrian Joint Peacekeeping Force (JPKF).

The OSCE Mission and the rotating CiO Special Representatives have been the main driving forces in the negotiation process, working in close co-ordination with the Russian and Ukrainian co-mediators. Since the beginning, the OSCE mediators have taken a long-term approach, using small steps to bring the sides closer to a settlement agreement. This approach includes four aspects. Firstly, in order to (re-)build confidence and mutual trust, the OSCE mediators support a multitude of people-to-people contacts between the populations and between officials on both sides. Secondly, the OSCE mediators promote the conclusion and implementation of interim agreements between the sides in less-politicized economic, technical, social, cultural and humanitarian spheres. Since 2008, the Mission and the CiO Special Representatives have been supporting joint expert working groups established by the sides in different spheres. The expert working groups have been tasked to develop CBMs in the form of technical decisions, agreements and recommendations for pragmatic co-operative solutions to some of the most pressing problems. The OSCE supports the working group meetings and, with the help of interested OSCE participating

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States, the organization of CBM conferences to review progress and further promote the overall CBM process.

Thirdly, the OSCE mediators work jointly with the co-mediators and the observers at the political level to discuss different aspects of the conflict. The OSCE mediators chair and facilitate negotiation sessions in the “5+2” format, and facilitate and support bilateral meetings between the chief negotiators from both sides and between the political top leaderships of the sides. The OSCE mediators also organize events that bring the sides together with the aim of exchanging views in an informal setting on existing models for the resolution of political, constitutional, legal and security issues. This is done in close co-operation with the other co-mediators and the observers, and with the support of other OSCE structures and interested OSCE participating States. Additionally, during repeated pauses in negotiations, the OSCE mediators engaged in intensive shuttle diplomacy between the sides to provide a line of communication and to overcome obstacles towards restarting the talks.

Fourthly, the OSCE Mission observes the situation in the Security Zone and the work of the JCC, which oversees the Security Zone. In this context, the Mission regularly engages in investigating and facilitating solutions to local disputes and incidents that occur in or close to the Security Zone, thereby reducing tensions that could have a potential for further escalation. For this purpose, the Mission’s Military Members engage in ad hoc dialogue facilitation between opposing parties on the ground where incidents occur. The Mission also promotes the respect for human rights, as well as democratic processes and the rule of law on both sides of the Dniester/Nistru to help create political and social conditions conducive to a conflict settlement.

The OSCE’s mediation efforts in the framework of the “5+2” process demonstrate how the impartial and intensive multi-year efforts of international mediators to facilitate a conflict settlement can be blocked if a conflict is not ripe for resolution. In this case, it is due to a fundamental lack

of trust and confidence between the sides. Although the work of the OSCE and its co-mediators and observers has led, over the years, to a multitude of interim agreements and decisions between the sides, most of these have not been implemented. Some were suspended by one or the other side due to unrelated disputes.

In the military-security sphere, the implementation of Confidence and Security Building Measures (CSBMs) has so far not been possible. This is because the international political polarization that has been growing since the late 1990's has been mirrored in the negotiation format. This international political polarization as well as weakened unity and co-ordination among the co-mediators and observers has enabled the sides to engage in forum shopping. The result is a situation where the sides have managed to receive sufficient external support to make the status quo bearable and to avoid having to make the kind of difficult and unpopular compromises that are required to reach a final settlement.

## **2. The Ergneti Incident Prevention and Response Mechanism (IPRM)**

Following the August 2008 conflict in Georgia, the Geneva International Discussions were established to address the consequences of the conflict. Co-Chaired by the EU, the OSCE and the UN, the Geneva Discussions bring together representatives of the Government of Georgia, the de facto authorities of South Ossetia and Abkhazia, as well as the Russian Federation and the US.

The situation along the Administrative Boundary Line (ABL), which separates the Tbilisi-administrated territory from territories under the de facto control of Tskhinvali, remained tense and unstable after the 2008 conflict. A significant number of serious shooting incidents, the detention of people crossing the ABL, as well as scores of missing persons and a difficult humanitarian situation in the areas adjacent to the ABL further contributed to a feeling of insecurity among the population.

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Within the framework of the Geneva International Discussions, the sides agreed in February 2009 to establish IPRMs to deal with the situation along the Georgian-South Ossetian and the Georgian-Abkhaz ABLs. Their objective was to support peace, stability and security on the ground. The IPRMs allowed for the establishment of dialogue between the Georgian, Russian, South Ossetian or Abkhaz police and security structures so as to improve the security situation. The sides could thus use a direct channel of communication to identify and address security concerns in a timely manner, prevent incidents and rebuild mutual trust between the parties involved. The Georgian-South Ossetian IPRM is co-facilitated by the OSCE and the EUMM, whereas the Georgian-Abkhaz IPRM is co-facilitated by the EUMM and the UN.

In the original proposal, the IPRMs were to investigate incidents through joint on-site visits and to ensure the security of vital installations and infrastructure. However, this could not be accomplished because the de facto South Ossetian and Abkhaz authorities refused to provide access to the territory under their control. Instead, in the spring of 2009, an alternative process was launched through the establishment of monthly meetings. In the South Ossetian context, these take place near the village of Ergneti or occasionally near the village of Dvani. In that framework, IPRM participants regularly discuss the security situation on the ground, the prevention of incidents, cases of missing persons and issues related to restrictions on the freedom of movement that are caused by the formalization of the ABL. The Ergneti IPRM also addresses issues which negatively affect the livelihood of the population living in the areas adjacent to the ABL, including access to churches and cemeteries. A 24/7 telephone hotline has been established for use by IPRM participants, through which issues of urgent concern can be communicated and response measures agreed.

The CiO Special Representative for the South Caucasus, an advisor from the Chairmanship, and a representative of the CPC usually represent the OSCE at the Ergneti IPRM meetings. The Head of the EUMM and support staff represent the EU. The Georgian and Ossetian Delegations usually

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include representatives of their interior, defence and security bodies. The South Ossetian side is also joined by a member of the team dealing with the post-conflict settlement. The Russian Delegation consists of the commander of Russian forces in South Ossetia and representatives of the Ministry for Foreign Affairs. The IPRM complements the Geneva International Discussions by addressing concrete issues on the ground. Over the five years of its existence, the Ergneti IPRM has contributed considerably to stabilizing the security situation at the ABL, re-establishing regular contacts and some basic mutual trust between the involved sides, and stimulating improvements in their co-operation on specific issues.

The problems faced by the IPRM during its first year demonstrate the difficulties that facilitators could face when choosing a venue for meetings. Questions of security, neutrality and access to territory made it impossible to meet on a rotating basis on both sides of the ABL. As a solution, the IPRM now meets in a tent in no-man's-land between the Georgian and South Ossetian checkpoints. In addition, the participation of the OSCE, its status as a co-facilitator and the status of other participants had initially been disputed by the de facto South Ossetian authorities who demanded a rotating chairmanship among all involved sides. This underscores the difficulties that could be encountered by facilitators when trying to agree on the participants and their status. After overcoming these initial problems, the IPRM has become an increasingly useful forum for the concrete exchange of information and for co-operation on security and other concerns confronting the Georgian and South Ossetian sides.

The Ergneti IPRM provides a good example of how a closely co-ordinated joint facilitation process between two international third parties can support a wider political process, such as the Geneva Discussions. Not only did the joint OSCE-EU dialogue facilitation effort consolidate the credibility of the OSCE and the EU, it also stimulated a growing sense of ownership in the IPRM itself among Georgian and South Ossetian authorities. This is evidenced in the increasing and more pragmatic use by Georgian and Ossetian representatives of IPRM meetings, which today often hold bilateral,

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informal side meetings to discuss specific issues without international third party facilitation. The IPRM has thus shown how pragmatic dialogue on the ground can help sustain a peace process in spite of strong polarization and a lack of progress on the political level.

### **3. The Personal Representative of the CiO on the Conflict Dealt with by the OSCE Minsk Conference**

In May 1994, the ministers of defence of Armenia, Azerbaijan and the commander of the so-called Nagorno-Karabakh Defence Army signed a cease-fire agreement following more than two years of fighting in and around Nagorno-Karabakh. The war left between 10,000 and 20,000 people dead, up to 1.5 million displaced and a significant part of Azerbaijan's territory outside its control. 20 years later, shooting incidents cost the lives of about 30 people on both sides of the Line of Contact (LoC) every year. A peace agreement has yet to be reached and the volatile security situation on the border and the LoC, the lack of progress in negotiations, and harsh rhetoric regularly prompt concerns over a possible re-escalation into armed conflict.

In 1992, the OSCE participating States requested the CiO to convene a conference in Minsk as a forum for negotiations on a conflict settlement. This so-called Minsk Conference was to be prepared by a group of 11 interested participating States, as well as Armenia and Azerbaijan, which later became known as the Minsk Group. The Minsk Conference was subsequently postponed due to an armed escalation of the conflict and has still, today, never been convened. At the end of 1994, participating States established a High-Level Planning Group (HLPG) to make recommendations to the CiO for the establishment of a multinational OSCE peacekeeping operation in the conflict area. They also tasked the CiO with naming Co-Chairs of the Minsk Conference to ensure a common and agreed basis for negotiations and to full co-ordinate all mediation and negotiation activities. In March 1995, the CiO issued a mandate for the Co-Chairs, now held by France, Russia and the US. Since then, the three Co-Chairs have

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mediated between Armenia, Azerbaijan and the so-called Republic of Nagorno-Karabakh. The latter has not been present at the negotiation table due to status issues raised by Azerbaijan.

During the same year, the CiO nominated a Personal Representative of the Chairperson-in-Office on the Conflict Dealt with by the OSCE Minsk Conference (PRCiO). In contrast to the Minsk Group Co-Chairs, the PRCiO does not directly mediate between the conflict parties. He is mandated to assist the CiO and the Co-Chairs in creating conditions for the deployment of an OSCE peacekeeping operation and facilitating a lasting conflict settlement. He also assists the conflict parties in developing and implementing confidence-building, humanitarian and other measures that facilitate the peace process, in particular by encouraging direct contacts. The PRCiO is the main point of contact for the conflict parties outside the formal negotiations and facilitating dialogue between negotiation meetings has become the PRCiO's most important task. He travels regularly between his Tbilisi headquarters and Baku, Yerevan and Stepanakert/Khankendi. With the permission and support of the parties, the PRCiO and his team also visit the LoC and the Armenian-Azerbaijan border. This is the only CSBM in the military sphere that has been accepted thus far by the conflict parties.

Representatives of the parties meet regularly with the PRCiO to discuss current issues. In addition to other aspects of his mandate, he delivers messages from the CiO or the Co-Chairs to the parties and vice versa. Being present on the ground, participating in the visits of the Co-Chairs and their meetings with the parties, and facilitating dialogue between such visits and meetings, the PRCiO has amassed a significant amount of knowledge over the years. He has thus become a key source of information for the successive CiOs and Co-Chairs as well as the broader Minsk Group and the conflict parties. At the request of the conflict parties, all efforts of the PRCiO and the Co-Chairs are carried out in complete confidentiality.

Although the dialogue-facilitation, mediation-support and confidence-building activities of the PRCiO have been critical in helping to

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maintain contact, sustain dialogue and reduce tensions in times of stalled negotiations and rising tensions, the sides have been unable to reach a peace agreement. The process has been taken forward in small steps with frequent stalemates, setbacks and pauses in negotiations. The rhetoric of the parties and the security situation at the LoC have often caused concerns over a possible re-escalation of the conflict. In recent years there has been some progress in the negotiations over basic principles for a conflict settlement (Madrid Principles) but a decisive breakthrough has not yet been achieved.

The PRCiO's dialogue facilitation work demonstrates the important role that a credible, knowledgeable, impartial and trusted facilitator can play in an extremely sensitive mediation process. It also shows the crucial nature of confidentiality, which allows the parties to discuss potential future options even if they are not ready to make significant concessions. The PRCiO's experience illustrates that it is possible to maintain important channels of communication with interlocutors who are otherwise excluded from formal negotiations.

At the same time, the near total rejection of confidence-building measures by the parties, with the exception of the PRCiO's monitoring of the LoC, has made it impossible to build the necessary basic trust between the parties and move the process decisively forward. In addition, the complete confidentiality of the process and, therefore, lack of any communication about the process, has contributed to mistrust and rumours. This has limited the parties' room for manoeuvre, reinforced their hard-line stances and made it difficult to prepare their constituencies for the necessary concessions that accompany a settlement.

## 4. OSCE Dialogue Facilitation in South Serbia

In May 2001, the 'Konculj Agreement', facilitated by NATO, the US and the OSCE, ended an 18-month low-intensity conflict between ethnic Albanian members of the 'Liberation Army of Preševo, Medvedja and Bujanovac'



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(UCPMB) and Serbian security forces. The conflict affected South Serbia around the municipalities of Preševo, Bujanovac, and Medvedja where Albanians are a sizeable component of the population. Following the agreement, Serbian authorities launched a development plan (Čović Plan) for the three municipalities to be administrated by the Government's Coordination Body for the Municipalities. Government attention to South Serbia still remained low.

Major grievances of the ethnic Albanian population towards the Serbian authorities persisted over: under-representation of ethnic Albanians in state structures; the significant presence of the Serbian Gendarmerie in the area; the lack of Albanian-language education and use of Albanian (Latin) script; and slow economic development. Relations between the ethnic Albanian population in South Serbia and the Serbian central Government authorities remained strained.

As part of the international crisis response in 2001, the then OSCE Mission to the Federal Republic of Yugoslavia (now OSCE Mission to Serbia) took the lead in judicial and police reforms. In November 2001, the Mission established a field office in Bujanovac, which was tasked to facilitate dialogue between Serbian Government authorities, especially the Coordination Body, and the ethnic Albanian community in South Serbia.

In November 2012, a major local dispute emerged when the Serbian Gendarmerie built a memorial for the Interior Ministry casualties of the 2000 to 2001 armed clashes in the village of Lučane, while the ethnic Albanian local authorities erected a memorial for fallen former UCPMB combatants in front of the Preševo town hall. The latter captured the attention of the Prime Minister and the President of Serbia. The government demanded that the local authorities immediately remove the memorial in Preševo and warned that failure to do so by a set deadline would result in its forced removal. The UCPMB veterans threatened armed resistance in the case of a police intervention. Tensions grew and dialogue between the local ethnic Albanian political leaders and the Coordination Body was interrupted.

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Finally, the Coordination Body asked for the OSCE Mission's assistance in facilitating the re-opening of communication channels.

In December 2012, the OSCE Mission and its Bujanovac field office began an intense engagement with local Albanian politicians, UCPMB veterans and government representatives on the memorial issue. An idea was proposed to move the memorial from in front of the Preševo town hall to a different location. However, the positions of the parties did not soften and were further hardened by a high-level government visit to the Gendarmerie memorial in Lučane. During a meeting facilitated by the Mission's Bujanovac office, the Coordination Body proposed a temporary solution to move the UCPMB memorial to private land and also to address the issue of the Lučane Gendarmerie monument.

The proposal seemed to calm tensions. However, the ruling majority in the Preševo Municipal Council initiated the legalization of the UCPMB memorial. Efforts by the OSCE Mission to Serbia, individual participating States and the EU Delegation to maintain open communication channels led the majority of South Serbia's ethnic Albanian political leaders to soften their positions and the Serbian Government to delay action on the deadline. The Mission was making headway in obtaining agreement from the local ethnic Albanian political leaders, veterans and families of the fallen UCPMB fighters to move the memorial, although there was no public commitment. The following morning, the Serbian Gendarmerie secured the central square in Preševo and a private construction company removed the memorial.

The removal of the monument prompted peaceful protests by the ethnic Albanian community and re-escalated tensions. The OSCE Mission, with the support of participating States and the EU Delegation, called for restraint on the part of the ethnic Albanian political leaders and encouraged the government to address long-standing grievances of South Serbia's ethnic Albanian community as a measure to defuse the situation. These efforts helped to alleviate tensions and restart discussions between the Coordination Body and the ethnic Albanian community.

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The OSCE Mission facilitated a meeting between the Coordination Body and South Serbia's ethnic Albanian political leaders, at which a common agenda of topics for discussion was agreed. The topics included representation of ethnic Albanians in Serbian government structures, economic development, decentralization of the judiciary, use of language, education, culture and media, health care and social protection. Later in the year, this common agenda was adopted by the Government of Serbia, which tasked the Coordination Body and 13 ministries to engage in discussions on the modalities to implement it. The First Deputy Prime Minister met with South Serbia ethnic Albanian leaders, which was followed by two working-level preparatory meetings between the Coordination Body and Albanian leaders. The preparatory meetings were facilitated by the OSCE Mission's field office in Bujanovac. The Prime Minister met the ethnic Albanian leaders, which was followed by a visit of the Minister of Health to the region to jumpstart efforts on the first topic selected, health and social care.

The dialogue facilitation efforts of the OSCE Mission to Serbia in the UCPMB Preševo memorial dispute and in South Serbia demonstrate the important role of an international facilitator. This is especially true in situations when the implementation of a peace agreement or long-term measures related to it have slowed or stalled, and inter-ethnic tensions re-emerge in local disputes with a potential for renewed conflict escalation. Through its engagement, continuous since 2001, in facilitating dialogue between the Government of Serbia and South Serbia's ethnic Albanian community, the OSCE Mission was able to reduce tensions as they emerged and revitalize a broader dialogue on long-standing grievances. The support received from individual participating States and the EU Delegation illustrates how an international facilitator can take advantage of external actors' leverage to influence the behaviour of conflict parties.

## 5. Inter-Communal Dialogue Facilitation during Local Elections in Srebrenica, Bosnia and Herzegovina

The OSCE Mission to Bosnia and Herzegovina was established in late 1995 to support the implementation of the Dayton Peace Agreement (General Framework Agreement for Peace in Bosnia and Herzegovina) that ended the 1992-1995 war in Bosnia. In order to support the country in building a multi-ethnic and multi-confessional democratic society, the Mission works in strengthening democratic political institutions and promotes reconciliation between the country's different ethnic groups. It facilitates inter-communal dialogue in most fields of its activities. The Mission is also the only civilian international organization that maintains a network of field offices throughout the country. This enables it to work on the regional and local levels and support institutions and processes to prevent future conflict. The field office staff members frequently address local disputes involving inter-ethnic aspects.

One such dispute emerged in Srebrenica in 2012 during preparations for local elections. Inter-ethnic relations in the municipality of Srebrenica, situated in the Republika Srpska (RS), have remained tense and fragile since the war. As a result of the July 1995 massacre of over 8,000 Bosniak inhabitants of Srebrenica by Bosnian Serb armed formations, Srebrenica has also become a symbol of the wartime suffering of the country's Bosniak population. Srebrenica's Bosniak population, formerly about two thirds of the municipality's population, represents today only one third of the population. A special voting procedure during the local elections in Srebrenica in 2008 enabled former residents to vote in Srebrenica irrespective of their current place of residence. This allowed a Bosniak mayor to be elected despite the majority of residents now being Serbs.

During preparations for the local elections, Serb political parties rejected any special voting procedure for Srebrenica. This was also accepted by representatives of the international community based in Sarajevo. When

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it was announced that no such procedure would be applied, Bosniak community leaders, among them the incumbent (acting) mayor of Srebrenica, reacted sharply. At the time, the legislation of Bosnia and Herzegovina allowed citizens to register as permanent residents in any municipality irrespective of their actual place of residence. Using this, Bosniak community leaders initiated a strong and emotional campaign under the slogan “I will vote for Srebrenica” to mobilize former Bosniak residents of Srebrenica to register as permanent residents in the municipality and to help elect a Bosniak mayor.

The registration campaign put a strain on inter-ethnic relations. It created fear among local Serb political parties, candidates and inhabitants of losing the local elections to Bosniak parties and candidates. Bosniak inhabitants were mobilized against what the leaders of the campaign called the “genocide denial politics” of Serb parties. The leaders of the campaign accused the local police and the RS Ministry of Interior of actively obstructing the registration process by bureaucratic means.

The Mission’s Srebrenica field office got involved with the aim of preventing a further escalation of inter-ethnic tensions. Throughout the pre-elections phase, the Mission and its field office kept an impartial stance on the registration issue. It maintained close contact with the local police, leaders of the registration campaign, political parties and candidates, community leaders, and civil society organizations, and tried to facilitate dialogue to bridge differences. The field office used its school projects and women organizations to work across the ethnic divide. To reduce tensions related to bureaucratic procedures and to build confidence between the local police and the Bosniak community, the field office also observed the registration process in a non-intrusive manner, reviewed the complaints of citizens and encouraged the use of domestic mechanisms to address complaints.

The field office regularly informed the international community based in Sarajevo about the situation on the ground and briefed its representatives visiting Srebrenica. The Head of Mission and other senior mission officials worked with their counterparts in the international community in Sarajevo

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to forge a unified position on the dispute in Srebrenica. The Mission's Banja Luka field office repeatedly communicated with the RS Ministry of Interior. The OSCE Mission was eventually the only interlocutor able to close the existing communication gap between the registration campaign, the local police and the RS Ministry of Interior.

There were moments when the field office met strong resistance from the local police, the RS Ministry of Interior and the leaders of the registration campaign. The local police and the RS Ministry refused to allow field office staff access to the registration office to monitor the process. The leaders of the registration campaign criticized the field office for not openly supporting their cause and eventually, towards the end of the election campaign, cut communication with the Mission. The registration campaign leaders even started a campaign against the Mission, slandering it for allegedly supporting a "genocide denial course". Nevertheless, the Mission managed to keep informal contacts with some of the registration campaign leaders throughout the entire pre-election phase. The campaign against the Mission was not successful owing to the help of the international community, which counteracted the campaign leader's allegations.

Eventually, most stakeholders accepted the Mission and its field offices as impartial and credible facilitators. The Mission's dialogue facilitation efforts helped to ameliorate tensions and to de-escalate the dispute between the Bosniak and the Serb communities in Srebrenica. By August 2012, roughly 2,000 new permanent residents had registered in Srebrenica without major problems. Finally, the incumbent (acting) Bosniak mayor of Srebrenica was re-elected. This occurred despite the fact that ethnic Bosniak voters were in the minority and the major Serb political parties supported a single candidate. However, because an independent Serb candidate received 14 per cent of the vote, the Bosniak candidate was able to secure sufficient votes to defeat the main Serb candidate.

This experience of the OSCE Mission to Bosnia and Herzegovina and its Srebrenica field office demonstrates the difficulties and criticism a

facilitator can face when opposing parties resist dialogue facilitation and feel their cause is not being supported. The example also shows how a facilitator can overcome such resistance and successfully build credibility by consistently maintaining an impartial course, implementing confidence-building measures, working patiently with all stakeholders, and bridging communication gaps to re-establish dialogue. The importance of a co-ordinated and unified position of the international community in support of a dialogue facilitation process is also underlined, especially if the facilitator is facing unjustified criticism from the parties. The difficulties faced by the Srebrenica field office owing to the slander campaign demonstrate the importance for facilitators to develop an effective communication strategy in order to explain their role to all stakeholders and the broader society.

### **6. The Mediation Network of Peace Messengers in Kyrgyzstan**

In the aftermath of the April 2010 ousting of President Bakiyev in Kyrgyzstan, inter-ethnic violence broke out in June 2010 in the south of the country – in the cities and provinces of Osh and Jalal-Abad. According to different estimates, the clashes between local Kyrgyz and Uzbeks left between 420 and over 2,000 people dead and over 80,000 displaced. There were allegations that Kyrgyz police, security and military forces were involved in the clashes or did not seriously attempt to quell them. Although the riots eventually subsided, relations remained tense between local Kyrgyz and Uzbek communities and between these communities and the law enforcement organs. This raised concerns about the potential re-emergence of inter-ethnic violence. The range of tensions and potential triggers for the outbreak of new conflicts included a general lack of trust between government and civil society, border incidents, and problems between local citizens and mining companies.

The OSCE Centre in Bishkek decided, in 2010, to expand its support to local mediation efforts that had begun with a pilot project in the Osh province in 2007. Some of the local mediator teams established under the

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initiative had successfully diffused tensions and prevented new violence in the wake of the June 2010 riots. A public-private Mediation Network of Peace Messengers (*Yntymak Jarchylary*) was then established by increasing the number of local mediator teams to 34 and expanding the area covered to the Jalal-Abad and Chuy provinces. The main purpose of the peace messenger teams is to provide early warning on potential inter-ethnic and other conflicts in their localities and to proactively address them through mediation and dialogue facilitation. They also work with local law enforcement organs and other government officials to engage in emergency mediation with local citizens during crisis situations. In addition, they co-operate with the police advisors of the OSCE's Community Security Initiative (CSI), which was deployed in Kyrgyzstan in response to the June 2010 events, and which aims at promoting dialogue and building trust between local communities and law enforcement organs.

The Peace Messenger Network project is carried out by three experienced local NGOs in co-operation with the national, provincial, district and city authorities. Each of the 34 local mediator teams consists of 22 members. Half of them are government employees and representatives of law enforcement and the other half are from civil society. The members of the teams are chosen from among eminent and trusted persons within the different communities who already hold influential roles. Many of them are traditional male elders (*aksakals*), women leaders, school directors and teachers, and at least one member of each team is a police officer. In each team, an ethnic, gender, age and religious balance is ensured.

The teams maintain contact with each other through information exchange and regular joint events. This enables them to react in a co-ordinated manner to local conflict situations. To ensure ownership by national, regional and local government authorities, the peace messengers' teams are working in co-ordination with the provincial, district and city authorities, including the police and security structures. The teams will become an integrated part of the national system of early warning and conflict prevention and mitigation in 2015 (in Osh and Jalal-Abad) and



2016 (in Chuy). The consistency of the teams is maintained through two layers of trainings: two selected members from each team participate in training of trainers' courses and they subsequently train their teammates in the communities.

The peace messengers have been successfully involved in facilitating resolutions to a significant number of local disputes among citizens, between citizens and local authorities and between citizens and enterprises. The peace messengers have also successfully intervened in emerging disputes that could have escalated into more significant local conflicts. These conflicts were related to the allocation of land plots, real estate, the problems local residents encounter in connection with the operation of mining companies, protests against local government bodies, and other socio-economic issues with an inter-ethnic component. The messengers have also worked to diffuse rumours that could have triggered public disorder or inter-communal clashes.

The Mediation Network of Peace Messengers is a successful example of an indirect international third party role in dialogue facilitation. In this case, the third party worked to strengthen national and local capacities for early warning, conflict prevention and conflict resolution in co-operation with host country authorities and civil society. The Network also demonstrates how traditional mediation approaches and local eminent persons with influential roles within their communities can complement international mechanisms.

However, despite the Network's successes, it has proven especially difficult to build the necessary acceptance and ownership of local mediation efforts by national, regional and local authorities, and to overcome the mutual mistrust between state authorities and civil society. It has also been difficult, at times, to combine traditional mediation and dialogue facilitation approaches with modern, professionalized methods. In addition, traditional elders and women leaders have occasionally found it difficult to reconcile their traditional roles as individual mediators with their roles in a mediation

team. The challenges faced by the Network of Peace Messengers demonstrate that the strengthening of national and local mediation and dialogue facilitation capacities is a long-term effort that requires sustainable support.

### **7. HCNM Dialogue Facilitation in the former Yugoslav Republic of Macedonia**

The HCNM has been engaged in the former Yugoslav Republic of Macedonia since 1993, with a particular focus on education policies. One major issue that the HCNM has been addressing is the widespread separation of ethnic Macedonian and ethnic Albanian pupils in primary and secondary schools along linguistic and, thus also, ethnic lines. This has limited inter-ethnic interaction and contributed to inter-ethnic tensions. The August 2001 Ohrid Framework Agreement, which ended armed hostilities between Albanian militant groups and State security organs, brought stability but the ethno-linguistic separation in the education system remained. It continued to be a major challenge to safeguard the rights of national minorities in order to preserve and develop their identities, while at the same time ensuring constructive interaction and mutual understanding among all communities.

Upon the request of the authorities, the HCNM has provided recommendations on integrated education policies and facilitated dialogue between the key stakeholders towards adopting a policy framework. On the HCNM's recommendation, a local expert was appointed to work under HCNM supervision to consult with ethnic Albanian and ethnic Macedonian interlocutors in the government. In response, the government appointed ethnic Macedonian and ethnic Albanian focal points to work with the HCNM expert to explore suitable formulations for a policy aimed at increasing integration in the education system.

By working in confidence with the ethnic Macedonian and ethnic Albanian focal points on a background document, a comprehensive set of measures was identified. These ranged from extra-curricular activities, Macedonian-

language acquisition by ethnic Albanian pupils, teacher training and the role of local self-government in education. The background document was then consolidated into a Policy Paper on Integrated Education. In October 2009, the Policy Paper was publicly discussed in the presence of the HCNM, the Prime Minister, the Deputy Prime Minister on the Ohrid Framework Agreement, the Minister of Education and representatives of the international community. Although the discussions were open and had local ownership, the HCNM's dialogue facilitation ensured that negotiations over the text were guided by the principles of integrated education and by international human rights standards on education.

Shortly after the public discussions, the Minister of Education introduced mandatory instruction from first grade in the Macedonian language in all non-Macedonian language schools effective as of January 2010. This unilateral move by a new representative of one side to the dialogue process created distrust among some ethnic Albanian interlocutors about the true aims of the Policy Paper. This situation was compounded by the fact that the ministerial decision was misrepresented as directly deriving from the Policy Paper. As a consequence, non-Macedonian communities, especially the ethnic Albanian community, perceived the document merely as a way to impose the Macedonian language on ethnic Albanian pupils.

The HCNM had to readjust the dialogue process. The dialogue with the ethnic Albanian branch of the government was re-launched so that their concerns could be effectively addressed. The extensive and complex dialogue process eventually led to the official endorsement of the policy document 'Strategy for Integrated Education' in October 2010.

The experience of the HCNM in facilitating dialogue on integrated education in the former Yugoslav Republic of Macedonia demonstrates the importance for facilitators to correctly identify the key stakeholders in a dispute. The facilitator also needs to remain flexible and ready to recalibrate the process as developments unfold, while remaining steadfast on its main components and comprehensive character. The example further underlines

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the importance of the parties' ownership and commitment to work in good faith to find a mutually acceptable solution.

The HCNM's experience with the Policy Paper in 2010 shows that the adoption of an agreement, or in this case a strategic policy document, often needs further engagement by the facilitator through continuous confidence building. The agreement is only a first step and the underlying dispute can only be resolved by implementing the agreement. Moreover, the lack of mutual trust will not automatically disappear with the signing of the agreement. For a lasting solution to be achieved, the political will and good faith of the parties are necessary as well as the willingness of the facilitators to continue their engagement throughout the implementation process.

### **8. The Social Partnership Club in Tajikistan**

In April 1996, in the midst of the civil war in Tajikistan that left up to 100,000 people dead and more than 1.2 million displaced, the Public Council of Tajikistan was established. The Council was founded by the President of Tajikistan, the Chairperson of the Parliament, and 50 political parties, national, cultural, artistic and religious associations, as well as civil society organizations, as an implementation mechanism for the Agreement on Social Accord that had been signed by them a month before. At the time, the Public Council, which aimed to promote dialogue between the President, the Government, Parliament, political parties and civil society, did not include representatives of the United Tajik Opposition (UTO) that had fought the Government in the civil war. After signing the final peace agreement (General Agreement on the Establishment of Peace and National Accord in Tajikistan) in June 1997, the Public Council was first extended in 1999 and later turned into a permanent dialogue forum. It became increasingly inclusive once the main political parties of the former UTO joined the Council between 2001 and 2002, with a subsequent broadening in participation over the following ten years. To further strengthen its national dialogue function, the Public Council established the Social Partnership Club (SPC) in

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June 1999 as a subsidiary body for holding regular roundtables on the most pressing political, economic and social issues in the country.

In support of the implementation of the General Agreement, the OSCE Office in Tajikistan (OiT) continues to assist the work of the Public Council and the SPC. The goal is to promote inclusive dialogue between public authorities, political parties and civil society on issues of national significance, including those pertaining to the protection of human rights and to the democratization of the country. The OiT has continuously and successfully advocated to enlarge participation in the Public Council so as to increase its inclusiveness. At the same time, the OiT provides financial support for the organization of SPC roundtables in the capital Dushanbe and in the regions of Tajikistan. The OiT actively participates in preparing the meetings, among others, by proposing a list of topics for discussion to the President, who holds the final decision-making authority on the agenda. Furthermore, the Mission promotes national dialogue by holding regular meetings with representatives of the President's Administration, the Government, the Public Council Secretariat, regional authorities, political parties and civil society organizations. The Head, Deputy Head and other relevant staff members of the OiT also participate in national and regional meetings of the SPC, give presentations and monitor the discussions. However, they do not actively moderate the sessions.

Over the last ten years, in the framework of the SPC, the OiT has facilitated dialogue between the President, the Government, Parliament, regional authorities, political parties and civil society on a broad range of issues. These include: elections; religious extremism; the role and development of civil society; the role of political parties and independent media; the National Strategy for the improvement of women's role in society; human rights and the Ombudsman institution; economic development; the fight against corruption; labor migration; education reform; e-government; ecology and the exploitation of water and energy resources; and many others.

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The OiT's work with the Public Council and the SPC in Tajikistan is an example of how the OSCE is helping to facilitate dialogue in a politically sensitive post-conflict environment by supporting national forums for dialogue and reconciliation. The support of the OiT has helped make the Public Council and the agenda of the SPC more representative and inclusive. Through such activities, the OiT has also been able to build a reputation as a credible facilitator among public authorities, political parties and civil society.

At the same time, the OiT's involvement with the Public Council and the SPC has experienced challenges in facilitating dialogue through a public body, whose agenda and follow-up is determined by the authorities. Thus, it has not always been possible to include the most disputed political issues on the agenda, for example, the outcome of the 2010 parliamentary elections. In addition, the active and open dialogue of the Public Council and the SPC have partially developed into more formal meetings with speeches and presentations. Furthermore, the effectiveness of the dialogue process has been criticized by some political parties and parts of the civil society, which argue that although some important topics have been discussed they have not led to significant improvements. Therefore, the sense of ownership in and credibility of the Public Council and the SPC is mixed. Whereas ownership is relatively strong on the side of government authorities, ownership and the sense of credibility in the process on the side of civil society and certain political parties has been weaker, leading some to begin boycotting national meetings of the Public Council following the 2010 parliamentary elections. However, the fact that these parties continue to attend regional SPC meetings indicates that their sense of ownership in the dialogue process is not yet fully lost and might be rebuilt.

## **9. ODIHR/CPSRI Dialogue Facilitation on Roma IDP Return in Mitrovica/Mitrovicë**

Following the end of the Kosovo war in 1999, the Roma mahala of Mitrovicë/Mitrovica, situated in the Kosovo Albanian dominated part of the city,

was burned down by Kosovo Albanians who accused the Roma of collaborating with the Serbs. Of the estimated 8,000 Roma, Ashkali and Egyptian (RAE) residents of the mahala, most fled to Serbia and Montenegro but about 800 of them found shelter in three IDP camps situated close to a lead mine in the majority Kosovo Serb north Mitrovica/Mitrovicë. The 800 RAE IDPs were left to live in the camps for several years, in disastrous living conditions with high rates of lead poisoning, as their return to the south of the city could not be agreed with local authorities. The authorities were not willing to allow a return as most RAE IDPs did not have legal property titles on the land of the former mahala. The RAE communities insisted on their right of return but had serious security concerns. The return of the RAE IDPs became an urgent issue for the international community in Kosovo.

The head of ODIHR's Contact Point for Roma and Sinti Issues (CPSRI) engaged in an international awareness-raising campaign on the situation of RAE IDPs. This included RAEs in Kosovo, in general, and, specifically, the situation of the RAE communities in the three IDP camps in north Mitrovica/Mitrovicë. In close co-operation with OMiK and the UN Mission in Kosovo (UNMiK), CPSRI also engaged in intensive dialogue facilitation efforts to find a solution for the safe return of RAE IDPs to the former mahala. He shuttled between the RAE communities in the camps in north Mitrovica/Mitrovicë, the local authorities in the south of the city and the Kosovo Ministry for Communities and Return, together with representatives of OMiK and UNMiK. They attempted for several years to bring the positions of local authorities in south Mitrovicë/Mitrovica and the RAE communities in the camps in north Mitrovica/Mitrovicë closer together. They also mobilized the international donor community to provide funding for the reconstruction of houses in the former Roma mahala.

A dispute over the reconstruction of houses quickly developed. Due to the intransigent position of the local authorities in the south of the city, the work with the Kosovo Ministry for Communities and Return became the decisive track of the dialogue facilitation effort. Convincing the Ministry of the need to find a solution made it possible to eventually soften the

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position of local authorities. However, they were only willing to allot 3.5 of the former 17.5 hectares of land of the former Roma mahala for the reconstruction of housing. They also limited the offer to those living as IDPs in north Mitrovica/Mitrovicë and agreed to rebuild individual houses only for the few former residents that held property titles. For the majority of former residents without property titles, apartment blocks were proposed to be built. The international stakeholders eventually supported this solution due to the urgent need to improve living conditions for the RAE IDP communities. A breakthrough was achieved in April 2005 with the signature of an agreement between the Mitrovicë/Mitrovica Municipality and the OSCE, UNMiK and UNHCR on land allocation in the former Roma mahala. However, some of the RAE community leaders rejected the plan. They insisted on the reconstruction of all individual houses and mobilized their communities against a return under the conditions offered by the agreement.

The engagement of the ODIHR Adviser on Roma and Sinti Issues became crucial. Together with OMiK and UNMiK, he continued the dialogue with all stakeholders in spite of continuous opposition from some RAE community leaders. He himself a Roma from Romania with a long personal involvement in Roma-rights activities, the ODIHR Adviser had the necessary credibility, inter-cultural experience and skills to nudge the dialogue process forward. He succeeded in convincing most of the RAE community leaders to accept the solution offered by the Ministry, the local authorities and the international donors. In addition, he provided a regional perspective on the issue and was perceived as an impartial facilitator. In 2006, housing reconstruction started in the Roma mahala in the south of Mitrovicë/Mitrovica. The following year the RAE IDPs, including those from the three camps in the north of the city, returned in two phases. The second phase of the internationally-funded return project, which had been taken over by the UN Kosovo Team, was eventually handed over to the Kosovo Ministry for Communities and Return in 2008.

OMiK and UNMiK continue to monitor the situation surrounding the Roma mahala. One item in the agreement, the signing of a lease between



local authorities and the residents of the mahala, is still not fulfilled. This raises questions about the sustainability of the facilitated solution. ODIHR/CPRSI has continued to promote international and national dialogue on sustainable solutions for RAE IDPs and for the integration of RAE communities in Kosovo.

The experience of ODIHR/CPRSI's joint dialogue facilitation with OMiK and other international partners in the dispute on the return of RAE IDPs to the Roma mahala in Mitrovicë/ Mitrovica is mixed. On the one hand, the case is a good example of the credibility of a mediator based on his cultural and professional background. It also illustrates the value of continuous and effective co-operation between international stakeholders. The case exemplifies the importance of national ownership in the process and demonstrates that, in dialogue processes, a less than perfect agreement may be the only feasible solution.

On the other hand, the example shows that mediating a difficult dispute under strong time pressure can potentially undermine the sustainability of the agreement reached. The danger is that if not all parties are sufficiently included in the process it can lead to a neglect of some of their interests. If an agreement reached under time pressure does not regulate in sufficient detail the obligations of the parties and the steps and timeframe for their actions, there is a risk that one party, in this case the local authorities, might backslide and not fulfil all of their obligations.

### **10. Dialogue Facilitation of the Parliamentary Assembly in Moldova**

The OSCE PA can set up ad hoc committees that work to increase parliamentary attention to specific issues related to the OSCE's political-military, economic-environmental and human dimensions. In January 2000, after consultations with the political leaderships in Chisinau and Tiraspol, the PA established such a committee – the Parliamentary Team on Moldova (Moldova Team). Consisting of four to five parliamentarians from

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different OSCE participating States, the mandate of this ad hoc committee was to promote peace, stability and the rule of law in Moldova. This was to be achieved by affirming the unity of the state and promoting dialogue between parties and organizations that represented different sections of the Moldovan population. The settlement of the Transnistrian conflict is a particular priority of the Moldova Team, which closely co-operates with the OSCE Mission to Moldova.

Although Members of the Moldovan Parliament and deputies of the Transnistrian Supreme Soviet were involved in early settlement attempts between 1990 and 1993, their dialogue broke down over the years. The OSCE opened additional communication channels between the two banks of the Dniester/Nistru. As any final settlement agreement would have to pass the Moldovan Parliament and the Transnistrian Supreme Soviet and as parliamentarians from Chisinau and Tiraspol have experience from previous settlement negotiations, the restoration of parliamentary dialogue was considered an effective means to get the settlement process back on track. As a result of the first visit of the PA's Moldova Team, the Moldovan Parliament and the Transnistrian Supreme Soviet signed an agreement on co-operation in March 2000. In the agreement, they consented to exchange of information, harmonize the legislation of the two sides, establish regular channels of communication and contacts, and institute parliamentary control over the course of the negotiation process.

Following the agreement and after intensive shuttle diplomacy, the PA's Moldova Team organized three seminars. The events brought together members of the Moldovan Parliament and deputies of the Transnistrian Supreme Soviet with MPs and other political practitioners from OSCE participating States. The purpose was to provide the Moldovan and the Transnistrian Supreme Soviet with expertise on different models of self-government, autonomy and federalism. The Moldova Team also prepared the text of several draft PA resolutions on Moldova and promoted dialogue on the Transnistrian settlement process within the PA.

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Overall, the Moldova Team's activities in this phase helped to revive the inter-parliamentary dialogue between the two banks of the Dniester/Nistru and to increase ownership in the settlement process among legislators on both sides. The three seminars also provided valuable information to Moldovan and Transdniestrian legislators during a critical period in which different settlement proposals were prepared at formal and informal levels. These included the work of the Joint Constitutional Commission in 2003.

The consultations held with the sides by the PA's Moldova Team further strengthened the credibility of the OSCE as a mediator in the settlement process. Following the deterioration of relations between Moldovan and Transdniestrian authorities in 2004, the dialogue facilitation efforts of the PA's Moldova Team became increasingly difficult. The Team continued to visit Chisinau and Tiraspol regularly so as to encourage the Moldovan Parliament and the Transdniestrian Supreme Soviet to continue the parliamentary dialogue. The Team also promoted PA resolutions on the settlement process. However, despite continuous attempts, they failed to bring Moldovan and Transdniestrian legislators back to the table.

This experience of the PA's Moldova Team shows that parliamentary dialogue can be a useful tool to create additional communication channels between conflict parties in times of stalled negotiations. It can also strengthen the inclusiveness of a mediation process and stimulate a stronger sense of national ownership in the process. The sharing of expertise through dialogue can also strengthen the capacity of legislators to play a more active role. Informing legislators about the political negotiations and building capacities for their roles in the settlement process can be a tool with which to strengthen the credibility of a mediator among political actors and gain their support for the process. However, when the conflict is dominated by strong executive powers, the potential of parliamentary dialogue is limited. In such situations parliamentary dialogue can barely survive without the consent of the executive leaderships of the conflict parties.

# Annex II: List of Acronyms

ABL	Administrative Boundary Line
CBMs	Confidence-Building Measures
CPSRI	ODIHR Contact Point for Roma and Sinti Issues (OSCE)
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe
CiO	Chairperson-in-Office (OSCE)
CPC	Conflict Prevention Centre (OSCE)
CSI	Community Security Initiative (OSCE)
FSC	Forum for Security Co-operation (OSCE)
ECMI	European Centre for Minority Issues
EU	European Union
EUBAM	EU Border Assistance Mission to Ukraine and Moldova
EUMM	EU Monitoring Mission to Georgia
HCNM	High Commissioner on National Minorities (OSCE)
HLPG	High-Level Planning Group (OSCE)
IPRM	Incident Prevention and Response Mechanism
JCC	Joint Control Commission
JPFK	Joint Peacekeeping Force
LoC	Line of Contact
NGO	Non-governmental Organization
ODIHR	Office for Democratic Institutions and Human Rights (OSCE)
OIC	Organisation of Islamic Cooperation (formerly Organisation of the Islamic Conference)
OiT	OSCE Office in Tajikistan
OMiK	OSCE Mission in Kosovo
OSCE	Organization for Security and Co-operation Europe
PA	Parliamentary Assembly (OSCE)
PC	Permanent Council (OSCE)

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PRCiO	Personal Representative of the Chairperson-in-Office on the Conflict Dealt with by the OSCE Minsk Conference (OSCE)
RAE	Roma, Ashkali and Egyptian
RS	Republika Srpska
SG	Secretary General (OSCE)
SPC	Social Partnership Club
UCPMB	Liberation Army of Preševo, Medvedja and Bujanovac
UN	United Nations
UNMiK	UN Mission in Kosovo
UNSG	United Nations Secretary-General
US	United States of America
UTO	United Tajik Opposition

As the world's largest regional security organization, the OSCE possesses longstanding experience in facilitating political dialogue and engaging in mediation activities with the aim of preventing, managing or resolving conflicts. These efforts are a significant part of the conflict prevention toolkit, which constitutes one of the OSCE's main comparative advantages.

The purpose of this Reference Guide is to provide recommendations surrounding the eight fundamental principles of the UN Guidance for Effective Mediation as they pertain to the OSCE context. It intends to offer practical guidance for OSCE representatives who are directly involved in designing, implementing, and evaluating mediation and dialogue facilitation engagements in the field.