The Minsk Agreements and the OSCE Special Monitoring Mission
Providing Effective Monitoring for the Ceasefire Regime

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Abstract

Seeking to place the SMM within the broader matrix of actors and initiatives involved in Ukraine, the contribution discusses the role of the OSCE SMM in supporting the implementation of the Minsk Agreements. The SMM has a role in monitoring, reporting and facilitating the implementation of the ceasefire elements in the Minsk Agreements, and interacts with a range of stakeholders across different levels. The contribution discusses some significant challenges and impediments to the implementation of the Minsk Agreements, and looks at how the SMM’s possibilities and limitations to monitor and report on the security related aspects of these Agreements are affected by such constraints.

Keywords

Introduction

The OSCE holds a significant role in crisis management in Ukraine. Despite the organisation’s considerable experience working in the post-Soviet region, the magnitude of the challenges faced by the OSCE in Ukraine was

* The views expressed in this article are solely that of the author and do not necessarily reflect the official position of the OSCE.
without precedent for the organisation. In March 2014, the OSCE launched, on short notice, the Special Monitoring Mission to Ukraine (SMM). It was the first time that the OSCE deployed a civilian field mission of this scope that would come to work in a high-risk environment in an active conflict stage. The conflict in Ukraine has prompted the OSCE and the SMM to adapt existing OSCE practices to a new situation, as well as to develop new practices and tools, including the use of technologies, to handle new challenges and tasks.

The SMM is a strategic level field-monitoring mission, the largest international presence on the ground in Ukraine, with significant presence in government and non-government controlled areas in the Donetsk and Luhansk regions. The SMM benefits from a broad mandate provided by OSCE’s 57 participating States. According to this mandate, the SMM’s main role is to ensure effective monitoring and reporting of the situation on the ground, and towards reducing tensions and fostering peace, stability and security in Ukraine.2

This contribution focuses its attention on the role of the SMM backed by its mandate, to support the implementation of the Minsk Agreements. The SMM was deployed before the conflict escalated into a full-scale military battle and prior to the signing of the Minsk Agreements. As a result, the Mission’s mandated monitoring tasks also extend beyond these agreements. Once the Minsk Agreements were signed, the SMM nevertheless allocated considerable resources to support the implementation of several security-related aspects of these Agreements. Consecutive OSCE chairmanships have also placed priority on the SMM’s role in supporting, through monitoring, reporting and facilitation, the implementation of the ceasefire elements in the Minsk Agreements.

In order to locate the role of the SMM in the larger matrix of actors and initiatives involved in Ukraine, an outline of the framework of the talks, as well as an overview of the key documents will be presented. The article will look at the interaction between the SMM and relevant actors, and will outline some main obstacles to the implementation of the measures agreed, as well as the challenges the SMM faces in monitoring their implementation.

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2 OSCE Permanent Council Decision No. 991 (March 21, 2014), OSCE Doc. PC.DEC/1117. http://www.osce.org/pc/116747?download=true Its main tasks are: to gather information and report on the security situation; monitor and support respect for human rights and fundamental freedoms; facilitate dialogue on the ground to reduce tensions and to promote normalisation of the situation; and report on any restrictions on the mission’s freedom of movement. In order to fulfil its tasks, the mandate states that the Mission should “establish contact with local, regional and national authorities, civil society, ethnic and religious groups, and members of the local population”.

The Framework for Talks

As the conflict in Ukraine intensified in the summer of 2014, the framework to conduct talks over Ukraine gradually came into shape. The Geneva Group\(^3\) was superseded by the Normandy format (N4) consisting of Ukraine, Russia, Germany and France, on 6 June 2014. On the same day, the Swiss Chairmanship on behalf of the OSCE, together with the governments of Ukraine and the Russian Federation, established the Trilateral Contact Group (TCG). The first calls for the SMM to take on the role of ceasefire monitoring, came when the Normandy format in a joint statement on 2 July 2014 called for a ceasefire, to “be monitored by the OSCE Special Monitoring Mission in Ukraine in conformity with its mandate”.\(^4\) A formal role for the OSCE to monitor several safety-related aspects was established after the signing of the 2 Minsk documents in September 2014: the Protocol (5 September) and the Memorandum (19 September).\(^5\)

Following the signing of the “Package of measures for implementation of the Minsk Agreements”, which came in 12 February 2015, the N4 was specifically designated and confirmed as an oversight mechanism to the TCG, and thus carries a responsibility to provide political support to the TCG. The SMM has supported the efforts of the Trilateral Contact Group and the Normandy format. Since 2015, the N4 have conducted regular meetings at the foreign minister level in Berlin and Paris, complemented at times with phone calls or meetings between the heads of states.

The OSCE is not part of the N4 and as such not directly involved in finding a political settlement to the conflict. The Trilateral Contact Group,\(^6\) with a Special Representative appointed by the OSCE Chairperson-in-Office, has however been the main caretaker of the Minsk Agreements and of the negotiations herein. In May 2015, 4 working groups were set up under the TCG to facilitate the implementation of the obligations under the Minsk Agreements.

\(^3\) Swiss Chairman-in-Office (CiO) the initial initiative for a contact group, an idea presented to the UN Security Council on 25 February 2014. On 17 April 2014, the foreign ministers of Russia, Ukraine, the US and the EU High Representative for Foreign Affairs and Security Policy met in Geneva, and issued what has become known as the Joint Geneva Statement.

\(^4\) Joint Declaration by the Foreign Ministers of Ukraine, Russia, France and Germany, 02.07.2014 http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2014/140702_Satement.html.


\(^6\) For more on the Trilateral Contact Group, see the article in this volume by Christian Schläpfer.
The 4 groups respectively focus on political affairs; security issues; Internally Displaced Persons (IDPs), refugees and humanitarian assistance; and economic affairs and rehabilitation. Much of the technical level discussions moved to the working group level after their formation in May 2015.

**Instruments for the Talks – The Minsk Agreements**

The Minsk Agreements encompass the various documents signed by the members of the Trilateral Contact Group. Each document has also been signed by the leaders of the armed formations of certain areas in the Luhansk and Donetsk regions. The Minsk Agreements include 3 main documents that are public: The Minsk Protocol (5 September 2014), the Minsk Memorandum (19 September 2014) and the “Package of measures for implementation of the Minsk Agreements” (12 February 2015 – from hereon; the Minsk Package). There are also an additional 4 documents: the Addendum to the Minsk Package of Measures (29 September 2015, non-public); Decision on Mine Action (3 March 2016, non-public); Decision on Full Cessation of Live-Fire Exercises (3 March 2016, non-public); and the Framework Decision on Disengagement (21 September 2016, public).

**The Minsk Protocol and Memorandum of September 2014:** Establishing a Role for the OSCE in Monitoring the Ceasefire Regime

The September 2014 Minsk documents specified the role of the OSCE to monitor a ceasefire regime; to monitor the Ukrainian-Russian state border and the withdrawal of all foreign armed formations, military hardware, militants and mercenaries from the territories of Ukraine. The Memorandum, which focused more narrowly on the provision for establishing a ceasefire and withdrawal of heavy weapons, as outlined in the Protocol, assigned a role for the OSCE to monitor the withdrawal of weapons with a calibre greater than 100mm from the then newly established contact line to a distance no less than 15 km from each side, allowing for the creation of a zone of cessation of the use of weapons at least 30 km wide (Safety Zone). This contact line is 487 km long. Its establishment contributed to segmenting the dynamics of fighting on the ground, much of which has since taken place at well-defined hotspots along the contact line.

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8 Minsk Memorandum, Paragraph 4.
The Minsk Package of Measures
The “Package of measures for implementation of the Minsk Agreements” was signed in Minsk on 12 February 2015. It has sometimes misleadingly been referred to as “Minsk II”. The Minsk Package does not however cancel out previous documents. The Minsk Package restated the responsibility of the OSCE to monitor the ceasefire regime and specified a role for the OSCE to monitor and verify the withdrawal of heavy weapons. The document also specified use of “all technical equipment necessary, including satellites, drones, [and] radar equipment” in the monitoring process.

Addendum to Minsk Package and Additional Security Related Decisions
The Addendum to the Package of measures, agreed on 29 September 2015, extended the categories of weapons to be withdrawn from the contact line. The document detailed the obligations of the parties in relation to the withdrawal of tanks, artillery up to 100mm in calibre, and mortars up to and including 120mm in calibre. In March 2016, the TCG endorsed and signed 2 additional decisions agreed in the Working Group on Security Issues (WGSI), respectively on Mine Action and on the prohibition of life fire training. Later that year, in September 2016, the signatories agreed to a Framework on disengagement, stating the intention to start disengagement in 3 specified areas: Petrivske; Zolote; and the bridge at Stanytsia Luhanska. The Decision included a stipulation that the number of areas and the size of the existing areas could all be expanded.

Some aspects of the Minsk Memorandum, Package and Addendum complement what was initially set out in the Protocol. The Addendum and decisions elaborated on by the participants of the WGSI further specify aspects of the provisions in the previous agreements. These will be discussed in more detail below. These additional documents allocate specific responsibilities to various actors involved in the process in order to facilitate implementation of the agreed measures. All documents remain in force.

These heavy weapons were defined in more detail in the Minsk Memorandum. The OSCE is asked to: facilitate the withdrawal of heavy weapons, supported by the Trilateral Contact Group (Art. 2); ensure effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons using all technical equipment necessary, including satellites, drones, radar equipment (Art. 3); monitor the withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine (Art. 10).
Implementation of the Minsk Agreements: Relevant Actors & Instruments
OSCE SMM: A Civilian Mission Operating in a Dangerous Security Environment

The Special Monitoring Mission to Ukraine was deployed on 21 March 2014, nearly 6 months before any formal mention of a ceasefire was made, and set up 10 offices in different parts of Ukraine.\(^\text{10}\) In April and May 2014 armed formations occupied government buildings, took over media outlets and forcefully took over power in parts of the Luhansk and Donetsk regions. As the conflict escalated into a full-scale battle between armed formations and the Ukrainian government forces, it became more challenging for the SMM to operate. The abduction in early June 2014 of 8 SMM monitors, returned to safety only a month later, significantly obstructed SMM’s operations in the Luhansk and Donetsk regions until mid-July 2014. When flight MH17 was shot down on 18 July 2014, the SMM was the first international organisation at the scene. The Mission became the eyes and ears of the international community on the ground throughout the initial recovery period, and came to play a vital facilitating and coordination role. This extraordinary event demonstrated the ability of the OSCE and the SMM to respond to unexpected challenges in an increasingly volatile security environment. It also brought greater attention to the Mission’s ability to play an intermediary role in parts of the country where the government and most other international organisations did not have access.

When the first Minsk Agreements were signed in September 2014, the SMM gained a significant role in monitoring and facilitating the implementation of these agreements. The number of SMM monitors has expanded from an initial 100 to approximately 700. The profile of SMM’s monitors has also altered and diversified as tasks have evolved. The militarisation of the conflict in parts of eastern Ukraine combined with the signing of the first Minsk Agreements in September 2014 widened the scope of the SMM’s mandate, allowing the Mission to expand its footprint in the regions of Luhansk and Donetsk.\(^\text{11}\) SMM took steps to increase the geographical reach of its monitoring by opening a number of forward patrol bases (FPBs); smaller bases near the contact line where monitors would reside and work for shorter or longer periods of time. The SMM remains the only international actor mandated to monitor the ceasefire

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\(^{10}\) SMM has offices in Lviv, Chernivtsi, Ivano-Frankivsk, Odessa, Kherson, Kyiv, Kharkiv, Dnipropetrovsk, Donetsk and Luhansk. Head Office is in Kyiv.

\(^{11}\) The Mission has established 5 hubs in these 2 regions. 9 Forward Patrol Bases are operational and staffed with over 80 Monitoring Officers.
agreements on the ground, including in the non-government controlled areas of the Donetsk and Luhansk regions.

The SMM makes use of technical equipment, including unmanned aerial vehicles (UAVs), satellite imagery, and static cameras as additional tools to extend its monitoring reach. SMM is an information-driven Mission. Daily reports are made publicly available on its website, and weekly reports are distributed to the OSCE delegations in Vienna. The reports are used and referred to widely by policy makers. They are also read by the signatories of the Minsk Agreements. The reports remain the Mission’s most important tool to report on violations as well as compliance of the measures agreed to in the Minsk Agreements.

The SMM supports the OSCE Chairmanship. Working within the constraints of continued instability on the ground, the Mission has continued to support the implementation of the Minsk Agreements and to take steps towards its overall mandated tasks. The SMM registers ceasefire violations, monitors the withdrawal of weapons, conducts regular visits to weapon storage sites and observes near disengagement areas.

The SMM also has a human dimension component, and is mandated to monitor and support respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities. Furthermore, the SMM has a role to facilitate the dialogue on the ground in order to reduce tensions and promote normalisation of the situation.12

The Mission, in cooperation with the Joint Centre for Control and Coordination (JCCC), the role of which will be described in more detail below, facilitates local ceasefires to allow de-mining and repair work to critical infrastructure. The constant shelling of such facilitates continues to endanger thousands of civilians access to clean water, electricity and heating. Furthermore, the shelling near these critical installations has the potential to drastically impact the environment. Following the sharp escalation in violence in the Yasynuvata-Avdiivka area on 29 January 2017, the SMM worked intensively with the JCCC to advocate for a de-escalation on both sides in order to facilitate access for repair work to be completed, especially at the Donetsk Water Filtration Station and the coke plant in Avdiivka. This joint facilitation enabled the restoration of electricity and heating to 22,000 residents in Avdiivka and continued supply of drinking water to 400,000 people on both sides of the contact line. On-going fighting and the presence of weapons and armed forces near such

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12 OSCE SMM mandate; http://www.osce.org/ukraine-smm/117729.
installations, continues to threaten, on a regular basis, the safety of basic services near the contact line.

As access to the non-government controlled areas has become increasingly restricted for humanitarian and human rights organisations, the intermediary role of the SMM has become even more important. The SMM has nevertheless continued to operate under the constant threat of fire in an unpredictable security environment, where the freedom of movement of its monitors is regularly restricted, particularly in the non-government controlled areas of Donetsk and Luhansk.

Working Group for Security Issues
The Chief Monitor of the SMM is the coordinator of the Working Group for Security Issues (WGSI) within the Trilateral Contact Group. Although the SMM’s primary role is on the ground, the Chief Monitor’s role as the Coordinator of the WGSI has provided the SMM a significant and more multifaceted role in the broader process to ease tensions in Ukraine. The SMM has been in a unique position to interact with key stakeholders at the negotiation level, while at the same time communicating with a range of stakeholders throughout Ukraine and monitoring and facilitating implementation of agreed measures on the ground. The SMM co-operates closely with the TCG, and is regularly consulted at the senior political level, including the Normandy Format. The WGSI has sought to tackle issues appearing to be within negotiation range by the sides. The Chief Monitor of the SMM has stressed strict adherence to a full and sustainable ceasefire as a key measure to reducing tensions and restoring trust. Withdrawal of weapons, separation of forces and commitment to remedying violations are also viewed as important stabilising measures within the security sphere, and essential elements to maintaining a ceasefire. These are also seen as potential confidence-building measures that could contribute to creating the necessary space and trust to allow for further discussions on a settlement in Ukraine. In addition, the coordinator has sought to impress upon the participants the need to address the abundance of mine hazards in the conflict zone that continue to pose a risk to those living in the affected areas.

The Joint Centre for Control and Coordination
Another actor that appeared on the ground shortly after the signing of the first Minsk Agreements was the Joint Centre for Control and Coordination. When the JCCC was first established on 26 September 2014, it did not have a defined role in the implementation of the Minsk Agreements. The JCCC
has nevertheless been expected to direct its efforts towards helping the sides reach a sustainable ceasefire and ensure compliance with the Minsk Agreements. The Centre was established through a bilateral initiative between the Ukrainian and Russian General Staff. It consists of approximately 75 Russian and 75 Ukrainian military officers, with its headquarters in Soledar in the Donetsk region. The JCCC’s role has not always been clear, as it does not have a mandate or known terms of reference. Some specific tasks have nevertheless been assigned to the JCCC by the Trilateral Contact Group under the Minsk Agreements,\(^{13}\) including to assist in ensuring:

- Complete ceasefire along the line of contact;
- Immediate delivery to the OSCE SMM of information and notifications as relating to use or withdrawal of weapons, non-use of weapons and holding of positions;
- Rapid response to possible cases of impediments to monitoring and verification by the OSCE SMM;
- Security for the OSCE SMM monitors.

The Trilateral Contact Group (TCG) also assigned to the JCCC the responsibility for co-ordination of implementation of obligations made under the Decisions related to mine action and prohibition of live-fire training.

In practice, the absence of trust, as well as a lack of agreement on the tasks, aims, functions and working methodology of the JCCC has inhibited its ability to be a joint mechanism capable of addressing disputes directly with commanders of armed forces and formations on the ground in a coordinated and effective manner. The activities of the JCCC has gradually become less joint, and increasingly mirror-like, with each of the delegations within the JCCC operating and communicating on separate sides of the contact line: the Ukrainian officers in the government controlled areas, and the Russian officers in the non-government controlled areas.

The JCCC has nevertheless had some success in facilitating repairs to essential infrastructure running across the contact line, even though some of its attempts have been hampered by repeated ceasefire violations and the withdrawal of security guarantees. The SMM liaises closely with the JCCC but has also been careful to ensure that the two organisations perform their respective

\(^{13}\) The role of the JCCC in the implementation of certain obligations has been specified in the Addendum of 29 September 2015, in the decision on mine action; and on the prohibition of live-fire training, both of 3 March 2016; and in the Framework Decision on Disengagement of 21 September 2016.
responsibilities independently. For example, the JCCC should not duplicate monitoring responsibilities that were entrusted to the SMM supported by the 57 participating States of the OSCE, including Russia and Ukraine. Instead, the JCCC role should be to establish an effective mechanism to respond to violations reported by the OSCE SMM or jointly identified by the JCCC.

**Challenges and Impediments to Implementation of the Minsk Agreements**

Efforts to mediate the conflict in Ukraine in general, and to implementing the Minsk Agreements specifically, face a number of challenges. Despite some limited successes in agreements and decisions that have been signed within the Minsk format, very few of the agreed measures have been implemented. Commitments made by the signatories of the Minsk Agreements and additional decisions agreed on, have so far not been translated into tangible results on the ground. Some impediments to the implementation process are specific technical issues, whereas others are inherent in the documents themselves. Implementation and progress in talks are however most of all constrained by overarching geopolitical factors, which narrows the political space in which the stakeholders operate. In terms of the talks in Minsk, these are echoed in the form of persistent debates over the format; disagreements over who are the involved parties in the conflict; and disputes over the nature of the conflict itself. It also narrows the space for real negotiations to take place, especially since the participants are politically constrained in their ability to make decisions. At the N4 level, persistent political divergences have inhibited its 4 members from providing joint statements and pursuing the needed support to entice progress on the ground. On the ground, the lack of political impetus has done little to persuade the sides to implement and comply with agreed measures.

**Documents**

The 3 main Minsk Agreements are all rather short, with few specifications as to how the various processes mentioned should be conducted in practice. The lack of such specifications, for instance with regards to technical military issues, including the regulation of certain weapons, has in many cases made monitoring challenging and has rendered verification extremely difficult. The lack of reference in the documents with regard to command and control issues, leaves open the question: who is accountable for ensuring compliance with the Minsk Agreements? A particular challenge relates to who is responsible
for following up and remedying violations. In the absence of a mechanism to address or sanction violations or follow-up on the lack of progress made on implementing agreed commitments, the sides have found few incentives to comply.

The provisions outlined in the various Minsk documents all remain in force. Provisions for certain topics like mine action and disengagement of forces, both mentioned in the Memorandum of September 2014, remain important issues on the agenda of the Working Group on Security Issues. Although the provisions of all the documents remain equally valid, the signatories sometimes dispute the validity of specific documents, or particular provisions outlined within said documents. There currently is no mechanism to streamline or clarify the relation between the documents. This often results in each signatory cherry-picking the points that appear most advantageous to their interests.

**Format**

Disagreement over the format of talks is a reoccurring theme. Participants in Minsk disagree on whether the format of the TCG and its working groups should be trilateral as stated in point 13 of the Minsk Package, or a 3+2 format, favoured by participants from Donetsk and Luhansk, with support by the Russian Federation. The Russian Federation is a signatory to the agreements and participates in all the various formats involved in the process to implement the Minsk Agreements. Russian representatives nevertheless contend that the Russian Federation is not party to the conflict, insisting instead that Ukraine should talk directly with participants from Donetsk and Luhansk. The lack of agreement on format continues to have an impact on other aspects of the talks. It inhibits accountability and has made it difficult to agree on clear incident prevention and follow-up mechanisms.

**Coordination and Implementation of Agreed Measures**

Ensuring comprehensive international coordination and good interaction between the various formats and stakeholders is of key importance. The manoeuvring space granted to those at the TCG and the working group level is often relatively limited. While agreement on technical issues can be within scope, political level endorsement of proposed measures is essential for the implementation of agreed measures. Fundamental political disagreement between Ukraine and the Russian Federation over key aspects of the Minsk Agreements – and the sequencing of their implementation – regularly inhibits the ability of the Normandy Format to provide the necessary guidance to the TCG and the working groups to ensure implementation of agreed measures.
Thus, even when agreement is reached, implementation does not take place. Such overarching disagreement has manifested itself at all levels and in all aspects of talks and efforts to implement the Minsk agreements, and [this] has largely contributed to a current deadlock in implementation.

The sides have delivered only a meagre step to implement any of the security measures in the Minsk Agreements. The situation on the ground remains tense and violent, and the ceasefire regime remains fragile, with recurring periods of escalation. Numerous re-commitments to the ceasefire have produced short periods of relative calm, but not sustained a lasting ceasefire. Weapons proscribed under the Minsk Agreements are regularly observed beyond agreed withdrawal lines, and ceasefire violations by such weapons are recorded on a regular basis. Some steps have been taken towards disengagement in Petrivske and Zolote, but ceasefire violations occur in and around both areas. At Stanytsia Luhanska, no disengagement has taken place a year after the Framework Decision on Disengagement was signed. The SMM’s safe and secure access to the mentioned disengagement areas continues to be impeded. The Mission enjoys only partial access to these areas, interfering with its ability to effectively verify the disengagement process. No tangible progress has been made in identifying new disengagement areas. Mine Action obligations signed by the signatories of the Minsk Agreements have equally not been respected or implemented. The implementation process has reached an impasse.

Challenges to Monitoring for the SMM

Impediments to Safe and Secure Access and Freedom of Movement
The greatest impediment to monitoring the implementation of commitments made by the signatories of the Minsk Agreements is undoubtedly the constant risk to the safety and security of its civilian monitors in a highly volatile environment. The right to secure and safe access throughout the entire territory of Ukraine is an essential provision of the SMM’s mandate. Yet, effective monitoring and verification by the SMM of the Minsk Agreements and other mandated tasks are regularly restricted through delays, conditions or denials of SMM patrols. At other times, the safety of the monitors has been directly endangered by shelling and other threatening behaviour of armed personnel. UAVs are regularly jammed, and other technical monitoring capacities, including cameras, have frequently been tampered with. In the first months of 2017, the SMM experienced a noticeable increase in serious incidents and threats to its monitors, particularly in the non-government controlled areas.
The presence of mines, unexploded ordinances (UXOs) and explosive remnants of war (ERWs), and the low rate of clearance of such devices constitute a considerable obstacle to free and safe access for the SMM as well as for other civilians. On 23 April 2017, the SMM experienced its first fatality. A paramedic was killed, and 2 other staff members were injured, when the car they were travelling in hit an explosive device. The full and long-term impact of this incident is as of yet unclear and subject to further security review. Following the incident, patrolling was limited to asphalt or concrete roads. This has further contributed to restrict the SMM’s ability to monitor and verify obligations agreed to by the signatories of the Minsk Agreements.

The lack of mine clearance has hindered the implementation and effective monitoring and verification of other commitments agreed to in the Minsk Agreements, including the Framework Decision on Disengagement. The SMM needs to have full security guarantees and clear and unhindered access in order to monitor effectively. The responsibility of the sides to comply with agreed obligations to demine does not depend on verification and should be carried out regardless; verification would nevertheless be an important trust-building measure to ensure that all signatories are fulfilling their obligations under the agreement.

**Weapon’s Withdrawal**

The SMM has been carrying out its responsibilities in relation to the withdrawal of weapons under the Package of Measures since early March 2015, and under the Addendum since early October 2015, by monitoring weapon withdrawal, confirming the presence of weapons, patrolling the security zone, and visiting permanent storage sites and other areas assigned for the storage of weapons. The absence of detailed obligations for the withdrawal of heavy weapons in the Minsk Package, and specific technical specifications of how withdrawal should happen, has created substantial challenges since the outset. The non-provision by the sides of baseline information meant that the SMM could monitor but not verify weapons declared as withdrawn. The sides insist that they have already withdrawn their weapons, yet the SMM continues to observe weapons in violation of respective withdrawal lines in the security zone.

The Addendum provided some specifications for permanent storage sites for the weapons encompassed by this document. In the form of a letter sent by the Chief Monitor on 16 October 2015, to the signatories of the Package of Measures, more detailed stipulations for remaining heavy weapons were outlined and requested. Despite numerous reminders to the sides of their obligation to provide such information, the SMM has regrettably continued to
observe non-compliance of weapons prohibited under the Minsk Agreements, as well as incomplete provisions of baseline information necessary to perform verification. This has rendered SMM verification of the withdrawal of weapons virtually impossible. However, it is also becoming increasingly evident that a sustainable ceasefire will only be possible when the sides take the obligations to withdraw weapons seriously and complete these and other commitments.

Conclusions and Recommendations

The geopolitical shadow alluded to in the title of this volume, does at least partially cast its umbrage over mediation efforts in Ukraine. 3 years after the first Minsk documents were signed, the level of implementation of the agreed commitments has been very modest. Few if any provisions in the Minsk arrangements have been realised so far.

Nor have the sides been able to implement a sustainable and lasting ceasefire, to which the signatories committed. The number of ceasefire violations has continued to ebb and flow and kinetic activity has remained persistently high. The implementation of the provisions of the Minsk Agreements remains constrained by fundamental political disagreement and continued fighting on the ground in parts of the Donetsk and Luhansk regions. The lack of basic agreement on: the roles of the signatories to the Minsk Agreements; who constitutes the parties to the conflict; and what the conflict is about; pose considerable limits on mediation efforts.

While current challenges need to be addressed, the Minsk Agreements continue to form the main framework for talks. For the agreements to remain relevant, ensuring a higher level of compliance with measures agreed would be essential. For this, solid political support is needed. Taking stock of what can realistically be implemented at the current time, what remains outside scope, and what are the main impediments to implementation is therefore important.

The Minsk documents – particularly the Protocol and the Package of Measures – are wider in scope than pure ceasefire agreements. They lack at the same time the clarity of technical solid ceasefire agreements. The Minsk Agreements address political, humanitarian and socioeconomic elements, more commonly found in broader peace settlements. While all these issues are being discussed in Minsk, and are reflected in the very structure of the working groups, not all issues have remained within equal negotiation range. Only within the sphere of security and to some extent humanitarian issues is there currently a certain scope for discussion. However, even for these 2 groups there are clear political constraints to genuine progress.
The main international political level negotiations for a settlement take place at the Normandy Format level, where the OSCE does not hold a direct role. Fundamental political disagreement over key measures in the agreements, over the sequencing of their implementation, as well as over the long term implications agreeing to these measures would have for the sovereignty and wider governance in Ukraine and for regional balance of power, have constituted the main challenges. The process has at the current time reached an impasse.

The continued resistance to implementing current measures by the signatories can additionally be seen as a symptom of lacking public and domestic political faith and support that these can lead to a future settlement to the conflict. For more comprehensive steps towards a settlement, enhanced interaction between different levels and stakeholders is needed. Above all though, there has to be political will from the involved stakeholders themselves, firmly supported at the political level.

The SMM has continued to support the OSCE Chairmanship and to deploy considerable resources to monitor the ceasefire related elements in the Minsk Agreements. As long as the readiness of the sides to fulfil their agreed obligations remains low, the space for the OSCE to mitigate the above discussed challenges remains limited. In this regard, the SMM has focused considerable attention on activities on the ground, such as facilitating repairs of critical infrastructure and promoting access for civilians to cross the contact line in a safer manner. More can still be done to reach out to communities on both sides of the contact line; this would however require more human resources, resources that are also needed for the monitoring of the ceasefire regime.

Efforts to provide effective monitoring and verification on the ground is regularly challenged by restricted access, the presence of mines, UXOs and ERWs as well as by threats against the safety of civilian unarmed monitors. Those responsible for follow-up have taken few, if any steps to remedy impediments to SMM’s monitoring. For the current level of monitoring of the ceasefire regime to remain sustainable, relevant stakeholders must address these threats and impediments immediately.

Within the limits of existing constraints, the SMM continues to work to provide objective and impartial monitoring; to encourage the sides to show credible signs of commitment to improve the security situation; and to take small steps to build mutual confidence. The SMM interacts actively with other actors at all levels to support the OSCE Chairperson-in-Office in their efforts to implement the Minsk Agreements and facilitate agreement on additional stabilising measures. Experience has shown that renewed commitment to a ceasefire must be enhanced by additional stabilising measures. To stabilise the
ceasefire, next steps must encompass a comprehensive approach that includes a range of concrete security measures already agreed to in the Minsk Agreements, including disengagement, completion of weapons withdrawal, removal of mines, and access to monitoring and verification without impediments. Such steps will, at the very minimum, help provide some respite to civilians who live in the conflict zone.

Acknowledgement

Hilde Katrine Haug has from 2014–2017 worked for the OSCE Special Monitoring Mission in Ukraine, first as a monitor in Donetsk, then as a political analyst in Kyiv. In the latter capacity she supported SMM participation in the Working Group on Security Issues under the Trilateral Contact Group in Minsk. Prior to this, Hilde was a postdoctoral fellow at the University of Oslo, conducting a project on post-Milošević political divisions in Serbia. She was a visiting scholar at the Harriman Institute at Columbia University in NYC; at the Centre for South East European Politics in Graz, Austria and in Belgrade. She earned her Ph.D. at the University of Oslo in 2007, with a dissertation on the Yugoslav Communists’ strategies towards the national question 1935–1980. A book was subsequently published by I.B. Tauris in 2012: Creating a Socialist Yugoslavia: Tito, Communist Leadership, and the Natural Question. She holds a bachelor’s degree with honours in Politics and Modern History from Queen's University of Belfast.