Turkmenistan, a human rights 'black hole'

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1. An assassination attempt in Turkmenistan?
In November 2002, a reported assassination attempt against the President of Turkmenistan served as the pretext to unleash a new wave of repressive measures to rein in any remaining real and perceived opposition to the leadership of the country's President for life, thus aggravating an already dire human rights situation in the country and further entrenching its isolation.

Concerned with these developments and their regional implications, ten participating States of the Organization for Security and Co-operation in Europe (OSCE) initiated a fact-finding procedure. Their effort was rebuffed by the Turkmen leadership, refusing any cooperation with the appointed rapporteur for the mission. Regardless, the OSCE produced a comprehensive report on the human rights developments in Turkmenistan.

This article explores the background to the most recent human rights developments in Turkmenistan, the fact-finding mechanism invoked by the OSCE, and examines whether a mistake was made by invoking the procedure.

2. The Moscow mechanism in the last decade
Since 1989 and the disintegration of single party rule in Eastern and Central Europe, the Conference for Security and Co-operation in Europe (CSCE) — the predecessor to the OSCE — has implemented dramatic reforms to further improve mechanisms to address human rights problems. It has created specialised institutions, such as the Office for Democratic Institutions and Human Rights (ODIHR), the office of the High Commissioner for National Minorities, and the office of the Representative on the Freedom of the Media, and it has devised fact-finding instruments, including the 'Moscow mechanism'.

At a Heads of States and Governments summit in Moscow, in 1991, the CSCE created a new procedure — the so-called Moscow mechanism (or Human Dimension mechanism). This rarely used instrument provides for the deployment of expert missions to examine human rights concerns in CSCE (OSCE) countries.

The Moscow mechanism has been invoked on only four occasions: to investigate citizenship and language laws in Estonia; minority rights and inter-ethnic relations in Moldova; and twice in former Yugoslavia, to investigate such issues as attacks on unarmed civilians.

In August 1992, reporting on atrocities and attacks on unarmed civilians in Croatia and Bosnia-Herzegovina, the rapporteur focused on a proposal for an International War Crimes Tribunal for the former Yugoslavia. In 1993, Estonia invited a CSCE mission of experts to study its legislation and to compare it with

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universally accepted human rights norms. In 1993, Moldova invited a mission to investigate legislation on minority rights and inter-ethnic relations on its territory. In June 1993, the CSCE Council of Senior Officials (CSO) invoked the Moscow mechanism vis-à-vis the Federal Republic of Yugoslavia to investigate reports of human rights violations, in particular a violent attack and the imprisonment of Vuk and Danica Draskovic and the reported ban on the Serbian Renewal Party. However, the FRY refused to cooperate and the mission could not take place.

Since then, in spite of occasional attempts by a number of States to encourage the use of the mechanism to strengthen a more effective enforcement of human rights, the Moscow mechanism has not been used. In 1999, when the Russian Federation attempted to invoke the parallel Vienna mechanism against NATO member States for allegedly committing mass violations of human rights on Yugoslav territory, both fact-finding mechanisms were further discredited in the eyes of the West.

3. What is it?
The Moscow Mechanism of the OSCE human dimension is ‘a method of furthering respect for human rights, fundamental freedoms, democracy and the rule of law through dialogue and co-operation [....]’.

Under this procedure, any OSCE country can invite an OSCE expert mission to investigate a human rights problem in the country. Alternatively, an OSCE country can be required to accept a compulsory mission under certain conditions. If a State to be investigated has been approached on a bilateral basis (the Vienna mechanism) and has declined to invite a mission, the support of six States is required to compel the mission. In urgent situations when no bilateral negotiations have taken place and there is a ‘particularly serious threat to the fulfilment of the provisions of the CSCE human dimension’, a compulsory mission can be dispatched with the support of 10 States.

In the latter case, the ten States appoint a rapporteur. The State under investigation is then invited to appoint a second rapporteur. Finally, these two rapporteurs choose a third member of the team. The three rapporteurs then conduct the fact-finding mission and prepare a report. If the State under investigation declines to cooperate and declines to appoint the second rapporteur, the initial rapporteur may conduct the investigation alone.

The task of the rapporteur in the case of the Vienna or the Moscow mechanisms is to establish the facts, report on them and give advice on possible solutions to the questions raised. In doing so, the main responsibility of the rapporteur is with respect to the implementation of human dimension commitments. The report is then presented to the Permanent Council of the organisation, which may decide on any possible follow-up action.

Thus, the Moscow mechanism mandate can be summarized as follows: impartiality, since the rapporteur is appointed as an expert, full independence, in

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