The OSCE norms and activities related to the Security Sector Reform: An incomplete puzzle

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The OSCE is actively engaged in current activities addressing the various facets of security sector reform (SSR). From the perspective of an institution which considers that the security of States and their citizens are mutually reinforcing, such an engagement appears completely natural. SSR represents a common concern for States in transition from war to peace and from authoritarian rule to democracy, as well as for any rule of law State. Democratic governance of the security sector is essential at all stages of the conflict management cycle: while having the potential for reducing the risk of armed violence in conflict-prone States, it happens to be an inescapable component of compromise packages conducive to a final peace settlement and constitutes a crucial element of peace-building strategies in post-conflict settings. A State with a dysfunctional security sector can disrupt political stability within its own region. As the security sector is linked to effective government authority, strong democratic institutions based on the rule of law also contribute to the prevention and combating of transnational threats, risks and challenges such as organized crime, terrorism and illicit trafficking of all kinds. However, the OSCE involvement on the SSR turf is plagued with a regrettable conceptual deficit due to the absence of an integrated concept of SSR. The present analysis offers a critical overview of OSCE achievements at both the normative (standard-setting) and operational level before assessing the consequence of the lack of overarching guiding principles governing the OSCE’s SSR-related activities.

The OSCE’s SSR-related normative achievements
The OSCE has produced norms in four main areas of SSR.

1. Democratic control of armed forces. Sections VII-VIII of the Code of Conduct on Politico-Military Aspects of Security (1994) regulate the role and use of armed forces. They rest on a set of quadruple norms: the primacy at all times of effective democratic constitutional civilian power over military power (§§ 21-24), the subjection of armed forces to international humanitarian law (§§ 29-31, 34), respect for the human rights and fundamental freedoms of armed forces personnel (§§ 23, 27, 28, 32, 33) and the democratic use of armed forces in the performance of internal security missions (§§ 36-37). In addition, the Code offers a number of

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2 For more details, see Victor-Yves Ghebali and Alexander Lambert, The OSCE Code of Conduct on Politico-Military Aspects of Security: Anatomy and Implementation,
SSR-related provisions concerning military capabilities (§§ 12-13), military expenditures (§ 22), and defence policy and doctrine (§ 35). Having been negotiated under the iron law of consensus, the instrument is not a perfect one. Despite its pioneering character, it contains several gaps or loopholes. It has no connection with the Vienna Document on csbms. It prescribes democratic control of armed forces only at the executive and legislative levels, with no reference to the judiciary. It lacks operative provisions on internal security forces, intelligence services, the police or border guards. Finally, the Code’s single explicit provision on paramilitary forces — an element which often causes dysfunctions in the security sector — is clearly superficial.

2. Border management. On the basis of § 35 of its Strategy to Address Threats to Security and Stability in the 21st Century, the OSCE framed a Border Security and Management Concept in December 2005. The document invites the governments to encourage the development of a free, secure and lawful movement of persons, goods, services and investments across borders (§ 4.1). It also authorizes the OSCE as an institution to promote confidence-building measures in border areas, to coordinate exchanges of information, experience and best practices, and to provide, upon request, technical assistance for combating transnational security threats (terrorism, organized crime, illegal migration and illicit trafficking), as well as supporting the free and secure movement of persons (with specific reference to national minorities, migrants and asylum seekers), and economic and environmental cross-border co-operation. Admittedly, the OSCE Border Security and Management Concept lacks any real substance. It offers an embryonic regime whose provisions are either too general or sketchy, and which does not contain formal references to the security sector or just to good governance.

3. Policing. In this area, the OSCE has showed creativity through the instrumentalities of both the High Commissioner on National Minorities (HCNM) and the Strategic Police Matters Unit (SPMU). In 2006, at the 592nd Plenary Meeting of the Permanent Council, the HCNM presented Recommendations on Policing in Multi-Ethnic Societies. Addressing the correlation between policing and inter-ethnic relations across the OSCE, the text contains a set of 23 recommendations (followed by an explanatory note dealing with each of the latter) on police recruitment and representation, training and professional development, engagement with ethnic communities, operational

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3 This omission is all the more regrettable as the Copenhagen Document (1990) and the Moscow Document (1991) on the Human Dimension include provisions on the role of the judiciary within the framework of the rule of law.

4 MC.DOC/2/05 of 6 December 2005.

5 Actually, it contains an oblique allusion to good governance through a provision calling for ‘high standards in border services and competent national structures’ (§ 4.4).