

How Effective Is the OSCE's Promotion of Democracy? Analytical Considerations of the Effectiveness of the Long-Term Missions in South-Eastern Europe¹

Introduction: The OSCE's Undervalued Achievements in Democratization

The signing of the Charter of Paris by all the countries of Europe in 1990 ushered in a new era of democratization in Europe: "We undertake to build, consolidate and strengthen democracy as the only system of government of our nations."² The democracy and human rights norms established in Copenhagen and the right to intervention created in Moscow empowered the OSCE to support all its participating States as they move towards democracy. The signatories included the Socialist Federal Republic of Yugoslavia, as it then was, whose commitments were ultimately taken on by its successor states. Yugoslavia also began to implement democratic reforms, although these were to lead to the disintegration of the Yugoslav state and were abruptly ended by the outbreak of civil war. These days, in politics and academia, the bulk of the positive developments in the region tend to be ascribed to the normative power the EU enjoys thanks to its ability to confer membership. Without a doubt, the prospect of belonging to a community of economically prosperous and democratic states is the decisive motor of reform in South-eastern Europe. Still, the OSCE does play a role in this, and its impact is often underrated. For one thing, the Organization had long-term missions in the region from the very start of the peace process and often laid the foundations upon which the EU has been able to build in more recent years. Furthermore, it was the advice, expertise, and intensive monitoring work of the OSCE that often played a decisive role in shaping the substance of the reforms motivated by the EU. Nonetheless, the OSCE's engagement was not without its problems, and the benefits were accompanied by counterproductive side effects. This is a further indication of how little we actually know about the ways in

1 This article is a summary of the author's dissertation findings, for which she carried out analysis of OSCE weekly reports published between 1995 and 2005, and over 100 anonymous interviews with experts at the OSCE missions. The various primary sources are not listed individually here, but are contained in: Solveig Richter, *Partner, Mahner, Beserwischer? Zur Effektivität externer Demokratisierung durch die OSZE in Südosteuropa* [Partner, Critic, Smart-Alec? On the Effectiveness of External Democratization by the OSCE in South-Eastern Europe], Dissertation, Dresden 2008.

2 Charter of Paris for a New Europe, 21 November 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 537-566, here: p. 537.

which the effects of intervention can unfold and of the effectiveness of the work of individual organizations to promote democracy.

Despite the ready availability of data, comparative analyses of the OSCE's effectiveness are rare. The following discussion will therefore focus on analysing the OSCE's long-term contribution to democratization processes in South-eastern Europe since 1995, and will take a close critical look at both positive and negative aspects. The OSCE's interventions have involved a wide range of different strategies. The following analysis is based on the assumption that a given intervention strategy can lead to different results in different transformation contexts; something that can be highly effective in one context may prove counterproductive or lead to side effects in another. South-eastern Europe offers a first-class laboratory for examining the effects of various strategies pursued by the OSCE. In three countries in particular – Croatia, Bosnia and Herzegovina, and Serbia – the OSCE has applied virtually the full spectrum of available means, from highly co-operative to strongly interventionist, from advisory to supervisory.³ What strategy has the OSCE used to promote democracy in which context and how effective has it been? What counter-productive side effects may have been produced by the OSCE's engagement in each case? Can patterns of impact be observed?

Democratization Strategies of the OSCE: Between Intervention and Co-operation

The long-term missions to Bosnia and Herzegovina and Croatia were established in 1995 and 1996, respectively, against the background of the recently ended civil war with the aim of promoting peacebuilding by means of democratization. The situation in Bosnia and Herzegovina, which required the creation of an entirely new state whose government was not in possession of full sovereignty necessitated an entirely different approach to that needed in Croatia, which at least had a functioning government, if not a democratic one.

The Dayton Peace Agreement⁴ provided an entire armada of international agencies with mandates and installed what was at the time a unique construction: an international transitional administration in Bosnia and Herzegovina. The OSCE, whose long-term mission to Bosnia and Herzegovina opened on 29 December 1995, was part of this, and was explicitly handed various tasks related to democratization (ensuring the smooth running of the

3 Detailed portrayals of the long-term missions are a regular feature of the OSCE Yearbook. This contribution aims to build on these and therefore does not repeat their finely tuned considerations of the mandates and activities of the missions.

4 *The General Framework Agreement for Peace in Bosnia and Herzegovina*. Initialed in Dayton on 21 November 1995 and signed in Paris on 14 December 1995, available online at: <http://www.oscebih.org/overview/gfap/eng>.

first elections and monitoring human rights), as well as confidence- and security-building measures in the defence sector. As a part of the international community's quasi-protectorate, the OSCE intervened in nearly all aspects of the political process in Bosnia and Herzegovina. Unlike in Croatia and Serbia, it could make use of a considerable repertoire of powerful instruments. The mission's mandate was revised several times by the Permanent Council, and new priorities and competencies were added by flexibly interpreting the Dayton Agreement. In the first phase, from 1995 to 1997, the OSCE possessed merely regulatory and implementing authority in the area of elections, and attempted to use mediation, observation, and confidence- and security-building measures to protect human rights, press freedom, and freedom of speech. Between 1997 and 2002/2003, thanks to the "Bonn powers" of the Office of the High Representative (OHR), which the OSCE could make use of, as well as the focus on returning occupied property, and a continuing emphasis on the organization of elections, most of the mission's work consisted of operational measures designed to promote implementation. In the years thereafter, various strategies overlapped, and the OSCE attempted to perform a mix of mediation, project work, capacity building, and dialogue. This saw co-operation with local executive and legislative organs and educational reform becoming new priorities, areas in which the mission had already been active since 2001-2002. As a means of strengthening the rule of law, the mission was originally involved in the appointment of all new judges and prosecutors. But since 2003, the implementation of criminal law reform and the observation of domestic war-crime trials have taken up much of the mission's time. At the same time, however, the continuing use of the OHR's Bonn powers meant that the mission's democratization strategy retained a strongly interventionist character, comprising a mixture of instruments for implementation, incentive-based means, and observation. In this way, the OSCE's activity developed into a tightrope walk between robust intervention and co-operative support.⁵

The Dayton Agreement also triggered a strengthening of the role of the international community in Croatia. Because the OSCE is an inclusive organization based on the consensus principle and had no mandate from the UN Security Council for its activities in Croatia, it required the agreement of the host country before it could send a long-term mission. This situation influenced the mission's democratization strategy from the start.

In the first place, the invitation was given very reluctantly in the face of international pressure, and the Croatian government offered no more than its formal approval. The first mandate, granted on 18 April 1996,⁶ was not

5 For more information, see particularly: David Chandler, *Bosnia. Faking Democracy after Dayton*, London 1999; Martina Huber, *The Effectiveness of OSCE Missions: Synthesis Report*, in: Martina Huber/et al. (eds), *The Effectiveness of OSCE Missions: The Cases of Uzbekistan, Ukraine and Bosnia and Herzegovina*, The Hague 2002, pp. 13-38.

6 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 112, PC.DEC/112, 18 April 1996.

geared towards comprehensive peace-building in terms of content or staffing. Only when the mandate was broadened by the Permanent Council on 26 June 1997 in the light of obvious deficits was the mission provided with more resources in the form of an expanded field presence, and a more clearly defined set of tasks, which led to an enhancement of the mission's profile.⁷ The topic of refugee return, introduced specifically in the second mandate, and, in particular, related questions concerning the return of property, was one of the mission's core activities between 1996 and 2005. In the early years, the mission also focused on the areas of media reform, elections, police, and rule of law. With the arrival of the new regime in 2000, projects to strengthen civil society, the constitutional court, and the ombudsman, and activities in the areas of judicial reform and minority protection grew in importance. This core mandate was joined by additional tasks relating to the police (the Police Monitoring Group in the Danube Region, 1998-2000, as a confidence- and security-building measure) and judicial issues (observing war-crime trials, since 2002). However, the mission's police-related activities were scaled down and qualitatively changed when the mandate of the Police Monitoring Group ended.

Second, the OSCE's democratization strategy was largely based on cooperative instruments for dialogue, monitoring, and mediation, which, in objective terms, barely impinged upon Croatia's sovereign rights. The main focus of the mission's work was on the legislative process and judicial practice in Croatia. As interpreted by the mission itself, the rule-of-law mandate aimed at the lasting structural transformation of the normative framework. The "information superiority" that the mission was able to establish thanks to its extensive field presence lent its criticisms and proposals a high degree of moral legitimacy. Nonetheless, when its instruments of persuasion and "the strength of the better argument" were not enough, it was relatively powerless in the face of Croatian officials' unwillingness to co-operate or enact reforms. In terms of incentives, the mission's only option was to "borrow" the political weight of other organizations. Thanks to close co-operation with the delegation of the European Commission, Croatia's desire to join the EU thus became the strongest card in the mission's hand. The mission began as early as 2000 to make skilful use of this EU incentive as a powerful potential reward alongside its own instruments of conditionality, which consisted largely of social punishment, naming and shaming, and the exertion of public pressure by means of its reporting system, which was unique in the OSCE area. Overall, however, the mission to Croatia had to struggle with a paradox from the start: It was established to watch over – and hence inevitably to criticize – the government, but it was provided with inadequate instruments to perform this role.

7 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 176, PC.DEC/176, 26 June 1997.

The mission was closed at the end of 2007 and an OSCE Office in Zagreb was set up with a new mandate, primarily focusing on the observation of domestic war-crime trials and the implementation of the housing care programmes.⁸

The OSCE Mission to Serbia⁹ was established in 2001 under entirely different circumstances than those which prevailed in Croatia and Bosnia and Herzegovina (the mandate was adopted on 11 January).¹⁰ First, it was not created against the background of a recently concluded conflict, but rather in the context of a regime change and an incipient democratization process. Second, the government issued the OSCE a genuine invitation rather than one given only formally and reluctantly under political pressure. And third, the mission was not to act as a corrective by observing compliance with international commitments, but rather to support a democratically elected government's efforts to implement the transformation process. The OSCE's presence in Serbia is therefore considered to be a "second-generation" mission. In institutional terms, this was also reflected in the fact that the mission was kept fairly small and compact and provided with relatively spare human and financial resources.¹¹ In terms of both actors and processes, the mission to Serbia worked in a heavily project-oriented fashion in the areas of media, justice, prison and police reforms, and the protection of human rights and national minorities. It organized a wide range of seminars, study tours, and training and educational events to disseminate best practices. In performing these roles, the mission worked less with high-level decision makers than with mid- and lower-level officials and employees. Security- and confidence-building measures and mediation also became important activities for the mission. Its engagement in southern Serbia, for instance, was characterized by efforts to act as an honest broker to mediate between ethnic groups and to work with all sides to seek solutions. The overarching aim of all this was to maintain co-operative relations with the government. The mission had neither cause nor the ability to pursue confrontational policies, provided as it was with both a weak mandate and a very limited power to impose sanctions. And although it had an explicit mandate to monitor democratic institutions, pro-

8 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 836, Establishment of an OSCE Office in Zagreb, PC.DEC/836, 21 December 2007.

9 The mission's original title of "OSCE Mission to the Federal Republic of Yugoslavia" needed to be changed in deference to political reality several times – in February 2003 to the "OSCE Mission to Serbia and Montenegro" and in June 2006 to the "OSCE Mission to Serbia". For simplicity's sake, all references in this contribution shall be to the shortest, most recent form.

10 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 401, Establishment of the OSCE Mission to the Federal Republic of Yugoslavia, PC.DEC/401, 11 January 2001.

11 In comparison to the other missions, however, the mission to Serbia employed an extremely high proportion of local staff, engaging additional international personnel (e.g. police instructors) for various projects. Furthermore, the work of the mission depended upon extra-budgetary contributions from external donors to fund specific projects, which accounted for nearly 50 per cent of total spending.

cesses, and mechanisms, watchdog activities were not a core element of its democratization strategy,¹² as this quote from a mission member illustrates: “We need to stop monitoring; it only leads to criticism”. Creating political pressure and advising on legislation only became priorities in 2003, when weaknesses in the democratization process and the inadequacy of the mission’s reaction became obvious. All in all, however, the mission to Serbia was more of a project manager than a promoter of democracy.

The Effectiveness of the OSCE Long-Term Missions: A Topic-by-Topic Comparison

The following section is concerned with the effects of the OSCE’s long-term missions and their contribution to the reform process at the mesopolitical level, illustrated with reference to several central policy fields. It is followed by a summary of the OSCE’s overall contribution to the democratization process and the effectiveness of varying intervention strategies.

Refugee Return

A comparative consideration of the OSCE’s effectiveness on the question of refugee return may be very illuminating given the completely different approaches it took to almost identical problems in different countries. While the OSCE failed in its attempts to persuade the Croatian government to adopt a policy of non-discrimination, in Bosnia and Herzegovina, despite a lack of co-operation, it was able to establish a highly credible threat of sanctions with the support of other international partners, including, most drastically, the power the OHR has had to dismiss obstructive politicians since 1997. The focus here was not so much on the actual physical return of the refugees, but rather on creating the preconditions that would allow refugees and displaced persons to decide freely whether they wish to return, central to which was the restoration of their property rights.

The OSCE’s efforts between 1995 and 1998, which focused primarily on mediation and co-operation, failed to bear fruit in either country. Ethnic minorities continued to flee from their homes in Eastern Slavonia (Croatia) and parts of Bosnia and Herzegovina. While, however, from 1998-1999, the OHR in Bosnia and Herzegovina was at least able to use its Bonn powers – following OSCE guidance – to pass progressive national legislation and to bring an end to the tactical games of the authorities (such as administrative delays), the OSCE in Croatia was fighting a losing battle and despite hard-fought negotiations, could only bring about incremental change. There were

12 Country-wide observation, of the kind practised by the missions in Croatia and Bosnia and Herzegovina, was simply impossible for structural reasons in the absence of field offices.

thus major differences between the basic legal environment and administrative procedures in each country: “With regard to the actual differences between Croatia and Bosnia and Herzegovina, it is a fact that the general situation in the two countries is very different, because the international community in Bosnia and Herzegovina is in the position to impose solutions, while in Croatia, we work through the political system and recommend solutions which have to be adopted through the domestic political institutions”.¹³ Only when the EU was able to offer Croatia the incentive of membership in return for a non-discriminatory return policy did some slow progress begin to be made. During the Račan era (2000-2003), the OSCE mission and other international actors ensured that a number of laws were passed and various programmes implemented, although they still did not succeed in closing all the legal loopholes that existed.

A comparison of the actual practice of property return also reveals major differences. In Bosnia and Herzegovina, the Property Law Implementation Plan (PLIP) process was already in place in 1999,¹⁴ but even though the OSCE’s role was broadly similar in both countries, consisting of continually observing local authorities and identifying deficits in both regulation and implementation, there has been no equivalent process in Croatia. In Bosnia and Herzegovina, the OSCE was able to exert political pressure on the housing commissions when they proved uncooperative. The replacement of members of the commissions by the OHR was often decisive for progress. In Croatia, the implementation of the programmes and laws – which were in any case deeply flawed – proceeded only piecemeal or hesitantly in the face of proliferating administrative obstacles, because all the OSCE could do was to repeat its admonishments. Only since 2003, thanks to the pressure from parliamentarians of the Independent Democratic Serbian Party (SDSS) of Croatia, has Prime Minister Ivo Sanader announced that he wanted to make a genuine effort to definitively address the problem. However, the new government did little in practice to ease the return of Serbian refugees, which created an unjust situation if we consider the region as a whole. Croatian Serbs, for instance, who as refugees had no right to temporary accommodation in Bosnia and Herzegovina, were also unable to return to their houses in Croatia. By contrast, Bosnian Croat refugees, thanks to the return of their property in Bosnia and a protected right to temporary accommodation in Croatia, often occupied two residencies.

The effects of the property return process on the flow of returnees were equally disappointing in both countries. In Bosnia and Herzegovina as a whole, only half of all refugees returned to regions where they were a minority. In Croatia, the proportion was even lower: Estimates suggest that only a

13 Interview with Peter Semneby, Head of the OSCE Mission to Croatia, Glas, 2 August 2002.

14 The implementation of the property laws in Bosnia and Herzegovina was one of the few examples of successful co-operation between the international organizations on the ground. With its field presence, the OSCE was one of the key actors.

third of Serbs returned to areas with a Croatian majority. Although it cannot be considered an objective means of measuring the success of efforts to promote return, as individuals that have been traumatized in a civil war often deliberately opt not to return to the place they have fled from afterwards, a comparison of the two countries can give a sense of the effectiveness of various democratization strategies. While the OSCE had succeeded in returning almost 93 per cent of occupied properties to their legal owners in Bosnia and Herzegovina by the end of 2003, only around 75 per cent had been returned in Croatia (July 2003). The repossession process was not completed in Croatia until the end of 2006. The operational implementation in Bosnia and Herzegovina therefore proved significantly more effective than the persuasion-based strategy the OSCE employed in Croatia.

Elections

The holding of regular elections in Bosnia and Herzegovina, which were increasingly free and fair, can be directly attributed to the OSCE's activity. It used its regulatory authority between 1996 and 2000 to organize a wave of elections in municipalities, cantons, entities, and at state level, which had a lasting effect. The OSCE made a positive contribution to democratization, above all by means of capacity building in local institutions, including the establishment of a permanent election commission, and the seamless hand-over of the entire administrative apparatus to national actors in 2001. Thus, at least in purely procedural terms, elections held in Bosnia and Herzegovina since 2000 at the latest have shown significantly more evidence of progress than those held in Croatia and Serbia. Yet all that glitters is not gold. These successes brought with them a significant number of unintentional side effects, and provoked counterproductive reactions, direct and indirect, which diminished the OSCE's positive contribution to the democratization process (see below). The most serious of these problems is the fact that these elections established new institutions and legitimized their representatives, who then turned their considerable powers against the very institutions they represent. The OSCE thus created a democracy whose very nature left it vulnerable to nationalists.

Media

Media sector reform and the protection of freedom of the press and freedom of speech were two of the Organization's priorities in all three countries (in Bosnia and Herzegovina only until 2001). The OSCE was able to achieve gradual improvements and generate positive momentum. The degree of press freedom and freedom of speech would probably have been significantly lower without the Organization. While the OSCE's strategy of co-operative dialogue in Croatia and Serbia meant that it was only able to achieve half-

hearted changes that always left leeway for political manipulation, in Bosnia and Herzegovina, it was able to lay the foundation for lasting progress by using the strongly interventionist measures available thanks to the OHR's Bonn powers. This remains true despite the government's current attempts to restrict journalistic activities in the Republika Srpska.¹⁵

Under the Tuđman regime, the work of the OSCE Mission to Croatia, which was based on a combination of naming and shaming and the provision of expertise, initially had no success. The positive effects of small reforms were mostly counterbalanced by negative measures. The media, and particularly the state broadcaster, HRT, were sources of power for Tuđman, which he absolutely did not want to relinquish. Nonetheless, all the criticism from abroad (the OSCE's social punishment, political pressure from countries such as the US) at least encouraged the leadership and – far more significantly for the future reform process – the democratic opposition of the time – to express some sort of rhetorical commitment to reform. Despite joint consultations with the OSCE and the Council of Europe, the major reform projects that followed the change of government (HRT reform and the Telecommunications Act) were not such major breakthroughs as had been hoped. Only the EU's increasing pressure on Croatia to fulfil the political criteria for membership led to the passing of a raft of new, improved media legislation in 2003, which was, however, substantially based on consultations with the OSCE. The OSCE had continually and critically reminded the government of its rhetorical commitments and had forged winning coalitions with local associations and NGOs. It was thus able to exert pressure on the government from both the top down and the bottom up. On the negative side of the balance sheet, however, the OSCE could not stop the government from leaving legal loopholes open (whether deliberately or through incompetence) and even strengthening restrictions in some areas. It is precisely these loopholes that have enabled Sanader's government to increase its influence on the Broadcasting Council since 2004, while contributing to the sharp increase in the number of legal actions brought against journalists. Despite many improvements, therefore, the legal framework in Croatia has proven to be far from perfect.

A strategy combining consensus-based persuasion politics and local projects produced no significant positive changes in Bosnia and Herzegovina until 1997. There was one chink of light in the form of Radio FERN (Free Elections Radio Network), which was operated by the OSCE and was the only radio station in the country that truly broadcasted to the whole country in the early years. Only after 1997, when the OSCE began to intervene much more robustly in the media sector, was it successful in reducing incidences of

15 The numbers make this abundantly clear: Bosnia and Herzegovina was positioned near the top of the Reporters Without Borders press freedom index in 2005 (21st of 167 countries) and even finished ahead of Germany in 2006. Croatia (54th) and Serbia and Montenegro (77th) could only reach the upper-mid section of the table. Cf. http://www.rsf.org/rubrique.php?id_rubrique=639.

hate speech, creating balance in media coverage, and thereby significantly improving the chances for free and fair elections. The OSCE's approach of effectively drafting laws for the protection of journalists and freedom of information and then having them enacted by the OHR led to the creation of a progressive legal framework (e.g. the abolition of imprisonment for libel in 1999). By contrast, the provision of structural support for microprojects at grass-roots level brought hardly any benefits, but rather contributed to the fragmentation of the media sector. The OSCE mission finally ended its involvement in the media sector in 2001, by which time it had, all in all, initiated and implemented a number of measures that significantly raised the level of press freedom in the country, placing it far ahead of Croatia and Serbia at this point in time.

The OSCE Mission to Serbia took a different tack. Superficially, the pattern was the same as in Croatia: positive draft laws were developed in consultation with the OSCE and the Council of Europe, but these were rejected in parliament, which forced the government to make compromises (or provided it with an alibi). However, instead of criticizing as in the case of Croatia, the mission to Serbia stressed co-operation; instead of forging a powerful alliance with local stakeholders and publicly shaming the government, it pleaded the cases of threatened journalists in confidential meetings with government officials – an approach that achieved little, at least in terms of promoting freedom of the press and freedom of speech. The mission could or would not intervene in one key aspect – the appointment of the Broadcasting Council. This, however, set back the reform of the media sector by years. It also led to the failure of the structural measures the mission enacted to increase the capacity of the state broadcaster, RTS. These did not show any kind of positive dividend until 2005, with the appointment of the Broadcasting Council. The mission's strategy of subordinating everything to partnership with the government – an approach that was questionable, at least with regard to the media sector – was clearly of limited effectiveness.

Human and Minority Rights

The OSCE's contribution to the protection of human rights and national minorities produced a mixed bag of results. The continuous monitoring of human rights by the OSCE missions certainly contributed to a steady improvement, but yielded only limited tangible results. On the other hand, interesting conclusions may be drawn from a consideration of the OSCE's engagement in establishing the ombudsman institution: In all three countries, the ombudsmen became important means of supporting the systems designed to protect human rights, but were not essential to them (as were the constitutional courts). Their effectiveness and the extent of their influence, however, remained generally limited, as state organs co-operated too little and the government did not provide them with adequate funding. There were however,

small but vital differences between the countries. In Bosnia and Herzegovina, in 1995, the OSCE appointed the staff of the institution and guaranteed their functional effectiveness until 2003. Ultimately, it handed Bosnia and Herzegovina a fully functioning institution for the protection of civil and human rights. In contrast, the OSCE Mission to Croatia was able to encourage the ombudsman in that country to better understand his role and to become more responsive to citizens. However, neither the OSCE's shaming and the criticisms of the EU, nor the recommendations of a parliamentary committee (i.e. a domestic actor) could help to counteract ongoing state restrictions on finances and personnel. In Serbia, the OSCE and the government already argued over the draft of a law to establish an ombudsman, which was only passed in 2005, although the OSCE mission had been lobbying for years.

The OSCE was also able to make a major contribution in the area of minority protection, even though it was unable to significantly accelerate the pace of reform. Croatia was required to passing a constitutional act for the protection of national minorities as a condition for joining the Council of Europe in 1996, but it was only in 2002 that the Croatian parliament finally fulfilled its obligation. In the run-up to the passage of the relevant legislation, the OSCE had played an important advisory and mediating role alongside the Council of Europe. In Serbia, too, OSCE expertise helped to ensure that two progressive minority protection laws were passed in 2002-2003. However, there, as in Croatia, there were shortfalls when it came to implementation. Both missions were able to generate a strong momentum for the establishment of organs for the political representation of minorities but failed to overcome the obstacles set by national employment policies in the civil service and the judiciary.

The reform of the education system in Bosnia and Herzegovina as part of the mission's efforts in the area of human rights revealed more about the OSCE's weaknesses than its strengths. Measures planned in the late 1990s as pragmatic solutions for returnee children became permanent and acted as gateways for nationalistic policies (two schools under one roof, see below). From around 2002, a strategy based on dialogue, co-operation, and mediation worked to shape opinion and raise the profile of the issue. However, the nationalists skilfully used the resulting debate for purposes of polarization and politicization. The more confrontational strategy pursued by the international community in response to this led to some legislative changes but also produced a sense of social solidarity, as many citizens saw their cultural identity attacked from outside. We must nonetheless not overlook the fact that there were improvements and enhanced integration of minorities in the majority of municipalities. In the most sensitive parts of the country, however, the steps taken tended to harden positions. The education system in Bosnia and Herzegovina thus remained in a precarious state; the schools, instruments for the propagation of stereotypes.

Rule of Law

The OSCE missions were able to create momentum in several niche areas and to initiate positive changes in the process of judicial reform, although this changed relatively little in the overall machinery of state power. In monitoring domestic war-crime processes, all three missions were united by their shared effort to depoliticize the way the courts deal with the past. In particular, the mission to Croatia achieved noteworthy successes with the monitoring report it issued in 2004-2005. The Ministry of Justice, which wanted its readiness to assume control of cases from the Hague-based International Criminal Tribunal for the Former Yugoslavia (ICTY) confirmed, initiated a number of changes to this end on the mission's recommendation. In addition, the OSCE contributed to the improved exchange of information between the three countries, which was necessary for the execution of various smaller and generally local processes that took place away from the headline-grabbing trials.

In struggling to establish the rule of law and the necessary radical reshaping of the judicial system, the OSCE came up against limits. The greatest influence was enjoyed by the mission to Bosnia and Herzegovina, which was able to use its regulatory authority and active on-site intervention to make a major contribution to the replacement of all the country's judges and prosecutors in 2001 and the implementation of the new code of criminal procedure in the years since 2003. The capacity-building and institutional measures taken in Serbia (e.g. prison reform and the training of lawyers) bore less fruit, as the mission there lacked the macropolitical and legal support that the OHR had created in Bosnia and Herzegovina by means of his authority to issue decrees. All told, the mission to Croatia had no way of opposing Tudman's arbitrary power and the undermining of rule-of-law principles before 2000. Its positive influence increased following the change of government in 2000, but it remained insufficient to enable comprehensive reforms.

Police Reform

The activities of the OSCE to reform the law-enforcement agencies in Croatia and Serbia, and the police in particular, were very similar. One supporting pillar consisted of operational measures restricted to a single region (the Police Monitoring Group in Eastern Slavonia, the Multiethnic Police Element in southern Serbia), which proved to be effective in achieving a relatively rapid stabilization of the security situation and aided in the professionalization of police conduct. In both countries, however, this instrument reached its limits when it attempted to solve structural problems. The responsibilities of the police did not stretch to bringing an end to interethnic hatred and property conflicts in Eastern Slavonia, and these ongoing problems led to fear among the Serbian minority, damaging the fragile relationship of trust between the

population and the police. In southern Serbia, the mission had hardly any influence on the way individuals were recruited to the multiethnic police units and could not stop the government from continuing to entrust key tasks to the gendarmerie, even though this security force was feared by the Albanian population.

At the central level in Belgrade, the OSCE Mission to Serbia made an honest attempt to bring about a comprehensive reform of the personnel system, particularly with regard to training. It was able to make a number of important small changes (e.g. the creation of the position of an Inspector General), as well as improving curricula and training programmes. However, the positive changes in the behaviour of some individual police officers did little to affect institutional failings such as politicization and centralization. In Croatia, by contrast, after the 2000 change of government, the OSCE's capacity-building measures fitted better within the overall package of reforms agreed with the interior minister, thus underpinning the general reform process in specific ways. Interestingly, projects and training courses at the mesopolitical level proved to be essential in ensuring that reforms became permanent during the critical phase of the change of government in 2003, as they continued uninterrupted once they had been initiated from above. A deliberate decision on the part of the interior minister would have been necessary to stop the process, but this was not possible or desirable against the background of Croatia's overall foreign-policy orientation towards EU accession. As a result, Croatia found itself well and truly locked in to a path of reform.

Southern Serbia

The OSCE played a consistently positive role in southern Serbia between 2001 and 2003, where it found itself in the right place at the right time with the right strategy. Mostly by means of confidence-building and mediation, it was able to improve the local situation incrementally as long as it neither upset Belgrade's power base (e.g. by calling for the withdrawal of the army and gendarmerie) nor lost the support of the highest office holders in the capital, which it enjoyed as long as the region's underlying instability was high on the agenda in Belgrade. By rapidly establishing multiethnic police patrols, the mission succeeded in significantly raising the population's sense of security. Initial institutional reforms in the media sector, such as the start of Albanian-language broadcasting, signalled a genuine willingness to reform on the part of the authorities. The work of mediating between the two ethnic communities bore fruit in the form of an agreement on election rules, which established a procedure for local elections that would promote integration. However, despite these early successes, in the medium term, structural reforms were very slow to emerge. The ability of the mission's confidence-building and training activities to spur on the democratization process seemed to de-

cline. But nor did it succeed in applying an approach that was more strongly focused on structures and/or institutions. The stagnation that set in after 2003 can thus be explained better in terms of a failure to adapt the OSCE's instruments than as a reaction to measures put in place during the early years.

Unintended Consequences: Counterproductive and Dysfunctional?

Comparing the range of impacts of the OSCE missions in terms of their various areas of activity reveals a paradox: Why was the OSCE able to achieve so much more in so many categories of reform in Bosnia and Herzegovina than in Croatia and Serbia, although the latter two countries are now generally considered to be more democratic – or at least more stable? The key to explaining this discrepancy lies in the counterproductive reactions and side effects triggered by the actions of the OSCE mission and other external actors in Bosnia and Herzegovina: “Ninety-five per cent of the international community’s activities were good, but the remaining five per cent caused real problems in the country.” (statement of an OSCE mission member). An entire essay could be written on these counterproductive effects, which can therefore only be touched up on here.

Bosnia and Herzegovina provides a perfect example of how, right from the start, a lack of progress in the protection of fundamental human rights and the guarantee of free and balanced media coverage counteracted the positive momentum that should have been generated by the first free post-war elections. The dispiriting victory of the nationalists went on to hamper reform in virtually every other area. The heated campaign atmosphere that returned with every round of elections led to an increase of human rights violations and attacks on journalists. A vicious circle was created, whose long-term negative effects have seriously obstructed the democratization process to this day. Further major problems emerged wherever the international community, including the OSCE, tried to realize their “political project” by deliberately influencing the political process and its results in order to strengthen multi-ethnic parties and groups. This was particularly evident in the media sector, where accusations of paternalism and censorship were rapidly raised, and the honourable motives of the international community were called into question, partly with justification. Ever since, the international community and its programmes, however positive these are, have been accompanied by mistrust and criticism.

The OHR became a firmly established extra-constitutional institution, which had a number of negative consequences. Although the OSCE had no influence over this institution’s creation, it often made use of the OHR’s instruments, which gave it a certain co-responsibility for these consequences. The OHR infringed basic democratic principles, particularly the separation of powers, the rule of law, and democratic responsibility, and thereby became

an obstacle to genuine democratic progress in the country. The lack of a sense of ownership over the laws decreed by the OHR, i.e. the identification of local opinion-leaders with the reforms, led to failings in implementation, which in turn necessitated further intervention by the international community. Restrictive measures that targeted specific parties or politicians only created a feeling of solidarity and increased the aggressiveness of those targeted. Because the international community, constrained by its mandate, could only influence official agencies, undemocratic practices and informal processes were free to thrive in other parts of society. The consequences were a genuine deficit of democracy and legitimacy in the country.

Which is not to say that the missions to Croatia and Serbia acted without making errors. This allows us to gain an initial insight of causal patterns between particular democratization strategies practised by the three missions and their unintended effects.

First, while operational democratization strategies generated pragmatic solutions in the short term, these same solutions could become written in stone in the medium- to long-term, thus blocking further reforms. Examples include the teaching of schoolchildren from different ethnic groups in separate groups “under one roof” in Bosnia and Herzegovina, which had initially been intended to ensure that returning children received local schooling, but later functioned as a means of ethnic segregation and the propagation of stereotypes, something that had been largely avoided by the creation of ethnically mixed classes in the former Yugoslavia. Equally, the recruitment of poorly trained Albanian police was initially unavoidable if a multiethnic police force was to be established. But when they failed to perform to the required standards and the training system stagnated, this led to a rapid loss of confidence in the medium term.

Second, co-operative democratization strategies relying on well-intentioned dialogue and the persuasive power of arguments, which are often seen as a panacea, also had unintended negative consequences: By becoming involved, the OSCE signalled that it would guarantee that rights and laws would be upheld, but it was unable to achieve this. The arbitrary application by state officials of laws that were in themselves good had the effect – at least temporarily – of contributing to a situation that was worse than if the laws in question had not been in place at all. For instance, some Croatian Serbs who returned to Croatia in expectation of an amnesty were immediately arrested, because the government did not feel itself to be bound by the relevant law. The failure to fully implement measures with which the OSCE had been involved also weakened the credibility of subsequent steps and led to a loss of trust in the international community. One finding from Bosnia and Herzegovina is also interesting: There it was precisely the public discussion and the attempt to initiate an exchange of opinions that contributed to the politicization of the topic of education. Nationalistic propaganda received the space it needed to flourish, which led to the polarization of positions and

turned the debate into a far more emotional affair than it needed to be, hampering in the process once more the search for pragmatic solutions. At times, the mission to Serbia also acted in a dysfunctional manner with its policy of giving priority to establishing close and co-operative relations with the government: Despite obvious legislative deficits and the violation of key norms, the mission remained conciliatory in order to avoid offending Belgrade with criticism. Quite aside from the lack of positive results, such a strategy of conciliation discredited precisely the local civil-society actors that needed foreign support, reduced the OSCE's moral authority, and signalled that international norms were open for negotiation.

Yet, third, neither were political pressure and a policy of conditionality always conducive to the OSCE's goals. The more strongly the international community, including the OSCE, pressed for the return of refugees to Croatia and Bosnia and Herzegovina, the more polarized was the reaction of people in the communities in which conditions were supposed to be established that would promote the integration of the returnees. The resulting tensions hit precisely those people who were supposed to benefit from external actors' pressure for refugee return. In Croatia, the OSCE's engagement was perceived as one-sidedly supporting a single ethnic group. The same perception hampered the creation of a strong basis for co-operation with official agencies. Reforms instigated and pushed strongly by external actors also revealed themselves as a Pyrrhic victory at the national level when the government ostensibly implemented change but used loopholes to stick to its previous practices by means of informal procedures. All in all, external pressure for reform produced ambivalent results in areas where there was some degree of contention in society.

Conclusion: No Perfect Democratization Strategy, but Many Small Victories

Which democratization strategies delivered the OSCE successes that the Organization could build upon in the future? In the light of negative experiences, what sort of measures should it steer away from? The starting point must be the OSCE's sobering overall record of success: None of the democratization strategies used by the OSCE proved effective over the entire period of the Organization's engagement. But this is no reason for despondency – the OSCE has enjoyed many small victories.

In geographically restricted regional contexts (southern Serbia, Eastern Slavonia), confidence- and security-building measures proved to be an effective intervention strategy that could bring about rapid change, open lines of communication, and facilitate agreements between opposed parties that laid the foundation for further democratization. The contrast is provided by the years 1996-1997 in Bosnia and Herzegovina, during which period the OSCE failed almost across the board. Improvements only came with the change of

strategy brought about by the introduction of instruments for direct implementation that was enabled by the Bonn powers of the OHR, which steadily raised the effectiveness of reforms in key sectors such as freedom of the press and of speech and refugee return. Only once this regulatory authority had been established was the OSCE in Bosnia and Herzegovina able to make lasting changes at the macropolitical level. However, it was also precisely the same measures that resulted in seriously counterproductive side-effects. They were thus both a blessing and a curse. The OSCE's effect can be compared to that of a good red wine: In moderate amounts, it has an invigorating effect, but overuse can lead to serious damage.

Capacity-building measures and projects were one of the cornerstones of democratization in Serbia, with which, however, the OSCE achieved only substandard results, as it was unable to have its reform intentions implemented at the macropolitical level and thus to achieve lasting changes. On the whole, therefore, the OSCE's concentration on actors and relationships was only capable of influencing things for the better in small ways, and these generally short- to medium-term improvements were usually unable to change the fundamental problems of the legal environment.

Exactly the opposite was true in Croatia, where the mission, with its rule-of-law-based approach, insisted to a far greater extent on securing a legal basis for democratic values and standards, while refraining from training measures focused entirely on behavioural change. But even here, while the OSCE was able to influence the results of the reform process, it could not initiate it or accelerate it by very much. The Organization's effectiveness depended critically upon the motivation of national actors, which, for example in Croatia, it only proved possible to systematically increase following 2000 by offering incentives (the promise of EU membership). This also had its positive aspects, as the OSCE was still occasionally able to "boost" the democratization process without running the danger of slowing it down by triggering hostile reactions. It was only in 2004-2005, with the transformation process already well advanced, that the Organization's activities began to produce genuine direct effects and to promote democracy in the country with any sort of effectiveness. This naturally raises the question of whether co-operative democratization strategies can only really succeed when they are no longer necessary, but remain ineffective when external efforts to force the pace of reform are urgently required.

Weighing up the pros and cons, we can note that the balance between co-operation and criticism in all three countries was one of the hardest things to get right when it came to choosing appropriate democratization strategies, and that errors of judgement at times produced negative effects with extreme rapidity. All in all, however, while negative reactions and side effects may be relatively easily dismissed in the cases of Serbia and Croatia, they played a major role in Bosnia and Herzegovina's problematic development and ex-

plain the discrepancy between the generally positive results achieved at the issue-oriented, mesopolitical level and the serious macropolitical failings.