



Strategic Security Analysis

**Strengthening the Role of the OSCE
in Times of Increased Tensions and
Emerging Crisis Situations:
The Untapped Potential in the European
Arms Control Framework**

Benjamin Schaller



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The Organization for Security and Co-operation in Europe (OSCE), jointly with the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) and in partnership with the Geneva Centre for Security Policy (GCSP), Moscow State University of International Relations (MGIMO) and the Vienna Centre for Disarmament and Non-proliferation (VCDNP), has launched an “OSCE-IFSH Essay Competition: Conventional Arms Control and Confidence- and Security-Building Measures in Europe”. The project aims at facilitating the continuity of knowledge and expertise on arms control and CSBM processes at the OSCE among students and recent graduates interested in peace and security studies. This essay has participated in the competition and has been awarded the first prize.

Key Points

- Amid one of the deepest crises of confidence since the end of the Cold War, arms control and military confidence-building frameworks are struggling to develop their full de-escalating and trust-building potential.
- In fact, numerous crisis situations in the past show that the findings of national verification procedures are particularly prone to the risk of serious political disputes and, in the worst case, can sometimes even become the source of additional tensions and distrust.
- While clearly not alone able to resolve the deep crisis in European security, lessons learned from other international organisations suggest that giving the Organization for Security and Co-operation in Europe (OSCE) the power and resources to conduct verification procedures on behalf of its participating States could make an important contribution towards a more resilient European arms control and military confidence-building framework in times of increased political tensions and distrust.

About the Author

Dr Benjamin Schaller is a research fellow at and recent PhD graduate of UiT – the Arctic University of Norway in Tromsø. His research interests include arms control and military confidence-building measures, NATO-Russian relations, Arctic security, and the role of trust and distrust in defence and security politics. He has professional experience from the German Federal Foreign Office, where he previously worked as a desk officer for arms control and military confidence-building and has done once more since July 2020. He is also a fellow of the Arms Control Negotiation Academy led by the Negotiation Task Force at Harvard University's Davis Center for Russian and Eurasian Studies.

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Introduction

The 2014 crisis in and around Ukraine and the deterioration in Western-Russian relations that followed have substantially altered the European security environment. Increasing numbers of large military exercises, new types of armaments, and an increasing focus on deterrence seem to have become the new status quo on both sides. In the past, a tight network of arms control agreements and military confidence-building measures under the framework of the Organization for Security and Co-operation in Europe (OSCE) has been able to mitigate the risk of unintended military escalation in Europe and contributed to the development of trust between former political and military adversaries. Nevertheless, since most regimes primarily rely on national verification procedures, they are particularly prone to the risk of serious disagreements about verification findings and the compliance of other actors. As previous crises in Europe and not least the more recent deterioration in Western-Russian relations have shown, this is particularly true during times of increased political tensions and distrust. In other words, especially when arms control and military confidence-building measures are most needed, they appear to be unable to develop their full stabilising and trust-building potential in European defence and security politics.

Therefore, based on lessons learned from the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW), it is worthwhile exploring how a stronger role for the OSCE in arms control verification systems and procedures might help to facilitate cooperation between states in times of increased political tensions and distrust.

The case for a multilateral arms control verification system

‘Verification’ is a central component in most arms control agreements. While various definitions exist, verification is generally understood as the collecting of information about other actors’ compliance with agreed provisions and treaty obligations.¹ In general, it is possible to distinguish among:

- *observations*, usually following the invitation of an actor to verify a country’s compliance with an agreement;
- *inspections* that allow actors to verify samples of exchanged information under an agreement, which can either take the form of regular *evaluation visits* or short-notice *challenge inspections* (e.g. in cases of suspected non-compliance);
- *monitoring*, i.e. the continuous observation of another party’s compliance (e.g. through technical means); and
- *risk reduction measures*, which are meant to collect and verify additional information in situations that carry the severe risk of military escalation (e.g. emerging crisis situations, unusual military activities, communication failures, etc.). Such measures can take the form of *fact-finding missions* (if a situation is still ongoing) or *investigations* (after an incident or situation has occurred).²

While the main goal of verification is to build trust by verifying compliance, both sides can have considerable incentives to misrepresent or withhold relevant information in order to obtain a strategic advantage.³ This problem seems particularly prevalent in situations of increased political tensions and distrust, in which strong incentives exist to obscure

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possible cases of non-compliance or discredit verification findings. Sometimes even inspecting states might see a strategic advantage in withholding or misrepresenting the outcome of verification measures, for example, in order to cross-check them with other sources, to (secretly) prepare and take countermeasures, or to increase diplomatic pressure and isolate a political opponent internationally. Given this dilemma, it seems unsurprising that arms control and military confidence-building agreements frequently experience significant stress in times of increased political tensions and distrust.

In light of these problems, while political discussions often focus solely on making verification measures more intrusive, there is a widespread understanding among scholars that no verification system – no matter how intrusive – will ever be able to provide absolute certainty.⁴ This is not to say that verification does not serve an important function in deterring or detecting possible cases of non-compliance early on,⁵ but room for interpretation will always remain, requiring at least a minimum level of trust between the actors involved.⁶ To address this problem, *multilateral verification* – understood as a formalised form of verification that is either facilitated or conducted by an impartial third party (e.g. another state or an international body) on behalf of parties to an agreement – offers a promising alternative.

Firstly, an impartial third party has fewer incentives to fail to collect, withhold or misrepresent verification findings, which allows for a more intrusive verification regime that makes it harder to obfuscate possible cases of non-compliance.

Secondly, the information gathered through a multilateral verification process also has more authoritative power than verification findings that are solely gathered by the conflicting parties. In fact, while individual actors might still decide to challenge a verification mission's findings, such behaviour allows other actors to draw conclusions about a country's willingness to resolve the situation with more certainty than a purely bilateral approach to verification would allow them to do. In other words, even if its findings are dismissed, a multilateral verification procedure is nonetheless able to exercise a stabilising function in situations of mutual tensions and distrust.

In sum, by offering a more impartial source of information and bringing more clarity to actors' commitment to resolving emerging crisis situations, multilateral verification is generally better than bilateral approaches during times of increased political tensions and distrust.

Lessons learned from existing forms of multilateral arms control verification

Internationally, precedents for multilateral verification procedures can be found in various arms control regimes. Two of the most prominent ones are the IAEA and OPCW. An examination of the work of both organisations can produce valuable insights and help to identify practical limitations and lessons learned that could lead to a stronger OSCE role in European arms control verification activities.

IAEA safeguards

IAEA safeguards are a unique system of bilateral and multilateral legally binding agreements that states enter into with the IAEA. These agreements task the agency with the verification and monitoring of a state's legal obligations under the Nuclear Non-Proliferation Treaty and other relevant agreements (e.g. those establishing nuclear-weapons-free zones) that aim to prevent the spread of nuclear weapons and ensure the peaceful use of nuclear materials.⁷ To fulfil these tasks, IAEA safeguards mainly rely on three types of verification:

- *ad hoc* and *routine inspections*, which are used to verify the information provided by states through regular reports;
- *special inspections*, in suspected cases of non-compliance; and
- *monitoring*, including through technical means, such as surveillance cameras, satellite images or environmental sampling.⁸

As long as a respective safeguards agreement or additional protocol is in place, the IAEA and its inspectors are given extensive legal rights and able to conduct verification activities largely at their own discretion.⁹ An additional authorisation of these activities is not necessary. Over the years limited precedents even exist for the conduct of inspections in fragile or conflict-affected regions and situations, such as the 2005 inspection of a nuclear research institute in the Georgian breakaway region of Abkhazia.¹⁰ However, the IAEA cannot enforce its verification activities, but is dependent on the cooperation of states parties and the authority provided by the international community, most importantly through the UN Security Council (UNSC) and General Assembly (UNGA).¹¹

The assessment of a state's compliance with its obligations under the safeguards agreement is fully at the discretion of the IAEA. Only the overall conclusions are reported, while the information on which the reports are based remains confidential.¹² In cases of documented non-compliance or the obstruction of IAEA verification activities, the IAEA directly reports to the IAEA Board of Governors, the UNSC and the UNGA,¹³ which then decide on an adequate response and possible corrective action (e.g. UNSC Resolution 1695 on North Korea or Resolution 1929 on Iran)¹⁴. While free to make their own judgements, most states generally rely on the IAEA's independent assessments of a particular set of circumstances.

The IAEA's extensive verification activities consume significant resources. In 2018 the Agency conducted 2,195 safeguards inspections¹⁵ and its verification activities cost about EUR 139 million.¹⁶ In addition, to carry out its mandate the agency employs about 385 designated inspectors from around 80 countries.¹⁷

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OPCW

The OPCW was established as an intergovernmental body and independent organisation to implement and monitor states' obligations in terms of the 1993 Chemical Weapons Convention (CWC) prohibiting the production, stockpiling and use of chemical weapons. To this end, the OPCW's Verification and Inspectorate Division carries out three types of verification activities:

- routine inspections, including the monitoring by technical means of declared sites and the information provided by states parties;
- challenge inspections in suspected cases of non-compliance; and
- investigations of the alleged use of chemical weapons.¹⁸

The OPCW and its verification activities obtain their authority directly from the CWC, which specifies the legal framework for and rights of OPCW inspectors.¹⁹ While the OPCW largely plans and conducts its routine inspections at its own discretion, states parties are also able to request challenge inspections in suspected cases of non-compliance and the alleged use of chemical weapons. Such requests are first submitted to the Director-General and the Executive Council of the OPCW, which consists of 41 member states elected for two-year terms. If deemed abusive, the Executive Council can overrule the request within 12 hours by a three-quarters majority.²⁰ In recent years the OPCW has also gained significant experience of carrying out inspections and investigations in fragile and conflict-affected environments, such as in the securing and destruction of chemical weapon stockpiles during the civil conflicts in Libya and Syria, as well as through a number of fact-finding missions and the OPCW-UN Joint Investigative Mechanism on alleged uses of chemical weapons in the Syrian civil war.²¹ Like the IAEA, the OPCW depends in such contexts on the cooperation of the countries in question or the additional authority provided by the relevant UNSC resolutions.²²

Unlike the IAEA, the OPCW does not make judgements on the compliance of individual states parties, but reports its findings to the Executive Council and the Conference of the States Parties, which oversee the implementation of the CWC.²³ Both bodies also have the authority to reach conclusions about the compliance of individual states, to take corrective action, or to forward findings of severe violations to the UNSC and UNGA.²⁴ While the Executive Council and the annual Conference of the States Parties try to reach their decisions by consensus, decisions might also be passed by a two-thirds majority after a 24-hour period of deferment has elapsed.²⁵

To fulfil its mandate the OPCW relies on the assistance of certified inspectors and laboratories for its work,²⁶ and is dependent on a significant amount of financial resources. In 2018 the OPCW conducted 297 inspections and its overall verification activities amounted to nearly EUR 28 million.²⁷

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Summary of verification activities

The surveying of existing multilateral verification procedures under the umbrellas of the IAEA and OPCW offers a number of important and relevant insights into the question of how an international body can be tasked with the multilateral verification of international arms control agreements and equipped to do so.

Table 1. Lessons learned from the multilateral verification activities of the IAEA and OPCW

	IAEA	OPCW
Types of verification	Routine and challenge inspections; monitoring by technical means	Routine and challenge inspections; monitoring by technical means; investigation of alleged use
Authorisation	Through legally binding agreements with states parties; no enforcement mechanism	Through the CWC; challenge inspections can be requested by individual states, but can be overruled by the Executive Council
Assessment of compliance	Assesses compliance independently; regularly reports to states parties	States reach national conclusions based on the information provided by the OPCW
Resources and staffing	Independent body equipped with significant technical resources and staffed by numerous verification personnel	Independent body equipped with significant resources and staffed by numerous verification personnel.

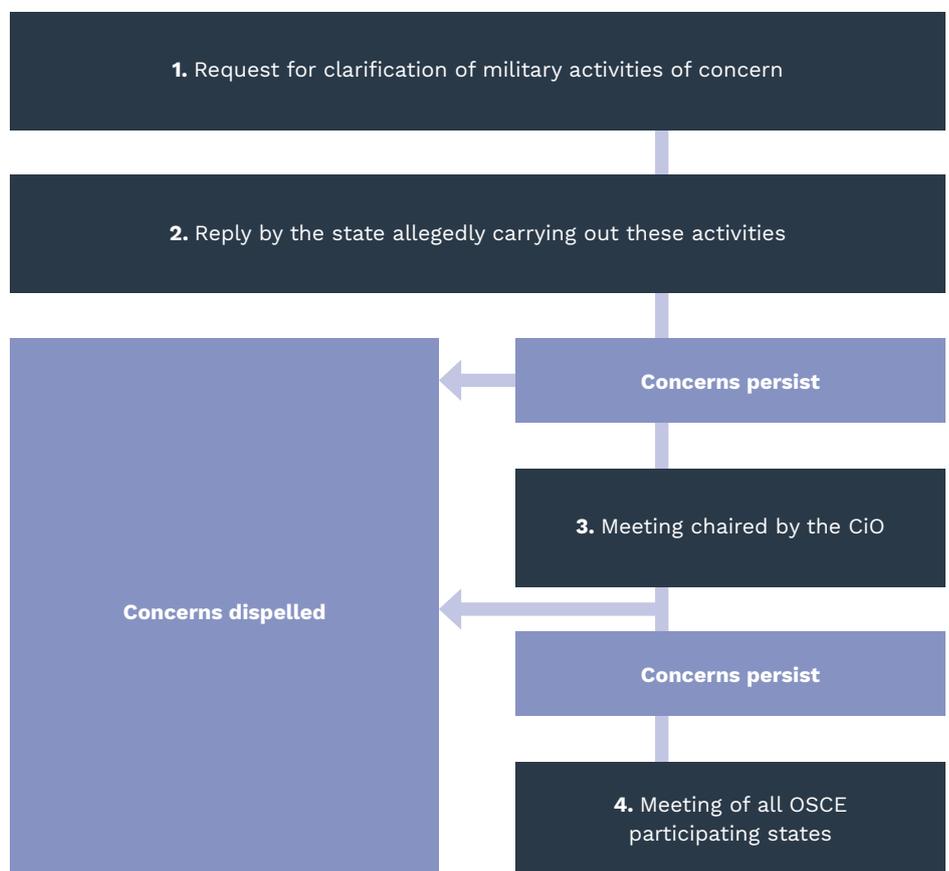
The experiences of both organisations highlight that there are precedents for multilateral verification activities in fragile and conflict-affected areas such as Abkhazia, Libya or Syria.

As these findings highlight, in order to fulfil their verification requirements, either independently or at the request of other states parties, the IAEA and OPCW are granted extensive legal rights and have been equipped with significant human and technical resources. In addition, the experiences of both organisations highlight that there are precedents for multilateral verification activities in fragile and conflict-affected areas such as Abkhazia, Libya or Syria. However, to carry out their verification activities, both organisations depend on the cooperation of states parties and the authority provided by UNSC and UNGA resolutions.

Strengthening the role of the OSCE in times of increased tensions and emerging crisis situations

Based on the experiences of and lessons learned from the IAEA and OPCW, it appears worthwhile to explore how to strengthen the role of the OSCE in European arms control processes. Considering that existing regimes are prone to serious disruptions and disagreements over verification findings and compliance, and are ill-equipped to respond to emerging crisis situations, the greatest added value might be generated by equipping the OSCE to conduct fact-finding missions and carry out investigations on behalf of its participating States. For example, under the current provisions of Chapter III of the Vienna Document of 2011 (see Figure 1), a state that expresses its concerns about the activities of another participating State can only request a clarification of these activities, while a procedure to verify the response provided is not foreseen. Also, the OSCE Chairperson-in-Office (CiO), who is supposed to mediate if the concerns persist, has no access to any other information than that provided by both parties. Thus, to tackle this lack of impartial information it seems desirable to equip the OSCE with an independent verification procedure in the form of a *fact-finding mission*, as well as the power to conduct *investigations* on behalf of OSCE participating states. This need is also recognised in a number of proposals for ways to modernise the OSCE submitted by participating states.

Figure 1. The current Vienna Document risk reduction mechanism, 2011

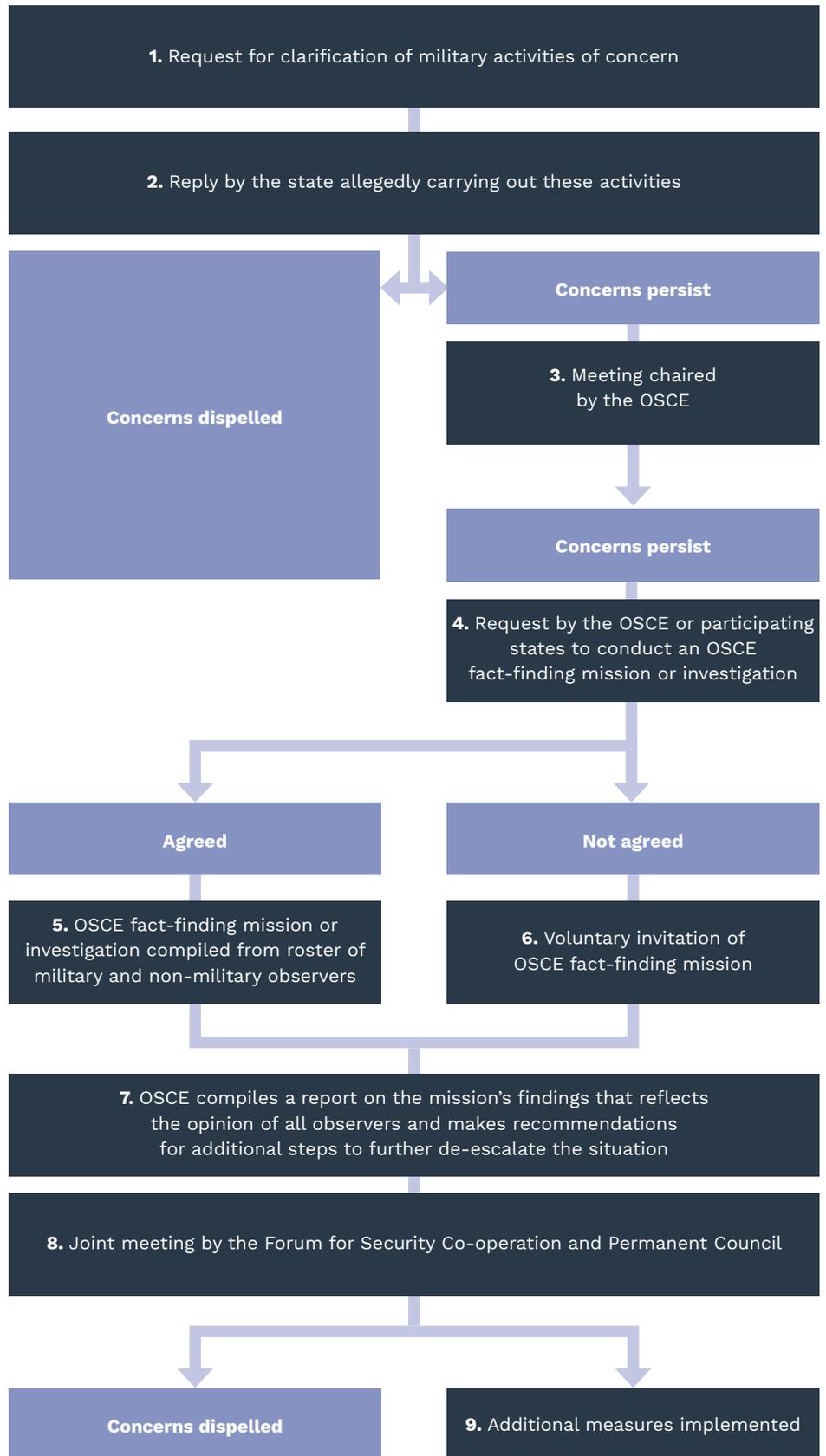


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While a general agreement on the benefits of an impartial source of information to dispel concerns during emerging crisis situations appears to exist, the procedures by which such a fact-finding mission or investigation might be authorised and deployed remain contested. Usually the OSCE passes decisions by consensus. This would, of course, increase the political liability and legitimacy of OSCE verification activities and allow states to demonstrate their commitment to dispelling existing concerns. However, reaching consensus can be a difficult and time-consuming political process, particularly in times of increased political tensions and distrust. Therefore, a stricter decision-making mechanism (e.g. simple majority, consensus-minus-1, silence procedure, etc.) or granting the OSCE more independent decision-making authority would be desirable. Similarly to the structure and procedures of the IAEA and OPCW, this could, for example, be achieved by putting the OSCE Secretary-General or a ‘to-be-appointed’ special representative in charge of such missions. Steps of this kind would make the mechanism more impartial and consequently less vulnerable to political deadlocks. Also, the signing of specific bilateral agreements between participating states and the OSCE, analogous to the IAEA safeguards provisions, could be considered. As has been highlighted above, even though a fact-finding mission or investigation cannot be carried out without the explicit consent of the inspected state, the refusal to allow an impartial OSCE mission to carry out an inspection represents an important finding in itself, and can be used to increase the diplomatic and public pressure on the state in question. In addition, should a state refuse to cooperate with the OSCE, possible consequences (e.g. additional transparency measures and constraints on military activities or the deployment of specific weapons systems in the area) could even be discussed.

After completion of the fact-finding mission or investigation, the OSCE should as quickly as possible compile and submit a report to participating States summarising the main findings of the mission. If deemed necessary, such a report could even propose additional steps towards a further de-escalation of the situation, for example by drawing from the list of ‘Regional Measures’ contained in Chapter X of the Vienna Document or as stipulated by the document on ‘Stabilizing Measures for Localized Crisis Situations’. These proposals and the findings of the report could then be discussed in a joint meeting of the Forum for Security Co-operation and the Permanent Council of the OSCE.

Figure 2. Possible procedures for a fact-finding mission or investigation conducted by the OSCE.



In the long term, OSCE participating states could even consider the establishment of a fully fledged OSCE Verification Centre that would take over even more verification activities.

To carry out such fact-finding missions and investigations on behalf of participating States, the OSCE would need to be equipped with adequate financial, personnel and technical resources. While the numbers of verification activities and costs are expected to be considerably lower than for the IAEA or OPCW, which are also responsible for carrying out routine inspections on behalf of states parties, a less cost-intensive solution would be to compile teams for fact-finding missions and investigations from a list of inspectors made available by participating States. Following the positive experiences of the OSCE Special Monitoring Mission to Ukraine and considering the increasingly complex nature of conflict and crisis scenarios, teams of military inspectors could be complemented by civilian observers and experts from other policy areas (e.g. policing, infrastructure, human rights, etc.). In addition, implementing the examples of the IAEA and OPCW, the OSCE could also be allowed to draw on validated and certified technical assets (e.g. surveillance cameras, drones, or satellite images) to prepare and carry out its verification activities. In the short term a good place for coordinating OSCE verification efforts could be the OSCE Conflict Prevention Centre, which would create synergies with existing institutional expertise and information gathered by OSCE field missions and across all OSCE security dimensions. In the long term, OSCE participating states could even consider the establishment of a fully fledged OSCE Verification Centre that would take over even more verification activities. However, while the idea of an all-European verification institution has already been discussed in the course of the 1973 Mutual and Balanced Force Reductions talks,²⁸ such an institution would probably not only pose difficult legal challenges, but also mean a considerable increase in the OSCE budget. Also, it remains to be seen to what extent participating States would actually be willing to transfer their national verification prerogatives to a multilateral OSCE-based verification centre. Still, multilateral verification at the OSCE could still serve as an important supplement to their own national verification capacities.

Conclusions

Multilateral verification and a stronger role for the OSCE in arms control verification activities are clearly not alone able to resolve the many disputes and the deep crisis affecting European arms control systems. The challenges that European arms control agreements are confronted with are too manifold and complex. Too little has been achieved over the last decades by efforts to reinvigorate substantial OSCE modernisation debates. However, a thoroughly designed multilateral verification mechanism could make an important contribution towards the increased resilience of the European arms control system in times of increased political tensions and distrust, and should therefore be a part of such debates. Based on the experiences drawn from existing forms of multilateral verification such as the IAEA and OPCW, and incorporating existing ideas from OSCE participating States, this paper suggests that the following steps should be taken:

A thoroughly designed multilateral verification mechanism could make an important contribution towards the increased resilience of the European arms control system.

- Firstly, the OSCE should be given the power to deploy *fact-finding missions* and conduct *investigations* in situations that carry a serious risk of military escalation (e.g. emerging crisis situations, unusual military activities, close military encounters, communication failures, etc.). The findings of these missions should be reported to all OSCE participating states and, if necessary, should propose additional measures to further de-escalate the crisis (e.g. additional measures to increase transparency, confidence-building or restraint).
- Secondly, a *stricter mechanism* should be designed to dispatch OSCE fact-finding missions and investigations (e.g. simple majority, consensus-minus-1, silence procedure, etc.).
- Thirdly, a *special representative for risk reduction* should be put in charge of OSCE verification activities and mediation efforts between conflicting parties.
- Finally, a *permanent roster of (military and non-military) verification personnel* should be established, and the *OSCE Conflict Prevention Centre* should be given adequate financial, personnel and technical resources that would allow the safe and rapid implementation of OSCE verification activities.

While some of these proposals would certainly result in additional costs or might need to be first tested in a more cooperative political environment, the experiences drawn from existing multilateral verification approaches suggest that the value added by a stronger role for the OSCE in fact-finding and verification efforts during emerging crisis situations clearly outweigh these additional political and financial costs.

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Maison de la paix
Chemin Eugène-Rigot 2D
P.O. Box 1295
CH-1211 Geneva 1
Tel: + 41 22 730 96 00
Fax: + 41 22 730 96 49
e-mail: info@gcsp.ch
www.gcsp.ch

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