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**OSCE 'BIS':
A NEW EUROPEAN SECURITY
INITIATIVE**

Draft Discussion Paper

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OSCE 'BIS'

A New European Security Initiative

Draft Discussion Paper

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SUMMARY

Jan Piekło argues that the security architecture in Europe is failing. It is currently based on the legacy of the Helsinki Final Act and the UN Charter which the United States and the EU hoped would preserve peace on the European continent after the end of the cold war. However mutual trust between Russia and the West has deteriorated since the early 1990s starting with differences over the Balkan Wars, the war between Georgia and Russia in 2008, and now the continuing confrontation between Russia and the West over the Russian annexation of Crimea and the invasion of Eastern Ukraine. 'Frozen conflicts' in the post Soviet space have not been resolved despite efforts by the OSCE and others. Countries like Ukraine, Georgia, and Moldova, which have signed Association Agreements with the European Union, now feel exposed, given the weakness of the OSCE and the UN and the failure of Russia, the United Kingdom, and the United States, to respect guarantees they offered to Ukraine in the Budapest memorandum of 1994. Jan Piekło suggests that a new soft security organization, 'OSCE BIS', should be established. This new organization should have Ukraine, Moldova, and Georgia - the signatories of the Association Agreement with the EU - at its core. Other members would be the US, Canada, the EU, and possibly Japan and South Korea, together with those post-Soviet states which can point to a consistent democratic record of government. The absence of Russia in 'OSCE BIS' would reflect the fact that Russia, over the

past years, has used the OSCE to serve its own ends and paralyzed OSCE activities when the organization attempts to secure the sovereignty and democratic governance of states in the region. Once Russia establishes its own democratic credentials and withdraws from occupied territories then it would be welcome to join the new organization Piekło says.

FORTY YEARS HELSINKI: A SUCCESS?

This year Europe celebrates the 40th anniversary of the Helsinki Final Act. The Helsinki Declaration was the first act of the Conference on Security and Co-operation in Europe, which took place in the Finnish capital. Thirty-five states, including the USA, Canada, and the European countries except Albania, signed the joint declaration which sought to improve relations between the Communist bloc and the West. Later, the Helsinki Accords served as a framework for the launch of the Organization for Security and Cooperation in Europe (OSCE), established by the Charter of Paris. The Charter was adopted by a summit meeting of most European governments, the US, Canada and the Soviet Union, in Paris in November 1990, on the basis of the Helsinki Act. It was further amended in the 1999 Charter for European Security. Both these documents form the basis for the Organization for Security and Co-operation in Europe.

In the next decades this framework, contributed a wide range of diplomatic instruments for solving potential crises and kept the security balance in Europe. The OSCE and the United Nations (UN) guaranteed the inviolability of the frontiers and the territorial integrity of states. After the dissolution of the Soviet Union the Russian Federation was declared the successor state of the USSR on the grounds that it contained 51% of the population of the USSR and 77% of its territory. As a consequence, Russia got the USSR's permanent seat on the UN Security Council. This was accepted by the other former republics of the Soviet Union. Ukraine, as a new independent state, agreed to give up its nuclear stockpile – the world's third largest. The Budapest Memorandum, signed in December 1994, offered security assurances concerning the threat or the use of force against the territorial integrity

and political independence of Ukraine, as well as that of Belarus and Kazakhstan. The Memorandum was signed by three nuclear powers: the Russian Federation, the United States of America, and the United Kingdom.

HOW RUSSIA UNDERMINED THE SPIRIT OF HELSINKI

After the dissolution of Soviet Union, the Russian Federation - as its legal successor - fuelled local, mostly ethnic, conflicts in its closer neighborhood and thereby managed to construct “frozen conflict” zones – which worked as a leverage for securing the Kremlin’s geopolitical interests. These zones were separatist Transnistria in Moldova, Abkhazia and South Ossetia in Georgia, and Nagorno-Karabakh, which, after the Azeri-Armenian war, became a de facto part of Armenian territory. The fragile security architecture, constructed in Europe some years earlier, was challenged and the work of Pan-European security organizations (and various ad hoc contact groups set up to solve regional problems) became less and less effective. The Yugoslav crisis, which led to ten years of Balkan wars, posed a new challenge for the existing European and global security institutions, and exposed the weakness of the UN peace keeping mandate and conflict prevention mechanisms. When the Pan-European cooperative security structures were challenged and then invalidated by the Yugoslav wars, the OSCE realized that its role in conflict prevention lay more in the normative and soft security dimension. In 1992, the OSCE created the Conflict Prevention Centre (CPC) to serve as a focal point in European early warning and dispute settlement. However, with minor exceptions, the CPC was bypassed during the explosion of deadly violence in the Balkans. States with a vital stake in the unfolding conflict apparently preferred to pursue their policies through the European Union, the UN, and, ultimately, through international ad hoc contact groups”.¹

NATO’s military intervention through air strikes and the ground deployment of soldiers finally managed to end the Balkan war. It is worth stressing that in this case it was military action which finally brought a diplomatic and political solution to the conflict. Russia, which

¹ Fred Tanner, “Conflict prevention and conflict resolution: limits of multilateralism,” *International Review of the Red Cross*, No. 839, September 30, 2000. (Fred Tanner is Deputy Director of the Geneva Centre for Security Policy).

supported the Serbs from the very beginning, considered the NATO actions and Western peace settlement (especially the recognition of Kosovo's independence) as a geopolitical defeat.

THE OSCE AND THE RUSSIAN AGGRESSION IN UKRAINE

Consequently Moscow developed a plan for revenge. The first clear signal of Russia's openly aggressive intent came with the war in Georgia in 2008. Moscow blamed Mikheil Saakashvili and the Georgian side for provoking the conflict and the West quite easily accepted the Russian version of events. Partly because of this Saakashvili first lost his popularity, and then the election at home. The real crisis came in 2014 with the Russian annexation of Crimea and the military invasion in Eastern Ukraine. It was Moscow's reaction to the Euromaidan Revolution in Ukraine and to the decision of the new, democratic government in Kyiv to sign an Association Agreement (AA) with EU. Through this act of aggression and violation of the territorial integrity of Ukraine, Russia invalidated the whole fragile European security architecture, based on the Helsinki Accords. Moscow broke also the UN Charter. The democratic world community reacted to this development by using the existing international diplomatic instruments, which the OSCE, the UN, and the Council of Europe offered. New ad hoc initiatives were also set up such as the Minsk contact group and the Normandy and Geneva formats to negotiate the conditions of the successive ceasefires. Russia, as a signatory and co-founder of global and Pan-European institutions, used its membership to manipulate and blame the West, the EU, NATO and Ukraine, for provoking this deadly confrontation. The situation created a deadlock, which blocked the chances of solving the most serious crisis on the European continent since the Balkan wars. The already invented security instruments at the disposal of the West proved to be ineffective and ill-suited for dealing with the former partner of the West, who had unilaterally changed the rules of the geopolitical game.

Ukraine, Moldova, and Georgia, the three Eastern Partnership (EaP) countries which decided to sign Association Agreements with the EU, are now left without any security and political guarantees. In the case of Ukraine, Kyiv found it had lost the guarantees of territorial integrity which had been included in the Budapest Memorandum. Since the Bucharest Summit in 2008 the subject of closer links between NATO, Ukraine, and Georgia, came off

the agenda. After the Euromaidan Revolution, which made many victims among the activists who fought for “European values” in Ukraine, the EU and the transatlantic community, apparently, left their partners without any constructive support. While it is fighting ‘separatists’, who are backed, manned, and financed by Russia, Kyiv is deprived of western weapons support, for which it has been asking for a long time. At the same time the delivery of French Mistral helicopter carriers to Russia is only “temporarily suspended”. With permission of the EU, also the German firm Daimler may breach sanctions and help the Russians to develop modern military vehicles.

With the ongoing war on the European continent about 1000 km from the EU’s Eastern border and the aggressive policy of Putin’s regime, the West found itself in a situation where its basic credibility is at stake. Russia’s destabilization efforts can invalidate the Eastern Partnership and bring these countries back under the control of the Kremlin. This will jeopardize the EU as a successful political project. The result will be a new kind of Yalta division of the world.

Russia through blocking and manipulating the existing global and Pan-European security organizations, is preventing that they can be used for finding a solution to the growing confrontation. Therefore, the transatlantic community should consider the establishment of a new security institution which would be able to offer, for the moment, soft guarantees to the countries which have signed Association Agreements with EU.

Some similar initiatives already took place before and after the Orange Revolution (2004-2005) in Ukraine:

- GUAM was established in 2001 as an Organization for Democracy and Economic Development. It was a regional intergovernmental organization of four post-Soviet states: Georgia, Ukraine, Azerbaijan, and Moldova. Turkey and Latvia had observer status.

- The Community of Democratic Choice was an intergovernmental organization, established in 2005. Founding members were Estonia, Lithuania, Latvia, Georgia, Ukraine, Macedonia, Moldova, Romania, and Slovenia. Azerbaijan, Bulgaria, the Czech Republic, Poland, Hungary, the US, the EU, and the OSCE had observer status.
- Black Sea Synergy, established in 2006. This was an EU initiative, proposed by Romania. The members were Georgia, Azerbaijan, Armenia, Moldova, Ukraine, and Romania. Bulgaria and Turkey had observer status. Russia, in spite of being invited, showed a lack of interest in this initiative.

These numerous attempts to build up cooperation structures show that even before launching the Eastern Partnership the countries of the region were interested in setting up multilateral networks to protect their geopolitical interests and counterbalance Russian influence in the Black Sea basin. Unfortunately, most of these initiatives are now dead.

The only successful and consistent initiative was the **Eastern Partnership**, inaugurated in 2009, which was proposed by Poland and Sweden. The EU project targeted Ukraine, Belarus, Moldova, Georgia, Belarus, Armenia, and Azerbaijan. Its aim was to improve trade relations with the EU and bring these countries closer to the EU through offering them AA's. Brussels managed to sign an AA with Ukraine, Moldova and Georgia (However, Armenia, after completing the negotiations, decided to step away from the AA and join the Kremlin's Eurasian Union). When the EaP turned out to be successful Russia reacted with military force. It attacked Ukraine, breaking its international commitments.

In order to save its own credibility and the EaP initiative, the Western community should offer its Eastern partners some kind of soft security guarantees, based on the Helsinki accords and the UN charter principles which address in the first place the issue of territorial integrity and sovereignty.

THE NECESSITY OF 'OSCE BIS'

This initiative could adopt 'OSCE BIS' as a working title, stressing that it is based on the Helsinki Final Act and the Paris Charter.

This initiative should be addressed to:

- Ukraine, Moldova, and Georgia, which are signatories to the Association Agreements with the EU and would, therefore, receive a special status
- Turkey and those Balkan countries which have yet to join the EU, would be members
- Belarus, Armenia, Azerbaijan – on the condition that they improve their democracy record
- Central Asia countries – on the condition they improve their democracy record
- Russia could be accepted after meeting democratic criteria, and on the condition that it invalidates the annexation of Ukrainian and Georgian territories and withdraws its troops from occupied territories

Special recommendation:

The construction of such a new intergovernmental organization ('OSCE BIS') should include a strong civil society component, based on the already existing Eastern Partnership Civil Society Forum, which should have the right of membership.

The Western side should be represented by the EU, the US, Canada, Norway, Switzerland, and, possibly, also Australia, Japan, and South Korea. The new organization should also be open to new members from North Africa (criteria: democracy record). The name and further legal and structural details can be discussed later after agreeing on the principles given in this discussion paper.

The process of launching a new international organization might be a long and difficult one, but the dynamic of developments in Europe and the European neighborhood - including the threat posed by Russia and ISIS - requires a fundamentally new approach to these challenges. Unfortunately, Europe failed to learn much from the Balkan conflict.

A well coordinated campaign to publicize this new security architecture concept might persuade aggressive parties, such as Russia, to negotiate, in order to preserve the status quo in the existing security architecture. If Russia does not do so, it risks becoming marginalized, being reduced to a so-called “rogue state.” This scenario is definitely not an option Moscow wants. The West should play on Russia’s weaknesses.

It is evident that hard security should continue to be provided by NATO. Jean-Claude Juncker’s recent initiative concerning the creation of an EU army seems to be counterproductive in the current situation. The EU desperately needs to strengthen the transatlantic relationship and a further rapprochement between the old continent and the US could be the only long-term option for reversing the existing negative security trends. This will take time and it needs a political will on both sides, as well as a consensus among the EU member states.

APPENDIX:

As concerns the “Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, signed on 5 December 1994 by the Presidents of Ukraine, the Russian Federation and the United States of America, and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland,” which is known as the “Budapest Memorandum,” Irina Paliashvili wrote: “The technical and legal intricacies of its language can be discussed *ad nauseam*, but nothing can change its bottom-line: the three signatories – the US, the UK and Russia - confirm and reaffirm ‘their commitment to Ukraine in accordance with the principles of the Final Act of the Conference on Security and Cooperation in Europe, to respect the independence and sovereignty and the existing borders of Ukraine’.”

“There is no doubt that Ukraine has delivered on its commitments under the Budapest Memorandum promptly, fully and in a good faith. The two guarantors, the US and the UK, are in a possession of overwhelming and undeniable evidence of continuing violation by Russia of “sovereignty and the existing borders of Ukraine”, first by occupying and annexing Crimea, and then by invading and waging war in Eastern Ukraine.”

Irina Paliashvili “The Budapest Memorandum revisited,” *Kyiv Post*, February 6, 2015.

“The OSCE is allowed to operate at only two checkpoints on the vast Ukrainian-Russian border. Yet from these two checkpoints alone, monitors note hundreds of individuals in military-style dress freely crossing the border every week. The separatists have a larger fighting force, with more weaponry, than some European countries. Meanwhile, Russia is reportedly preparing to deliver its 12th resupply convoy to separatists in Ukrainian territory at the end of the month. If the past eleven deliveries are any indication, Russia will deny international monitors or Ukrainian authorities the ability to fully inspect the convoys. If Russia is indeed sending humanitarian aid, what does it have to hide? ... The current situation is dangerous. It is dangerous because separatists continue to harass, threaten, and intimidate the impartial monitors deployed by the OSCE – monitors who serve on behalf of the international community. According to a January 14th OSCE report, the Special Monitoring Mission, or SMM, was stopped at a separatist checkpoint in Oktyabr by a hostile separatist commander who ordered the team’s car searched and said the monitors would be shot if a camera was found, even though cameras are a basic tool of documentation work. Separatist guards kept their guns pointed at the monitors during the exchange, the monitors said, even though the team posed no threat and, mercifully, had no camera.”

Remarks by Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, at a Security Council Briefing on Ukraine, January 21, 2015.

“As this is the last scheduled PC of 2014, it’s a time to take stock. Next year, as we all know, marks the fortieth anniversary of the Helsinki Final Act. That Act, the founding document of this Organization, enshrined ten fundamental principles designed to guide the relationships among participating States. Those ten principles – referred to as the Decalogue – are the carefully negotiated and agreed foundation of this Organization and provide the means for ensuring comprehensive security for the States represented around this table, and most importantly, for our citizens.”

“Over the past eight months, through its actions in and around Ukraine, the Russian Federation has failed to uphold the principles in the Decalogue. Russia has violated Ukraine’s sovereignty and territorial integrity and intervened in Ukraine’s internal affairs. Russia has undermined efforts to resolve the crisis peacefully through the Minsk Protocol and agreements, to which Russia is a signatory, through continued military, political, and financial support of the armed separatists operating in eastern Ukraine. De-facto authorities in Crimea have abused the human rights and fundamental freedoms of the people living there, and Russia has actively supported pro-Russia separatists as they abused the human rights of Ukrainians. Russia has made a mockery of the fundamental principle of self-determination through the so-called “referendum” held in Crimea. Russia’s actions have undermined cooperation among States.”

“The consequences of Russia’s actions are suffered every day by those killed and wounded in the fighting in Ukraine’s Donbas region. They are felt by the people in eastern Ukraine struggling to find food and shelter in

conflict areas, as highlighted recently by the United Nations. They are felt by the people of Crimea forced to live under an occupying power.”

Ongoing Violations of OSCE Principles and Commitments by the Russian Federation and the Situation in Ukraine. As delivered by Ambassador Daniel B. Baer to the Permanent Council, Vienna, December 18, 2014.

“The international community is united in condemning the violence that has led to so much needless suffering in Ukraine, but the violence continues. Regrettably, Russia continues to supply new weapons and increase support for armed separatists. In doing so, it fails to meet its international and OSCE obligations and to live up to an agreement that it actually negotiated and signed. The result is damage to its credibility, and its own citizens wind up paying a steep economic and human price, including the price of hundreds of Russian soldiers who fight and die in a country where they had and have no right to be.

My friends, more broadly, the crisis that we have experienced in Europe this past year is not the fault of the international system. It stems from the unwillingness of individual actors to abide by the rules and the principles of that system. When rules are broken, they need to be enforced, not rewritten. Despite numerous violations of Helsinki this year, the timeless wisdom of the final act – that sustainable security can only be achieved when fundamental freedoms and human rights are protected – has been reaffirmed. To build a more secure OSCE area, we need to acknowledge the serious failure of some member states to live up to their responsibilities, and these failures affect us all.

In closing, I thank President Burkhalter once again for his stewardship, the people of Switzerland for their hospitality, and we look forward to working with Prime Minister Vucic and Foreign Minister Dacic during Serbia’s chairmanship next year. And you will be sure that you will have our support as we celebrate the 40th anniversary of the Helsinki Final Act. Thank you.”

REMARKS by Secretary of State John Kerry at OSCE Ministerial Plenary Session, December 4, 2014.

<http://swissukraine.org/2015/04/04/retired-u-s-general-wesley-clark-about-dysfunctional-osce-in-east-ukraine/>

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