



Between Aspirations and Realities: Strengthening the Legal Framework of the OSCE

The Organization for Security and Cooperation in Europe (OSCE) is rare of its kind: while it possesses most of the attributes traditionally ascribed to an International Organization, it lacks a constitutive act under international law and an established international legal personality. Despite long-lasting attempts to formalise its institutional structure, the legal status of the OSCE remains an open issue until today. This leads to a patchwork of legal regimes under which the organization operates in the participating States. The organization's sui generis legal status is the result of a unique legal and political process, which has started as an effort to build an East-West forum for political dialogue in the framework of the Conference for Security and Cooperation in Europe (CSCE), and which was formalised by the Helsinki Final Act of 1975 and later renamed into the OSCE (1995). Today, the OSCE is the world's largest regional security organization with 57 participating States, covering a security, economic and environmental as well as human dimension and constituting a key institution in the field of early warning, conflict prevention, crisis management, and post-conflict rehabilitation. Given the role of the OSCE, it is remarkable that questions surrounding its legal framework remain unresolved.

Against this backdrop, the Max Planck Institute for Comparative Public Law and International Law convenes a one-day international conference, which will take place on 13 July 2016 at the Harnack-Haus in Berlin. Under the heading "Between Aspirations and Realities: Strengthening the Legal Framework of the OSCE", the conference aims to provide a new impetus to the debate on strengthening the legal framework of the OSCE. As a follow-up to the conference, the conveners also envisage the publication of selected contributions in an edited volume.

Past attempts have shown that strengthening legal framework of the OSCE faces a number of competing demands. On the one hand, formalisation efforts have been pursued in a belief that endowing the organization with legal personality, privileges and immunities would ensure a uniform legal status and the necessary legal protection for the organization and its staff, both in the Vienna Headquarters and in field missions. Legal personality is also expected to facilitate the OSCE relations with both domestic and international public and private actors, therefore improving the organization's effectiveness and contributing towards greater legal certainty. On the other hand, the less formal nature of the OSCE is appreciated for the flexibility and promptness it offers in decision-making and crisis response, thus also contributing towards the organization's effectiveness.

The question is therefore whether and to what extent formalising the OSCE status could alter the existing arrangements and undermine the organization's significance as a platform for political dialogue. Moreover, the possible adoption of a constitutive act (Charter) raises concerns as to the maintenance of the OSCE *acquis* and the sensitive power relations within the organization. Furthermore, a modified legal framework would necessarily affect the distribution of legal responsibility between the participating States and the organization, and would require the establishment of appropriate accountability mechanism, which all opens up questions that have not yet been properly addressed.

So far, the discussions have been framed by political considerations brought forward by the OSCE participating States at the high political level, and drafted by expert bodies and working groups within the organization. The aim of this conference is to complement these efforts by opening up the debate to a broader international audience. Taking the proposals as drafted in the past years as a common starting point, the discussions will focus on legal and political implications of these proposals as well as envisage possible further options for strengthening the OSCE framework. In order to ensure an open and discursive format of the conference, international scholars and practitioners with expertise in legal, political and related fields, civil society organizations and media representatives are all welcome as panellists and participants.

Conveners: Professor Dr Anne Peters, LL.M. (Harvard),
Dr Mateja Steinbrück Platise, M.Jur (Oxford),
Carolyn Moser, M.A. (Sciences Po Paris)

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8:30 – 9:15 **Registration and coffee**

9.15 – 9.30 **Welcoming Remarks**

- Anne Peters, MPIL
- Antje Leendertse, German Federal Foreign Office

9:30 – 11:00 **Panel 1: Legal and Political Context of the OSCE**

Chair: Tsvetana Kamenova, Institute for Legal Studies, BAS, Sofia

- *The Interaction of Political Dynamics and Institutional Reforms within International Institutions*
Petri Hakkarainen, Geneva Centre for Security Policy
- *The Wider Geo-Political Context: The OSCE, (Still) a Platform for a Structured Conflict?*
Elena Ananieva, Institute of Europe, RAS, Moscow
- *International Organizations, the OSCE and Legal Personality: Law, Politics and Practice*
Niels Blokker, University of Leiden

11:00 – 11:30 **Coffee break**

11:30 – 13:00 **Panel 2: A Legal Framework for the OSCE**

Chair: Cedric Ryngaert, University of Utrecht

- *Taking Stock: The Current Legal Status of the OSCE*
Lisa Tabassi, OSCE Secretariat
- *Legal Personality – Past Developments, Status Quo and Future Ambitions*
Helmut Tichy, Austrian Foreign Ministry
- *The Accountability Imperative for the OSCE – a Legal-Institutional Perspective*
Carolyn Moser, MPIL

13:00 – 14:30 **Lunch break**

14:30 – 16:00 **Panel 3: The International Legal Status as a Governance Issue**

Chair: Anne Peters, MPIL

- *The OSCE as a Case of Informal Lawmaking?*
Jan Wouters, Catholic University of Leuven
- *Governance without Hierarchy. Does Strengthening the Legal Framework of the OSCE Matter?*
Tanja Börzel, Freie Universität Berlin
- *Towards a Normative Framework for the Autonomy of International Organizations*
Mateja Steinbrück Platise, MPIL

16:00 – 16:30 **Coffee break**

16:30 – 18:00 **Panel 4: Legal and Institutional Implications of Legal Personality**

Chair: Gleb Bogush, Moscow State University

- *The “External Relations” of International Organizations*
Laurence Boisson de Chazournes, University of Geneva
- *Responsibility and Liability of the OSCE*
Kristina Daugirdas, Michigan Law School
- *From Participation to Membership within the OSCE*
Ramses Wessel, University of Twente

18:00 – 18:15 **Concluding Remarks**

- *Concluding speech*
John Bernhard, Special advisor of the OSCE Chairperson-in-Office on the Legal Framework
- *Closing remarks*
Anne Peters, MPIL

