

*Rudolf Schmidt*¹

Inner-State Conflicts: The OSCE and EU Contribution to Prevention and Peaceful Settlement

A New Anarchy?

If - as Robert G. Kaplan² fears - a new period of anarchy is approaching, there are two reasons for this. First, the international order is vulnerable even after the dissolution of the Soviet Union and the end of the East-West confrontation and second, there has been an increase in inner-state conflicts.

The regulations of international law have developed as basic principles for and approaches to an international political order and are further elaborated continuously. However, the institutions that are meant to enforce these regulations - primarily the UN Security Council and the International Court of Justice - are in many cases not able to take action. The experiences of the last decade have taught us that the majority of crises and conflicts have their origin within states and that particularly this type of conflict can lead to terrible crimes and large numbers of victims. Moreover, these conflicts can also have an impact beyond the borders of the states in which they surfaced. The international community cannot ignore them. However, neither has it developed enough effective instruments - and this too can be confirmed by experiences of the last few years - to be able to tackle these conflicts. One thing has proved to be quite clear: The earlier one deals with the conflict, the greater the chances are that a peaceful and satisfactory solution will be found. Inner-state conflicts often emerge due to the deeply rooted ideas of the people in a state about themselves as a group as well as their ideas on the other groups of people within the state. These ideas are shaped by historical experiences upon which each group of people bases their identity. Therefore it is difficult to challenge and change these ideas. These ideas and negative images of the enemy can become virulent if unscrupulous politicians use them to maintain and strengthen their power. If in the states themselves it is impossible to avoid the disruptions in peaceful coexistence arising from these negative images of the enemy, then the international community must take on this task, as difficult as this may be. In Europe, the OSCE plays a predominant role in dealing with inner-state conflicts. In certain cases it has even been able to defuse conflicts and lead various groups of people within a country towards peaceful coexistence.

The moment violence erupts, conflict management becomes infinitely more difficult. This was clear in Bosnia and Herzegovina and in Kosovo. Therefore

1 The views expressed in this article are the personal opinions of the author.

2 Robert D. Kaplan, *The coming anarchy*, London 1999.

the Heads of State or Government of the OSCE participating States strengthened their intention on 19 November 1999 in Istanbul in the Charter for European Security to prevent conflicts or solve them through peaceful means whenever this was possible. This is an OSCE task, which has gained increasing significance. Given the events, which have occurred up to now and with a view to the new tasks, it will be essential to improve OSCE instruments and increase co-operation with the EU.

Inner-State Conflicts and Their External Impact

Normally inner-state conflicts are also settled within the state in which the conflict emerges. It has been shown that democracy and the rule of law offer in principle the appropriate instruments for this purpose. In this respect, the performance of the OSCE and in particular the Office for Democratic Institutions and Human Rights (ODIHR) to promote democracy and improve the protection of human rights are a contribution to conflict prevention.

If the problem is not solved domestically, the international community must decide whether and how it will become involved. In many cases this will be necessary because internal conflicts have external effects. The problems of the Russian minorities in Estonia and Latvia were key issues in the relationship of these two countries with the Russian Federation. The Kosovo problem threatened to spill over into Macedonia which has a large Albanian population. The refugee flow into Macedonia and Albania put a dangerous degree of pressure on these countries. The domestic problems in Georgia did not occur before the Russian Federation intervened and will not be solved without its involvement.

OSCE Principles and Commitments as Legitimization for External Intervention

The international community cannot ignore inner-state conflicts if human rights violations occur over a long period of time and on an extremely large scale. Within the OSCE, they can be addressed if participating States violate OSCE principles and do not fulfil their commitments, which they accepted of their own accord and are therefore binding. These principles were developed starting in 1975 by the CSCE (predecessor of the OSCE). The new states, which emerged upon the dissolution of the Soviet Union and the former Yugoslavia have assumed these principles and commitments now making them binding for all 55 OSCE participating States. The states can no longer argue that violations are their own internal affairs. The Copenhagen Document of 29 June 1990 contains the most impressive catalogue of principles for evaluating the internal situation in a state. It breathes the spirit of the pe-

riod of upheaval. In almost all European states, governments were ready to introduce reforms towards democracy and the rule of law, as far as these had not already been realized.

Violations of OSCE principles and commitments cannot be ignored precisely because they are only politically binding and not legally. Their effectiveness would be undermined if serious and long-lasting violations were ignored.

The Problematic Nature of Military Intervention

Indisputably, military intervention only comes into question if all peaceful means for solving a conflict have been exhausted. This also means however that the decision to intervene militarily is simultaneously an admission of failure to prevent the conflict as well as a failure to reach a peaceful solution. Military intervention can only be considered if the conflict parties have actually crossed the threshold and begun to use violence constantly. If violence has actually broken out then it is difficult to stop. There is a tendency to continue using it until the conflict parties, if these are made up of peoples or groups of peoples, are completely split apart. However, because there are generally no natural borders between them, there are endless battles and expulsions on the way to division with horrible side effects, as we were able to observe in Bosnia and Herzegovina as well as Kosovo. Even when the battles can be brought to a stop, confidence is destroyed and the worst prejudices that one group of people has about another are confirmed. Coexistence is then only possible if rules are set and implemented from the outside. This was also shown by experiences in Bosnia and Herzegovina and once again in Kosovo. As these examples show, to ensure this a military presence will be required for an undetermined period of time. Even a strong organization like NATO could arrive at the limits of its performance if in addition to those in Bosnia and Herzegovina and in Kosovo it had to maintain permanent presences in other crisis areas.

We know today that military support of peaceful efforts towards conflict resolution as well as occasionally military intervention can ultimately become necessary. We also know that military instruments in themselves cannot neutralize conflict causes or even solve conflicts. In cases where the path towards conflict settlement cannot be opened without military intervention, this arduous work can only be taken on after military intervention has taken place. The difficult and lengthy part of the work begins here. The conflict parties must be convinced to accept new rules of peaceful coexistence.

At the beginning of the Yugoslavian conflict many people might still have been of the opinion that NATO could end a conflict through a few targeted air strikes. As the events - from military monitoring of the embargo, UNPROFOR military support, surveillance and later forceful implementation of the no-fly zone over Bosnia and Herzegovina to the NATO air strikes

against the Bosnian-Serb army after a horrible mortar attack on civilians in Sarajevo - along this thorny path show, conflicts cannot be solved through military intervention alone.

As the case of Kosovo has shown, there is still disagreement on the conditions for military intervention in inner-state conflicts. Two permanent members of the UN Security Council, Russia and China, maintain their position that Security Council authorization is a necessary requirement for military intervention in inner-state conflicts and thus intervention can be prevented by veto. Furthermore Russia will also maintain this stance because it fears that in future this type of intervention could be carried out on its own territory. As long as there is explicit opposition of Russia and China, international customary law permitting "humanitarian intervention" will not come into existence. It goes without saying that the deployment of troops to stabilize a situation or to implement a negotiated settlement will remain indispensable even in future. This is in principle undisputed. Even Russia takes part in operations of this nature in Bosnia and Herzegovina.

Conflict Prevention and Peaceful Means of Conflict Settlement as a Priority

If - as has been shown - military intervention does not eliminate actual conflict causes the conclusion has to be drawn that the international community should intervene in conflicts at a much earlier date even if this requires greater financial resources and more personnel. The foreign ministers of the G-8 countries were right when they stated the following at their meeting from 16-17 December 1999: "Recent regional conflicts and their history, in particular, have demonstrated time and again that we do not lack 'early warning' but 'early decision' and long term concrete and sustainable strategies of prevention."

Why is the decision-making process started so late? Why do we still not have long-term strategies for conflict prevention? There are several reasons for this. The most evident is that pressure to take action only occurs when dramatic events catch the eye of the general public. Conflicts do not grab the public's attention when they are beginning to emerge or have not yet ignited. Only when they have actually broken out, when the fighting has begun, victims are being mourned and refugee flows have started to occur, do the news reports, especially TV images, make action imperative. The second reason is that the conflict prevention measures are not only not dramatic, but their success cannot be guaranteed. And even when success has been achieved, the media do not consider this newsworthy. Only a conflict which has already erupted captures the headlines, not one which has been prevented. Not least because of this fact is it difficult to obtain support for preventive measures and strategies although - as Kofi Annan stated it - the most expensive prevention is cheaper than the cheapest intervention. Thus for example the costs

of the air strikes against Serbia in the spring of 1999 - not including damage repair of course - were many times higher than the total OSCE budget in 1999. A third reason is that preventive measures and a fortiori preventive strategies are difficult to draft: Even making an analysis of a situation is difficult and it is not easy to reach agreement on this in international bodies. Likewise, the opportunities to take action arising therefrom have not been clear-cut. Thus, we are on shaky ground. Experiences related to international involvement in the Kosovo issue, which go back many years, are not encouraging. Nevertheless, every new attempt at conflict prevention is worth it - just as an increase in road safety is worthwhile although accidents will continue to occur. We will have to make a serious effort to gain public acceptance of this undertaking.

The Role of the OSCE

The OSCE still embodies the norms and principles, which the CSCE established in very tough and laborious negotiations starting in 1975 and the OSCE then developed further. These norms and principles are a pan-European bond. They fortify the international community in their right to take action against violations of human rights and the refusal to allow participation in democratic processes thus reinforcing a state's capability to avoid conflicts or solve them through democratic means. The OSCE has several of its own organs for this purpose: the Office for Democratic Institutions and Human Rights (ODIHR) and above all the High Commissioner on National Minorities. Max van der Stoep, who was given this post in 1992, has through silent diplomacy made large gains in improving the status of minorities and thus defusing open or latent conflict. Reporting all his achievements is beyond the scope of this article.³ His patient approach to discussions, his suggestions and proposals, and also the support he repeatedly obtained in the OSCE Permanent Council are the best examples of conflict prevention being practiced.

Since 1994, the OSCE has, using very few resources, developed its presence primarily in regions having a crisis potential in a manner unlike any other organization. It has established missions, centres, offices or similar bodies in 19 locations up to now, each boasting a mandate agreed upon *ad hoc*, which as a rule is formulated generally enough to guarantee the mission enough leeway for its activities. However, even these institutions cannot have much effect if the outbreak of violence is not prevented, as e.g. in Chechnya.

A lot could be done to make the work of the OSCE more effective. Perhaps the most important step would be to limit the consensus principle in the Per-

3 See for example, Max van der Stoep, Reflections on the Role of the OSCE High Commissioner on National Minorities as an Instrument of Conflict Prevention, In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1999, Baden-Baden 2000, pp. 381-391.

manent Council, but if this is ever achieved it will not be within the next few years. However, experience has shown that the participating States are unwilling to prevent a consensus, except when interests are concerned, which they deem the most important. Up to now, until a consensus had been secured, issues were not even raised at the decision-making stage. In certain cases, substantial pressure could be placed on parties blocking consensus by forcing them to show their colours through a vote.

However, practical improvements have more priority. One OSCE problem is recruiting qualified personnel for new missions rapidly. Until recently, the Secretariat itself has not even had enough personnel to organize the formation of larger missions like the Kosovo Verification Mission. Now preparations are being made for the rapid deployment at any rate of key personnel.⁴ Nevertheless, it will remain difficult for participating States to get qualified OSCE mission members ready for deployment rapidly enough. They are not always readily available as is the case with military units, which can be transferred to a new location as a whole. OSCE mission members must be recruited individually, give up their previous jobs or take a leave of absence. There has been an improvement due to the fact that many OSCE participating States have created files including qualified personnel. However, it would be even better if there were a personnel reserve composed of people who could be deployed as rapidly as possible. These could include e.g. members of the diplomatic corps, many of whom have the necessary regional knowledge and experience. However, the German Foreign Service has not even been able to create a reserve making up the ten per cent of their own personnel, which has long been deemed necessary. On the contrary, it has had to cut back on personnel and thus can afford less and less to make its employees available for OSCE missions. It is especially difficult to find a sufficient number of policemen for those kinds of missions, as has been shown again in Kosovo. Also this deficiency could only be remedied if personnel reserves were established in as many participating States as possible.

Time and time again, it is discouraging that it is so difficult to obtain the modest financial means necessary to take preventive measures and reach peaceful solutions to conflicts. This is due to the very banal fact that most states procure these means from their foreign ministry budgets, which because of the small amounts in these do not give states as much leeway as the defence budget. It would therefore be a genuine improvement if as many states as possible introduced a separate budgetary title for this type of measure or if funds were made available that were replenished repeatedly.

4 See the article by Márton Krasznai in this volume, pp. 139-147.

OSCE and EU: New Forms of Co-operation

More than a fourth of the OSCE participating States are also members of the EU. EU member states finance over 60 per cent of the OSCE budget. After the actual round of accession agreements, about half of the OSCE participating States will also belong to the EU. The declarations issued in the name of the EU by its Presidency, particularly in the Permanent Council, are generally endorsed by all or the majority of the associated members even now. Nevertheless the EU has up to now - not least because of the slow-moving voting procedures within the framework of the Common Foreign and Security Policy - not gained the significance within the OSCE that it deserves. In contrast, the US, which knows exactly what it wants and how to enforce this, has much more direct influence than its contribution warrants.

Nonetheless the indirect influence of the EU is already very significant and could be better utilized. In particular, it is evident that the prospect of accession to the EU is an extraordinarily powerful motivating force. In a series of accession countries, democratic and economic policy reforms were implemented at a speed that would not have developed without the incentive of future membership. In some states - like Hungary - adequate minority regimes have been introduced. The regulation of the status of the Russian population in Estonia and Latvia, on which the High Commissioner on National Minorities as well as the OSCE missions in both states worked in collaboration, would not have advanced so rapidly if the governments of both states had not taken EU accession negotiations into consideration.

States that have been given the opportunity to apply for accession to the EU can enter into partnership and co-operation agreements, which improve access to the huge EU market and allow participation in EU assistance programmes. This too is a lever - albeit weaker - on reforms. The states that have made these agreements with the EU take on commitments, which are essentially in accordance with OSCE norms.

The EU, in co-operation with the OSCE, now is to use these and instruments yet to be developed to foster regional stabilization strategies. The EU conceived and initiated this kind of a stabilization strategy when it created the Stability Pact for South Eastern Europe - launched by the German EU Presidency - and placed it under the auspices of the OSCE. It developed the instrument of a stability partnership as an incentive for the states of the region. However this initiative was launched at a very late date after many years of violence and horrible crimes, especially in Bosnia and Herzegovina and in Kosovo. No one can prove that initiatives of this kind could have prevented violence if they had been started sooner. Nevertheless, the chances of success would have been considerably better.

Should not opportunities like these be taken advantage of sooner in crisis-ridden regions where the EU has a strong interest in stability? In the Caucasus states of Georgia and Azerbaijan, violent clashes occurred already at the

beginning of the nineties in which internal and external factors had an effect. The current situation after the ceasefire is not sustainable in the long-term. The negotiations on a settlement of these conflicts have not yet led to a satisfactory solution. There is a risk that violence will break out again. A stabilization strategy should be developed under EU leadership and with the participation of the states in the region and their neighbours designed to offer the parties involved incentives to reach an agreement. The OSCE Mission to Georgia and the OSCE Offices in Baku and Yerevan should be used for this purpose. In addition to conflict management, a framework for regional co-operation should be created.

Central Asia has received less attention than the Caucasus. The civil war in Tajikistan is over, the Islamic movement has been integrated into a reconciliation process. However, when a group of Islamic fighters from Tajikistan invaded Kyrgyzstan in the summer of 1999, it again brought to mind that a conflict potential still exists. Even more so than in the Caucasus, any form of conflict prevention presupposes better understanding and co-operation between states, which is still met with resistance in the region. Active efforts to promote regional co-operation have been made in the OSCE since the Oslo Ministerial Council in December 1998. However, the OSCE alone is too weak to achieve this. The EU promotes regional transport systems in its TRACECA programme. This is a good approach, which could be incorporated in regional strategy. The states in this region consider it important they are given support in combatting cross-border terrorism.

Not only is the EU an economic incentive, its political magnetism is that it is a unique model for ironing out national contradictions. The Union is based on the fundamental concept that their members no longer see themselves in competition for power and supremacy. On the contrary, they pursue common interests through common institutions that are being given ever increasing authority. This fundamental concept is especially attractive to states, which in their most recent history had been forced to become members of state blocs or even become part of a state they considered foreign. These states have placed large value in their newly won leeway, but on the other hand also see that they should concentrate on the development of their economies and the construction of new institutions. Power plays directed outward and domestic conflicts distract from and immobilize the energies required to institute the necessary reforms. These states look upon the EU as a new successful model for relations between the states in a region. This offers a chance for the EU supported by its economic strength and its political appeal and in co-operation with the OSCE to have a stabilizing effect in all of Europe and Central Asia through the promotion of democratic reforms. They should not fail to grasp this chance.