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Non-Governmental Organizations and the OSCE

Just as the CSCE developed into the OSCE, the mutual relationship between non-governmental organizations (NGOs) and the OSCE has changed. Before 1990, NGOs were only able to invoke the declared norms and principles of the then CSCE to legitimize their activities. However, thereafter, they also began to use the CSCE/OSCE as a forum. Today, in many cases, NGOs participate in OSCE operational activities, just as the OSCE, primarily through its missions, utilizes NGOs.

If one divides NGOs into two categories - one in which they represent predominantly the material interests of their clientele and the other in which they see their task as implementing recognized (moral) norms in political reality - then the second category is most common in the OSCE context.

If one looks at the three large areas of politico-military, economic-environmental as well as democratic and legal security, most NGOs that endeavour to work together with the OSCE will be found in the latter, that is in the area that has also been called the human dimension of security.

The exterior of these organizations has changed over the last ten years. While before 1990, NGOs - or better said: their forerunners - became apparent in the form of discussion groups and action groups exclusively making demonstrative appeals to the public, they since then have become channels of professional information and respected aid workers in critical situations. The following article presents the advantages that the OSCE and NGOs have gained from their mutual relationship.

The Normative Foundations of the OSCE for NGOs

Since the seventies, that is since the beginning of the CSCE process, there have been action groups who did not pay any attention to the hegemonic, status quo content of the CSCE Final Act, for short: "Helsinki", but chose to "reinterpret" it for their own purposes. In the East, these were dissidents who used "Helsinki" as a symbol for human and civil rights, and in the West, they were groups belonging to the peace movement who used "Helsinki" as a motif for disarmament. Both in West and East, they worked hard to realize these values. "Helsinki" offered the non-governmental actors of the peace and human rights movement a common anti-hegemonic connecting point so that in the eighties a network of non-governmental actors and groupings began to crystallize between Eastern and Western Europe, which represented a kind of institutionalization that the official side hardly found desirable, and which in

any case, the realpoliticians often evaluated as intrusive and unwelcome and which were even persecuted by government and security services.

The opportunity to invoke the Final Act had a catalysing effect on the work of human rights groups in East and East Central European countries, the Helsinki Committees and the groups of the International Helsinki Federation for Human Rights.¹

The CSCE had for the first time created a normative foundation for the goals of human-rights NGOs that also gave them a formal internationally guaranteed right to exist in the individual states. However, this is at best referred to implicitly in the seventh principle of the 1975 Helsinki Final Act, "respect for human rights and fundamental freedoms", in the context of individual freedom of religion or belief.² However, in the instrumental section of the Final Act, NGOs are acknowledged for their co-operation in developing contacts within the framework of the policy of détente and expressly deemed as worthy of support. Of course, at that time, this was not true for all areas, i.e. the so-called three baskets, which today are known as the security dimensions. Thus the participating States of the CSCE recommended "that more effective utilization be made of the possibilities and capabilities of existing international (...) non-governmental (organizations K.T.), concerned with science and technology, for improving exchanges of information and experience, as well as for developing other forms of co-operation in fields of common interest (...)".³ Following a section on strengthening the exchanges between youth organizations and sports associations, the Final Act in the framework of the basket designated today as the "human dimension" again states in general terms: "By way of further developing contacts among governmental institutions and non-governmental organizations and associations, including women's organizations, the participating States will facilitate the convening of meetings as well as travel by delegations, groups and individuals."⁴ Further they intended to "expand and improve at the various levels co-operation and links in the field of culture, in particular by (...) contributing to the development of direct communication and co-operation among relevant State institutions and non-governmental organizations (...)".⁵

In the 1983 Concluding Document of the Madrid Follow-up Meeting, specific NGOs are explicitly and concretely dealt with in the Principles section in that the establishment and activities of "religious communities of believers" are emphasized and the right of workers "freely to establish and join trade unions" is underlined. These emphases are to be understood against the

1 This effect stemming from the Helsinki Final Act was at the centre of the ceremony on the 25th anniversary of its signing. Cf. OSCE Newsletter 7-8/2000, pp. 1-4.

2 Cf. Final Act of Helsinki, Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 141-217, here: p. 146.

3 *Ibid.*, p. 171.

4 *Ibid.*, p. 188.

5 *Ibid.*, p. 194.

backdrop of the crisis then emanating from the Solidarność movement in Poland. Generally, it has been reaffirmed in the Document that "(...) organizations and persons have a relevant and positive role to play"⁶ contributing to international co-operation. In the instrumental section of the Madrid Document, "non-governmental organizations" are named as addressees of "relevant information concerning (...) bilateral cultural agreements and programmes".⁷

First in 1989 in the Concluding Document of the Follow-up Meeting of Vienna in the section on Principles it was stated that the participating States are to "respect the right of their citizens to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms".⁸ In the instrumental section, the Madrid passage on "non-governmental organizations" is strengthened in the sense that governments are to "encourage" these "in the field of culture to participate" in "cultural exchange".⁹

In the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension, the participating States reaffirmed their commitment to "ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups".¹⁰ Furthermore the members of such organizations are expressly given the right to have international contacts and take part in international activities, in particular persons belonging to national minorities have the right "to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations".¹¹ However, the relativizations are also obvious. For example, the same document, in another section, declares that the participating States simply "note" the "activities of several non-governmental organizations on the question of the death penalty" and "of conscientious objections to compulsory military service".¹²

6 Concluding Document of Madrid, Concluding Document of the Madrid Meeting of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference, Madrid, 6 September 1983, in: Bloed (Ed.), cited above (Note 2), pp. 257-287, here: p. 262.

7 Ibid., p. 277.

8 Concluding Document of Vienna, Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference, Vienna, 15 January 1989, in: Bloed (Ed.), cited above (Note 2), pp. 327-411, here: p. 334.

9 Ibid., p. 364.

10 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Bloed (Ed.), cited above (Note 2) pp. 439-465, here: p. 447.

11 Ibid., p. 457.

12 Ibid., section 18.3, p. 451, and section 17.6, p. 450.

In the concluding documents of the Summit Meetings in Budapest (1994), Lisbon (1996) and Istanbul (1999), the normative foundation already achieved for the existence and activities of NGOs was simply reconfirmed but not further differentiated or strengthened. For example the Charter for European Security states: "Non-governmental organizations (NGOs) can perform a vital role in the promotion of human rights, democracy and the rule of law. They are an integral component of a strong civil society. We pledge ourselves to enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms."¹³

Opening the OSCE for NGOs

Already in January 1989, a change in the attitude of the CSCE/OSCE towards NGOs became apparent in as much as it moved from just legitimizing them principally and functionally to opening the CSCE/OSCE itself to them. In other words: The old CSCE wanted to promote NGOs, the new CSCE/OSCE began to engage them in its activities. This was first expressed in the Annex to the Concluding Document of Vienna in the "Chairman's Statement on the Openness and Access to the CSCE Follow-up Meetings (...)", in which the Vienna practices related "to access to the host State, to the venue and to open sessions of CSCE meetings for (...) representatives of non-governmental organizations or religious groups (...) and to) respect for CSCE-related activities, including the holding of peaceful gatherings (...)" are evaluated positively: "In the light of that experience, all participating States understand that Governments (...) will follow and build upon these practices (...)"¹⁴

This position is even more concretely set out in the 1990 Document of the Copenhagen Meeting on the Human Dimension, where in the Annex, a "Chairman's Statement on the Access of Non-Governmental Organizations (...) to Meetings of the Conference on the Human Dimension" was also included in which free movement, contacts with delegates, the access to official documents and the relations of the media and NGOs are regulated.¹⁵

Finally in November 1990, in the "Charter of Paris for a New Europe", the CSCE/OSCE States acknowledged the "major role that non-governmental organizations (...) have played in the achievement of the objectives of the CSCE", and declared they would "further facilitate their activities for the im-

13 Organization for Security and Co-operation in Europe, Charter for European Security, Istanbul, November 1999, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 2000, Baden-Baden 2001, pp. 425-443, here: p. 433.

14 Concluding Document of Vienna, cited above (Note 8), p. 402

15 Cf. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, cited above (Note 10), pp. 462-463.

plementation of the CSCE commitments by the participating States" as well as involving them "in an appropriate way in the activities and new structures of the CSCE in order to fulfil their important tasks".¹⁶

After the general promises in the 1990 Document, the Helsinki Document of 10 July 1992 extended the role of NGOs considerably in a corresponding section. The guidelines for NGO access to CSCE meetings, at first limited to the area of human rights, were extended to all CSCE meetings and thus considerably increased NGOs' authority to take part in CSCE meetings or events. In addition, NGOs were to be encouraged to report to the CSCE and CSCE institutions were to provide information to non-governmental organizations; for example Directors of CSCE institutions were instructed to appoint an "NGO liaison person".¹⁷

What is the OSCE's understanding of a non-governmental organization? In the above-mentioned Helsinki Decision of 1992 on expanding the role of NGOs, "persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence" are excluded.¹⁸ In October 1991, the Moscow Meeting of the Conference on the Human Dimension agreed upon the following wording: "The participating States will recognize as NGOs those which declare themselves as such, according to existing national procedures (...)"¹⁹ Thus the participating States of the OSCE are "the real mediators between the OSCE process and the NGOs that want to participate in it".²⁰

NGO Participation in the OSCE

NGOs may take part in OSCE activities on their own initiative by registering and being present. The OSCE places value on the informal nature of its connections with NGOs. Unlike e.g. the United Nations, neither the Vienna Secretariat nor the Warsaw Office for Democratic Institutions and Human Rights (ODIHR) have an NGO accreditation process or a list of NGOs indicating their status, that is whether they have more or less privileged access to the Organization.²¹ Within the OSCE, depending on the circumstances and the field of knowledge, contacts with NGOs are shared between the Secretariat, the Conflict Prevention Centre, the ODIHR, the OSCE Representative

16 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (Ed.), cited above (Note 2), pp. 537-566, here: p 548.

17 Cf. CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Bloed (Ed.), cited above (Note 2), pp. 701-777, here: pp. 732-733.

18 Ibid., p. 733.

19 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Bloed (Ed.), cited above (Note 2), pp. 605-629, here: p. 625.

20 Knut Ipsen, The OSCE and the Red Cross Movement, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 397-402, here: p. 399.

21 Information provided by the Secretariat and ODIHR to the author.

on Freedom of the Media, the High Commissioner on National Minorities (HCNM), the Co-ordinator of OSCE Economic and Environmental Activities and last but not least the Heads of Mission. In this manner, the spheres in which NGOs move within the OSCE framework have in fact been outlined. These are primarily the Summit Meetings of the Heads of State or Government, the review conferences and implementation meetings, seminars on issues in the various security policy dimensions as well as meetings of the HCNM, the Media Representative and mission members.

After 1993, the OSCE increased its NGO endeavours especially in the area of the human dimension through the Office for Democratic Institutions and Human Rights. This has become particularly apparent in the Annual Reports of the Secretary General, which since 1994 include an individual section devoted to NGOs in each report.

The ODIHR has created an NGO Unit to promote contacts with NGOs. NGOs have been accepted as active participants in ODIHR seminars since 1994. The High Commissioner on National Minorities has continually made efforts to gain NGOs as a source of information, just as the Representative on Freedom of the Media takes advantage of contacts with NGOs in his work. In addition, the Co-ordinator of OSCE Economic and Environmental Activities has started to co-operate with those NGOs relevant to his task field and since the establishment of a focal point on gender issues in 1998, the Vienna Secretariat has sought to co-operate with NGOs that deal with gender issues.²² A number of missions have developed relationships with NGOs in the course of fulfilling their tasks. Representatives of non-governmental organizations were not only given observer status but also the right to speak at the review conferences in preparation for the Summit Meetings in Budapest in 1994, in Vienna in 1996 (for Lisbon) and in Vienna and/or Istanbul in 1999. They are informed in advance on the yearly OSCE Economic Fora in Prague and on the ODIHR Human Dimension Implementation Meetings which take place every two years in Warsaw so that they have the opportunity to take part and prepare these meetings in good time. There, they are afforded extensive rights to make presentations and file petitions.

In 1995 upon request of the Budapest Summit, the OSCE Secretary General developed a study on how participation of NGOs can be further enhanced. He contacted over 600 organizations and acknowledged the value of the manifold contributions by NGOs: They have been important partners for the dialogue with governments and a very important source of information on the human rights situation. They have been able to contribute expertise and advice on constitutional and legal aspects, in particular of issues in connection with the rule of law. While the contacts between NGOs and the OSCE - ac-

22 Cf. Organization for Security and Co-operation in Europe, The Secretary General, Annual Report 1998 on OSCE Activities, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1999, Baden-Baden 2000, pp. 565-657, here: p. 640.

ording to the Secretary General - are still for the most part related to the human dimension, there are also links to NGOs who have other objectives, e.g. environmental protection, security or the economy. The study found that close co-operation especially in the area of conflict prevention was necessary and desirable. In particular, the OSCE long-term missions emphasized their interest, but also the governments of the 23 participating States that took part in the study agreed on this point. The Secretary General recommended regular meetings with NGOs that deal with conflict prevention with the participation of the High Commissioner on National Minorities and the Office for Democratic Institutions and Human Rights to examine further possibilities for co-operation. The OSCE missions were to be encouraged to get in touch and maintain contacts with the relevant NGOs who were active in their regions. The study of the Secretary General called for full compliance by the participating States with their commitments vis-à-vis NGO involvement in OSCE activities and suggested holding annual meetings with the participation of NGOs to be arranged by the Chairman of the Permanent Council, organizing briefings for NGOs prior to major OSCE events, convening informal meetings with NGOs on specific topics and appointing an NGO liaison person in the Vienna Secretariat.²³ A focal point of this nature has in the meantime been established; in addition, ODIHR has its own focal point for its own specific needs.

For the Budapest Review Conference, 305 NGOs had registered submitting 57 written presentations.²⁴ 215 non-governmental organizations registered for the Istanbul Review Conference in 1999 before the Meeting of the Heads of State or Government. They were from 36 of the 55 OSCE States including one from Kosovo; one NGO even came from Syria. Most, a total of 79, came from Turkey, the host country. The American NGOs took second place with 13, the Romanian NGOs followed with nine, the Azerbaijani with eight, the British with seven and the Albanian, Russian, Greek, Swiss and Austrian NGOs with six. There were four NGOs apiece from France, Germany, Norway, Finland, Croatia, Belarus and Uzbekistan. Even from Yugoslavia, which at that time had been suspended from participation, three NGOs who were critical of their government attended. Astonishingly enough, there were no NGOs from the Netherlands, Italy or Canada represented. Almost all the NGOs present had agendas belonging to the area of the human dimension. Among the participating NGOs there were large, continentally or even globally active groups like "Human Rights Watch", the "International Helsinki Federation", "Amnesty International" or the "International Lesbian and Gay Association" as well as regionally or only locally active associations or

23 Cf. Organization for Security and Co-operation in Europe, The Secretary General, Annual Report 1995 on OSCE Activities, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 483-516, here: p. 514.

24 Cf. Organization for Security and Co-operation in Europe, The Secretary General, Annual Report 1994 on CSCE Activities, at: www.osce.org/docs/english/misc/anrep94e.htm.

groups like the "European Roma Rights Centre" with its headquarters in Budapest, "The Balkan Group - Women for Peace and Democracy" with its headquarters in Stockholm or an association for reforming American Electoral Law from Washington. This list alone indicates a certain arbitrariness that is connected with the location of each meeting and shows that the NGOs present are not necessarily representative although they are often euphorically considered the representations of civil society. However, they do more or less have a hearing and stimulate reactions by criticizing government delegations. Thus at the 1999 Vienna-Istanbul Review Conference preceding the Istanbul Summit, delegations not only "recognized that NGOs were essential actors in identifying sources of tension and helping to defuse them between and within States. They also stressed the importance of their contribution to post-conflict rehabilitation, as recently illustrated in Kosovo. They regretted that their activities were hampered in certain regions of the OSCE. Since the work of NGOs had been critical in the success of the OSCE in the human dimension, delegations underlined the need for the OSCE to adopt a similar approach in the economic dimension. It should encourage development and networking with and between NGOs and profit from their work in fostering public participation in decision-making on economic and environmental issues."²⁵

Upon closer examination of the NGOs, which attended the Istanbul Summit, one sees that almost all had national and even local agendas. Often these had little or nothing to do with the topics to be dealt with at the conference. For a joint OSCE-NGO convention, they would have been lacking all the necessary prerequisites like representativeness, comparable self-understanding or common ideas on the goals and objectives of their attendance. To all appearances, aside from the former "Helsinki Citizens' Assembly" (HCA), there has also never been an attempt to create a joint OSCE-NGO forum comparable to the NGO events at UN world conferences (e.g. on the environment, women, social conditions).

It is also remarkable that up to now not one NGO has appeared before the Parliamentary Assembly (PA) of the OSCE. However the PA itself is only a forum for declarations and has no authority to determine OSCE policy in any manner, for the simple reason that the OSCE is a government organization.

On General and Mutual Advantages of OSCE-NGO Relations

Non-governmental organizations are ascribed with primarily four functions in the OSCE process: being an advocate for interested citizens, being an observer with respect to public life, assisting governments and providing infor-

25 Organization for Security and Co-operation in Europe, Review Conference 1999, Vienna - Istanbul, Vienna, 20 September to 1 October 1999, Istanbul, 8 to 10 November 1999, Consolidated Document, at: www.osce.org/docs/english/1990-1999/rcs/istarev99e.htm.

mation.²⁶ Of course this does not do justice to the self-understanding of certain NGOs.²⁷

By and large, the relations between the OSCE and NGOs have been evaluated as satisfactory.²⁸ However, in view of the multitude and diversity of the various grass-roots groups, large non-governmental organizations and their transnational networks like Amnesty International, Human Rights Watch/Helsinki, International Helsinki Federation und Helsinki Citizens' Assembly, which are active in connection with the OSCE human dimension, there are naturally different desires as to the role each individual group plays in their mutual relationships. The OSCE encourages dialogue and uses its expertise or local closeness to contribute to the development of civil society in OSCE space and improve conflict prevention. It is conspicuous that important organizations - for example, the trade unions - have not made use of access to the OSCE whereas marginal political activists have received a hearing in e.g. review conferences.²⁹

However, the OSCE is not willing nor is it in a position to back NGOs financially for long periods of time as some of them desire. The OSCE recognizes the role of NGOs and would like to make use of their contribution, which is why, for example, the ODIHR also organizes training programmes for NGOs.³⁰ However, it does not see its task as assisting NGOs in their work on a continual basis.

There are limitations on the development of OSCE-NGO relations alone because NGOs according to definition cannot be involved in decision-making as the OSCE is an inter-governmental organization in which Parliamentarians do not have a say either. On the other hand, opening the OSCE for NGOs comes up against those limits, which differentiate *de facto* a governmental organization from non-governmental organizations or even a "state" from "civil society" and must differentiate them normatively.

This also answers the question whether the relationship between the OSCE and NGOs is one of participation or co-operation. Naturally it would be difficult not only for large associations, for example the International Red Cross on an international scale, but also small autochthonous organizations at the

26 Cf. Shaun R. Barcavage, NGOs in the System of European Security, in: OSCE ODIHR Bulletin 1/1996/97, pp. 24f.

27 On this topic, see Ipsen, cited above (Note 20); also, on the self-understanding of an NGO close to the OSCE: Aaron Rhodes, The Continuing Challenge of the International Helsinki Federation for Human Rights (IHF), in: OSCE Yearbook 1995/1996, cited above (Note 23), pp. 401-410.

28 Cf. for example Paula Gutlove/Gordon Thompson, The Potential for Cooperation by the OSCE and Non-Governmental Actors on Conflict Management, in: Helsinki Monitor 3/1995, pp. 52-64.

29 Cf. Tom ETTY/Kurt P. Tudyka, No Room for the Trade Unions in the Economic and Human Dimensions of the OSCE?, in: OSCE Yearbook 1997, cited above (Note 20), pp. 317-322.

30 Thus e.g. in the Caucasus region, cf. OSCE Newsletter 4/2001, p. 18.

level of specific local conflicts to limit themselves to "participating".³¹ However, the OSCE has not planned any other option.³²

The closeness or distance between NGOs and the OSCE has its importance, as the example of the Helsinki Citizens' Assembly shows, which after 1990 vacillated between being an old "heroic" movement and a new "professional" institution.³³ The development of the HCA into a social movement rather than an "institution" prevented a break in the relations between the HCA and "Helsinki". Just as it was during the eighties, the most important function of the HCA, according to its own self-understanding, is still that of being the "conscience" of the states who signed the CSCE Final Act. This requires a distance, which would be lost through institutionalization. The relations with the OSCE have changed in comparison to those of the eighties. They are more strongly characterized by complementarity and co-operation rather than by contrasts. However, also in this type of a relationship, a certain distance is desirable if NGOs do not want to become sub-contractors or fulfil an alibi function. An NGO becomes a sub-contractor when it fulfils a task commissioned by states without having the opportunity to make its mark by expressing criticism. NGOs fulfil an alibi function when governments exploit or misuse their work to legitimize their own inactivity. Both threats occur when state authorities and NGOs co-operate in situations in which the latter are requested to prevent or stop violent conflicts. The HCA thinks it understands how to avoid these cases by distancing itself from state authorities and at the same time orienting itself to the values and norms to which the states have committed themselves in the Helsinki process. A large part of the work that the HCA has achieved since the *Wende* would have been impossible in its opinion without this distance on the one hand and appealing to their common values on the other. Both are - the HCA argues - fundamental not only to fulfil the "conscience function", which is HCA's aim, but also in cementing the co-operation between activists from very different societies and cultures.³⁴

The distance necessary for a critical function should not exclude OSCE backing NGOs - also financially - however, it must be guaranteed they do not fall into a dependency trap. After all, the OSCE has already made efforts to offer NGOs capacity-building programmes. Numerous states, incidentally, have supported groups critical of governments without wanting to control them. The reason for this type of support is that although they are awkward, they are indispensable for the effective functioning of democracies. This kind of critical resonance would also be vital for the OSCE.

31 See also Ipsen, cited above (Note 20).

32 See also Jens Bortloff, *Die Organisation für Sicherheit und Zusammenarbeit in Europa: Eine völkerrechtliche Bestandsaufnahme* [The Organization for Security and Co-operation in Europe: An Assessment under International Law], Berlin 1996, p. 426.

33 See in more detail: Ben Schennink, *Helsinki from Below: Origin and Development of the Helsinki Citizens' Assembly (HCA)*, in: OSCE Yearbook 1997, cited above (Note 20), pp. 403-415.

34 Cf. *ibid.*, p. 415.