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The Reform Process of the OSCE since the 2001 Bucharest Ministerial Decisions

Under persistent pressure from a Russian Federation dissatisfied with the institutional functioning and political evolution of the OSCE, the OSCE initiated a comprehensive debate on its own reform at the beginning of 2001. Given the reservations of an overwhelming majority of the participating States vis-à-vis the Russian complaints and demands, the prospects for a such a debate did not, initially, bode well.¹ However, the terrorist attacks launched against the United States on 11 September 2001 generated a spirit of compromise which allowed the Bucharest Ministerial Council Meeting of 3 and 4 December to proceed smoothly in many respects. In particular, the Council adopted a first set of reform measures and agreed to continue consideration of reform-related issues. The present paper analyses the decisions taken in 2001 and offers an overview of the follow-up process conducted in the first half of 2002.

The Bucharest Decisions: A First Positive Step for Moscow

The debate on the reform of the OSCE was opened as early as January 2001 under the aegis of the Romanian Chairmanship, who after intensive consultations, established inventories on the issues at stake.² After a reinforced meeting held on 5 October 2001, the Permanent Council tasked an informal open-ended working group with elaborating recommendations for the forthcoming Ministerial Council meeting. However, the working group proved unable to deliver definitive conclusions. It merely produced two draft texts loaded with bracketed (viz. non-agreed) provisions. The first dealt with the strengthening of *political dialogue* within the OSCE, while the second addressed the improvement of the *management* of the Organization.³ Ultimately, the Bucharest Ministerial Council combined most of the substance of the first draft and rare elements of the second into a single Decision entitled "Fostering the

1 For more on Moscow's complaints and demands see Victor-Yves Ghebali, *The Vienna Ministerial Council Meeting and Its Aftermath: Coping with the Russian Malaise*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 2001, Baden-Baden 2002*, pp. 29-38.

2 Cf. CIO.GAL/2/01 of 8 January 2001, CIO.GAL/22/01 of 31 May 2001 and CIO.GAL/50/01 of 28 September 2001.

3 Cf. Report of the Working Group: PC.DEL/961/01, with Annexes CIO.GAL/63/Rev.2 (Annex 1) and CIO.GAL/61/01/Rev.3 (Annex 2) of 28 November 2001.

Role of the OSCE as a Forum for Political Dialogue”.⁴ In line with Moscow’s general views, in the Decision’s preamble, the importance of the OSCE as a forum for political dialogue is acknowledged, as is “the need to give political guidance to the Head of institutions and field operations”. As to the operative part of the text, it addressed some of the basic issues raised by Russia in a more or less mild way.

First, the participating States agreed that Ministerial Council meetings will be prepared by the Preparatory Committee or in *ad hoc* open-ended working groups established with sufficient time in advance, thus meeting Russian demands for careful preparation of these meetings in order to prevent improvised decisions and “last minute” negotiations.⁵

Second, the Bucharest Decision includes several provisions inspired by Russian ideas on strengthening the political visibility and restoring the authority of the Permanent Council through a streamlined agenda (refocused on “major issues”) and a regular reporting system allowing the Council to exercise more effective control on the activities of OSCE institutions and field missions. Thus, in paragraph 1 of the Decision, it is stated that the Council would provide “a permanent framework for political dialogue” and “focus its weekly regular meetings on discussing issues of interest for the participating States”. It also recommended that the Permanent Council hold discussions with representatives of other security institutions and “adopt, whenever appropriate, public declarations or statements on topics of interest for the governments, civil societies and public opinion”.⁶ Furthermore, it announced that the Permanent Council would examine “at regular intervals” (but not at fixed time intervals as envisaged by Moscow) reports of the OSCE field operations and by the Heads of institutions. With regard to OSCE institutions, the examination is to take place “with full respect of their respective mandates”. This stipulation was inserted by delegations who wanted to discourage a curtailment of existing mandates. For similar reasons, the idea of “co-ordination meetings” to be convoked by the Chairman-in-Office was abandoned. As to field operations, the examination is to take place on the basis of written activity reports distributed in advance and to include previous informal open-ended

4 Decision No. 3, Fostering the Role of the OSCE as a Forum for Political Dialogue. The Bucharest Decisions are reprinted in this volume: Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, pp. 391-417, here: pp. 408-411. For the earlier versions of these texts see CIO.GAL/56/01 of 19 October (as well as Rev.1 of 24 October 2001) and CIO.GAL/63/01 of 31 October 2001 (as well as Rev.1 of 22 November, Rev.2 of 26 November and Rev.3 of 28 November 2001).

5 Cf. Decision No. 3, cited above (Note 4), para. 6.

6 *Ibid.*, para. 1. Actually, the Permanent Council had adopted such statements previously in the aftermath of the September 11 terrorist attacks. Cf. OSCE, Permanent Council, Statement by the Permanent Council, PC.JOUR/355 (Annex) of 21 September 2001; OSCE, Permanent Council, Statement by the Permanent Council Supporting United States-Led Actions to Counter Terrorism, PC.JOUR/360 (Annex) of 11 October 2001; OSCE, Permanent Council, Statement by the Permanent Council on the Fiftieth Anniversary of the Adoption of the 1951 Convention Relating to the Status of Refugees, PC.JOUR/361 (Annex) of 18 October 2001.

discussions with the Head of Mission; however, contrary to Moscow's wishes, these discussions will not end with political directives.⁷

Third, with regard to Moscow's concerns about strict observance of the *consensus rule* at all stages of debates, the Bucharest Decision stated that meetings of all OSCE intergovernmental bodies would be conducted "with inclusiveness, equality and free exchange of views in order to address the interests of all participating States and to identify areas for co-operation and compromise".⁸ In particular, it mandated the Permanent Council to "make use" (but not "full use" or "a maximum use" as expected by Moscow) of the Preparatory Committee in its decision-making procedure.⁹

Fourth, on the substantive issue of a *rebalancing the three dimensions* in favour of the politico-military and economic-environmental dimensions, the Bucharest Ministerial Council took certain preliminary initiatives. It clarified the Forum for Security Co-operation's relationships with the Permanent Council and recommended that the Forum refocus its agenda in order to address the politico-military aspects of new security challenges.¹⁰ More significantly, it requested that the Forum contribute, within its own competencies, to an OSCE strategy countering threats to security and stability in the 21st century, to be developed under the auspices of the Permanent Council.¹¹ Furthermore, the Ministerial Council decided to reshuffle the economic-environmental dimension through the establishment, within the framework of the Permanent Council, of a specialized informal Economic and Environmental Sub-Committee.¹²

No consensus could be achieved on several topics such as staff and budgetary matters, interaction between Secretariat and the Chairman-in-Office, the external representation of the OSCE, the issuance of public statements on behalf of the Organization and, most regrettably, the legal capacity of the OSCE. On that particular point, the opposition of a single delegation (that of the United States) precluded any agreement beyond a simple directive that the existing informal working group on the legal capacity of the OSCE "continue its work and seek to solve this issue".¹³

However, in the general area of reform, two decisions of a more substantive character were reached. The first was related to *terrorism*, a topic particularly dear to Moscow. The Council approved a detailed "Plan of Action for Combating Terrorism" setting up a framework for comprehensive action to be taken by participating States and the OSCE as a whole - both through its own

7 Cf. Decision No. 3, cited above (Note 4), para. 1.

8 *Ibid.*, para. 7.

9 Cf. *ibid.*, para. 1.

10 Cf. *ibid.*, paras. 8 and 9.

11 This particular provision was not included in the Decision on reform but can be found in para. 8 of the Bucharest Ministerial Declaration, reprinted in this volume, Ninth Meeting of the Ministerial Council, cited above (Note 4), p. 393.

12 Cf. Decision No. 3, cited above (Note 4), paras. 11 to 13.

13 *Ibid.*, para. 2.

activities and in co-operation with other fora.¹⁴ Although questionable from an added-value viewpoint, the Plan of Action was not insignificant: It represented an act of solidarity from the community of the OSCE States with the worldwide fight against terrorism and, at the same time, demonstrated the OSCE's potential to make simultaneous use of the resources of all its three dimensions. The second decision dealt with *police-related activities*. It aimed to help governments to counter a range of "new security challenges" including terrorism and, at the same time, enhance the capacities of the OSCE in civilian police-related activities as part of its global conflict management role.¹⁵

Although they do contain some of the desired elements, the Bucharest Decisions fell largely short of the most basic Russian expectations.¹⁶ Nevertheless, Moscow chose to regard them as a first positive step and demanded the continuation and further development of the reform process. Accordingly, the Ministers tasked the Permanent Council, through a special working group, "to continue consideration of issues related to OSCE reform and report to the next meeting of the Ministerial Council".¹⁷

Follow-up to Bucharest: The Working Group on OSCE Reform

On 26 April 2002, the Portuguese Chairmanship set up an open-ended working group to bring forward the work started in the previous year on OSCE reform. This working group took a slightly revised version (prepared by the Chairman-in-Office) of the draft text on "Management" as a basis for its discussions, which the Ministers failed to adopt in Bucharest and which included seven specific topics: reporting by OSCE institutions and field operations; Secretariat assistance to the Chairman-in-Office as well as to participating States, institutions and field operations; responsibility of the Chair-

14 Decision No. 1, Combating Terrorism (and Annex: The Bucharest Plan of Action for Combating Terrorism), reprinted in this volume, Ninth Meeting of the Ministerial Council, cited above (Note 4), pp. 393-402.

15 Decision No. 9, Police-Related Activities, *ibid.*, pp. 413-416. Cf. also OSCE, Permanent Council, Decision No. 448, PC.DEC/448 of 4 December 2001. Alongside terrorism, the other security challenges identified were: violent extremism, organized crime, drug trafficking and trafficking in human beings as well as the destabilizing accumulation and uncontrolled spread of small arms and light weapons.

16 In addition, only a few days after the Ministerial Council Meeting, Russia's relative satisfaction with the Bucharest Decisions was offset by the closure of the OSCE Missions operating in Estonia and Latvia. While Moscow vehemently advocated the maintenance of an OSCE presence in both countries, the large majority of the participating States were of the opinion, on the basis of "Guidelines" the Austrian Chairmanship had issued in the previous year, that the mandates of the Missions had been successfully fulfilled. In the absence of a consensus for renewal, they considered the mandates as terminated. Not without reason, Russia denounced this implicit decision as a political mistake which, in addition, was of dubious legal validity. On Russia's reaction see OSCE, Permanent Council, PC.JOUR/373 of 13 December 2001 (Annex) as well as PC.JOUR/374 of 18 December 2001 (Annex).

17 Bucharest Ministerial Council Declaration, cited above (Note 11), para. 5, p. 392.

man-in-Office; strengthening co-operation with other international organizations on the basis of the Platform for Co-operative Security by opening a Secretariat Liaison Office in Brussels; public information; staffing; and, finally, budgeting.¹⁸ The scope of this agenda was extended even further by the Secretary General who requested that his two regular annual reports (on “OSCE Activities” and on “Interaction between Organizations and Institutions in the OSCE Area”) be merged into a single annual document covering a whole calendar year coinciding with the period of the Chairmanship.¹⁹ During the four sessions held in the first half of 2002 (17 May as well as 7, 14 and 21 June 2002), the Working Group concentrated its work on the functioning of the field missions (including interaction between the decision-making and implementing bodies of the OSCE) and public information.²⁰ Parallel to this, the Informal Financial Committee also formed sub-groups to hammer out new staff and financial regulations.

On the basis of the deliberations of the Working Group and the Informal Financial Committee, the Permanent Council, on 28 June 2002, adopted two specific decisions: the Decision on “Improving the Budgetary Management of the Organization”²¹ and the Decision on “OSCE Statements and Public Information”.²² Given its particularly technical nature, the former will not be commented upon here. As to the second, its political relevance (from a general perspective as well as from Moscow’s point of view) is more evident. That Decision established a basic distinction between “formal OSCE positions” - as expressed in “decisions, statements and documents adopted by the decision-making bodies on the basis of consensus” (an unproblematic category) - and “public statements on behalf of the OSCE as a whole”, emanating from the Chairman-in-Office and the Secretary General as well as their authorized official representatives. Statements made by the Chairman-in-Office or any other OSCE official in a personal capacity or from a national point of view will now have to be “clearly identified as such” in order to avoid any possible confusion. In summarizing the results of discussions at the Permanent Council or the Ministerial Council, the Chairman-in-Office is expected “to take into account the entire spectrum of expressed opinions, if necessary, following consultations with the participating States”. As to the Heads of the field operations and institutions, their statements and public outreach activi-

18 Cf. CIO.GAL/31/02 of 15 May 2002 and Add.1 of 3 June 2002. On the Bucharest version, cf. CIO.GAL/63/01 of 28 November 2001. Other topics initially suggested by the Chairman-in-Office included: the balance between the three dimensions and the legal capacity of the OSCE. Cf. CIO.GA/24/02 and CIO.GAL/25/02 of 24 April 2002.

19 Cf. SEC.GAL/88/02 of 31 May 2002, SEC.GAL/92/02 of 4 June 2002, SEC.GAL/96/02 of 6 June 2002 and SEC.GAL/109/02 of 21 June 2002.

20 On the conclusions of the Chair drawn after each session: CIO.GAL/34/02 of 22 May 2002, CIO.GAL/43/02 of 11 June 2002, CIO.GAL/46/02 of 18 June 2002 and CIO.GAL/47/02 of 24 June 2002.

21 OSCE, Permanent Council, Decision No. 486, Improving the Budgetary Management of the Organization, PC.DEC/486 of 28 June 2002.

22 OSCE, Permanent Council, Decision No. 485, OSCE Statements and Public Information, PC.DEC/485 of 28 June 2002.

ties should not be inconsistent with OSCE consensus positions and, in any case, should immediately be transmitted to national delegations in Vienna. The Decision also instructs the Press and Public Information Section to act as a focal point for all OSCE public statements in order to promote consistency with OSCE consensus positions, while avoiding that the Section itself issues publications and press releases that are inconsistent with consensus decisions and documents. Finally, it mandates the Secretary General to submit periodic implementation reports in this field. That Decision, whose leitmotiv is "strict consistence with consensus", certainly accommodates Moscow greatly. The trouble is that it might lead to a significant reduction of the leeway the Chairman-in-Office, the Heads of field missions and the Heads of OSCE institutions have enjoyed up to now. The fact that the United States co-sponsored the draft proposal on the basis of which the Decision was ultimately made is, however, somewhat puzzling.²³

As it could be expected, there has been no progress made on the issue of legal capacity: The American delegation has clearly stated that since "the issue is under review in Washington" it could not "lay out any position that is at variance with those previously presented".²⁴ In addition, the debate on field activities is at standstill. Furthermore, there is no consensus on the idea of harmonization rules for reporting regarding rigid time intervals and specific contents (for example information on internal staff and financial matters) - out of principle, and to avoid imposing too heavy obligations on small-scale missions. However, the heart of the issue revolves around the respective roles the Chairman-in-Office and the Secretariat play in the management of the field missions, the OSCE's external representation and relations with other international organizations. In this connection, the European Union has been considering that the Vienna Secretariat should be formally authorized to develop political analytical skills, and to establish a small unit whose members the Secretary General could assign to each successive Chairman-in-Office as members of his "Cabinet".²⁵

Review Process versus Reform Process

In international organizations, the issue of reform is normally raised when they are in crisis, that is to say when member states (or just one or more major powers) express complaints about the administrative and/or political performance of the institution or consider their participation as politically unre-

23 Cf. PC.DEL/436/02 of 17 June 2002 and Rev.1 of 24 June 2002. Cf. also amendment proposals tabled by Turkey (PC.DEL/445/02/Rev.1 of 20 June 2002) and Azerbaijan (PC.DEL/453/02 of 21 June 2002).

24 PC.DEL/306/02 of 30 April 2002.

25 Cf. PC.DEL/414/02/Rev.1 of 21 June 2002. On the European Union's formal position see also PC.DEL/297/02 of 26 April 2002, PC.DEL/353/02 of 17 May 2002, PC.DEL/413/02 of 7 June 2002.

warding. Within the OSCE, several forms of dissatisfaction of varying intensity are discernable.

Some participating States (namely Azerbaijan, Georgia and Moldova) are extremely unhappy with the OSCE's inability to effectively manage the "frozen conflicts" in which they are directly involved as conflict parties. Another group of countries is discontented because their poor individual record in the field of the human dimension is regularly subject to public criticism: the Central Asian states, Belarus and more generally most of those countries who have been targeted by the Representative on Freedom of the Media belong to that category. Although far from being truly "dissatisfied" with the OSCE, a large number of participating States, (including the EU member countries and the United States) do recognize - as no international organization can claim perfection - that corrective measures are needed in view of a more in-depth political dialogue, a more transparent and participatory decision-making process, a more satisfactory balance among the three dimensions, a more effective and transparent management and it is also clear to them (with the exception of the US) that the OSCE must urgently be granted international legal capacity as well as corresponding diplomatic privileges and immunities. Finally, there is Russia, who because of its radical argument that the OSCE is in a deep "*crisis*", represents a unique case.

The Russian Federation is demanding a complete institutional overhaul aimed at "restoring" the control of the decision-making bodies over OSCE activities as well as on administrative and budgetary management. It calls for a substantially revised agenda allowing the OSCE to address the "real" threats and challenges of the present time (such as terrorism) and not just those of a "peripheral" character. It is also insisting on a balanced development of all three dimensions of comprehensive security in order to stop the alleged hegemony of the human dimension and to upgrade politico-military affairs (through the topic of pan-European peacekeeping operations) as well as economic-environmental affairs. Last, but not least, Moscow demands the end of the "double standard policy" which leads the OSCE to limit its criticism and reserve its patronizing assistance only to those participating States located "East of Vienna".

At present, Moscow views the reform of the OSCE as a long-term process which, as such, must remain a priority. Russia has made clear that its attitude towards the OSCE will depend on the outcome of this reform process. In this connection, it expects that the next Ministerial Council will confirm the political relevance of the OSCE by adopting "a set of decisions on reforming the OSCE, with a more precise definition of the tasks for 2003", an OSCE Charter on Combating Terrorism and a conceptual framework for OSCE peacekeeping activities.²⁶ However, the overwhelming majority of participating States do not consider that the OSCE is going through a "crisis". They rule out the idea of subjecting the Organization to stringent regulations which

26 Cf. PC.DEL/480/02 of 28 June 2002.

could jeopardize its traditional flexibility and, hence, the capacity of rapid reaction that has become its trademark. As the European Union expressed it, the OSCE requires only a few practical improvements and, as a consequence, reform cannot be a permanent process. It remains to be seen if one can satisfy Russia at the Tenth Ministerial Council (on 6 and 7 December 2002 in Porto), with short-term “deliverables”.