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The Importance of the OSCE Permanent Council

The Establishment of the Permanent Council

The OSCE Permanent Council, at that time called the “CSCE Permanent Committee”, was established through a decision of the Rome Meeting of the CSCE Council in 1993 and emerged from the need to strengthen the OSCE (then still the CSCE) through a permanent body situated in one place (Vienna). The participating States are represented in the Permanent Council through the heads of the OSCE delegations and/or representations in Vienna. The renaming of this body to “Permanent Council” at the Budapest Summit Meeting (December 1994) was designed to consolidate its central role. According to the corresponding decision, the Permanent Council is the “regular body for political consultation and decision-making”.¹ The Charter for European Security defines the role of the Permanent Council more precisely: “The Permanent Council, being the regular body for political consultations and decision-making, will address the full range of conceptual issues as well as the day-to-day operational work of the Organization.”²

The Central Importance of the Permanent Council

The Permanent Council, which meets at least once a week, has become the hub of the OSCE. It is the core of the consensus principle, put into practice, and the nucleus of the co-operative character of this Organization of 55 equal participating States. The Permanent Council is supported by a series of informal sub-organs (for example, the Preparatory Committee, the Informal Financial Committee, informal working groups, the Economic and Environmental Sub-Committee etc.). Through this multitude of consultation mechanisms, a culture of permanent and equal consultation has developed within the OSCE, which is definitely unique among international and regional security-policy organizations.

1 Cf. Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague/London/Boston 1997, pp. 145-189, here: p. 154.

2 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. 435.

Confidentiality of the Permanent Council Meetings

Permanent Council meetings are not open to the public; documents of the Permanent Council are only circulated among the delegations. However, the practice has emerged that representatives of the media are allowed to attend presentations by political actors, however, the debates following these are again confidential. Some delegations publish statements regularly on their internet pages.

For some time now, the delegations have been dealing with the question of the OSCE's media impact generally and with that of the Permanent Council's specifically. Proposals by some delegations directed towards more media presence at the meetings or at least the regular dissemination of information on the activity of the Permanent Council afterwards have not come to fruition up to now because of the irreconcilability of the desire to offer the public interesting news and the need to keep certain topics confidential.

Permanent Council Procedures - The Consultation Function

The agenda of the Permanent Council, which is prepared by the country who holds the OSCE Chair, has not changed fundamentally in the eight years of the Council's existence.³ It contains general agenda items recurring weekly that are an inherent part of (almost) every meeting:

- *Reports of the Heads of OSCE Missions:* These reports, in which the Head of a Mission presents the activities of the Mission as well as the general political environment in which it works, serve as a basis for an information exchange on the current situation in a particular participating State and offer the delegations the opportunity to state their official position on this. The total of all statements provide the Chair as well as the participating State involved and all the other participating States with an idea of the international assessment of the particular situation. Through this opinion exchange and the corresponding statements by the Chair, the Head of the Mission in question receives guidelines for his/her future actions.
- *Reports on the Activities of the Chairperson-in-Office:* The Chairperson-in-Office performs a co-ordination and communication role, which allows him/her to act as the face and the voice of the OSCE for the outside world.⁴ The weekly reports give information on implemented as

3 Cf. Márton Krasznai, Consultation and Political Dialogue in the Permanent Council, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 345-353.

4 Cf. CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Arie Bloed (Ed.), The Conference on Security and Co-operation in Europe. Analysis

well as planned activities and give the participating States the opportunity to react to these.

- *Reports of the OSCE Secretary General:* The OSCE Secretary General, who is primarily responsible for administrative tasks and supporting the Chairperson-in-Office, is - through the increasing number of Secretariat personnel and the continuity of this office (a five-year period⁵) - being growingly perceived as an important representative of the Organization. He fulfils his mandate further by supporting the Chairperson-in-Office through his contacts to international organizations; his reports also serve to provide information for the participating States as well as assisting in the dialogue with them.
- *Reports of the Heads of OSCE Institutions:* The High Commissioner on National Minorities, the Director of the Office for Democratic Institutions and Human Rights and the Representative on Freedom of the Media report to the Permanent Council at regular intervals; what was mentioned above is also valid for these important mechanisms of conflict prevention.

By providing all this information, these reports and statements, the Permanent Council exercises a *steering function* with respect to on-going OSCE operations in the areas of conflict prevention, crisis management and post-conflict rehabilitation.

Alongside these fixed agenda items, the Permanent Council is being increasingly used by high-ranking personalities as a *political platform*. The high point of this up to now has doubtless been the appearance there of UN Secretary-General Kofi Annan in July 1999. This was followed by presentations by NATO Secretary General Lord Robertson in October 2000, the EU External Relations Commissioner Chris Patten in November 2000 and the High Representative of the European Union Javier Solana in January 2001. In addition, high-ranking political representatives of the participating States have repeatedly taken the opportunity to express their positions on security-policy issues to this body of 55 participating States, as was done, for example, in February 2000 by the President of Kazakhstan, Nursultan Nazarbaev, and in September 2001 by the President of Kyrgyzstan, Askar Akaev. This develop-

and Basic Documents, 1972-1993, Dordrecht/Boston/London 1993, pp. 701-777, here: p. 712.

5 According to the Decision of the Stockholm Ministerial Council in 1992, the Secretary General is appointed for a period of three years. This period can be extended for another two years. Cf. Stockholm Meeting of the CSCE Council, Stockholm, 15 December 1992, in: Bloed (Ed.), cited above (Note 4), pp. 845-899, here: Annex 1, the Secretary General of the CSCE, pp. 863-864. At the Bucharest Ministerial Council Meeting in December 2001, the period in office of Secretary General Ján Kubiš, who had been in office since 1999, was, by way of exception, extended for another three years effective on 15 June 2002. Cf. Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, reprinted in this volume, pp. 391-417, here: p. 417.

ment shows the mounting relevance of the OSCE in the European security-policy architecture and that of adjacent regions.

The opinion exchange with high-ranking representatives of other international organizations serves to support the increasing necessity to create a network of European security organizations, to co-ordinate these, and yes - in stages - to divide the labour between them as this was expressed in the Platform for Co-operative Security adopted in 1999.⁶

The most essential item on the agenda, however, is devoted to *current issues*. This item offers the opportunity to voice the most current developments in all three OSCE dimensions, whether this is to report to other participating States on the situation in one's own country or to receive information on the developments in other participating States. To enable dialogue on current issues, it is as a rule advisable to bring the matter for discussion, in advance, to the attention of the participating State(s) concerned, the Chairperson of the Permanent Council, and if need be to other participating States who could offer support. These are often issues in the human dimension, such as detention, death sentences and media questions, whose solution is urgently required. Another series of topics includes reactions to election results and/or reports by the Office for Democratic Institutions and Human Rights on election monitoring. In addition, one has also broached politico-military subjects like the developments in the Caucasus, in Northern Ireland or the border triangle of Uzbekistan/Kyrgyzstan/Tajikistan.

Above all, by addressing current and urgent problems, the Permanent Council performs its role in the area of conflict prevention.

The Permanent Council's Decision-Making Function

The Permanent Council works on the basis of the consensus principle. Occasional attempts at relativizing the consensus principle, or even trying to find loopholes in it, have failed regularly in the recent past. In the Charter for European Security (Istanbul 1999), in which the most current status of OSCE structures and mechanisms given the blessing of Heads of State or Government has been reflected, quite a number of participating States with the Russian Federation in the lead made it their concern to reaffirm this principle in all clarity.⁷ The directive, also laid down there, to respond flexibly to political situations, is, on the other hand, to guarantee that rapid reactions are not impeded or prevented by the requirement of unanimous decisions. The Chairperson of the Permanent Council moves in this field of high tension almost daily.

6 Cf. Charter for European Security, cited above (Note 2), Operational Document - the Platform for Co-operative Security, pp. 441-443.

7 Cf. Charter for European Security, cited above (Note 2), p. 428.

In practice, there are consensus decisions on budgetary measures (annual budgets, supplementary budgets, scale of distribution etc.) and organizational and/or institutional questions, on the admission of new participating States and/or establishing relations with new partner states, on the mandates and duration of missions which are to be established as well as those in existence, on proposals for appointments by the Chairperson-in-Office to the posts of the Secretary General and heads of institutions, on reports, declarations, decisions etc. to be presented to the Ministerial Council or meetings of the Heads of State or Government, on the time, place, agenda and modalities of Ministerial Councils and meetings of the Heads of State or Government, conferences and seminars, on plans of action, strategies and similarly comprehensive activity areas.

Other Forms of Expressing Consensus

Apart from formal Decisions, there are also other forms in which prevailing opinion can be expressed in the Permanent Council. It is the primary responsibility of the head of the permanent representation of the chairing country, who holds the office of Chairperson of the Permanent Council, to bundle and articulate the variety of opinion expressed in the Council. He/she has various mechanisms, built up by convention, at his/her disposal, such as declarations, summaries, and perceptions. As Chairperson, one would use a declaration to give emphasis and importance to the stance of the participating States via the authority of the Chair. A summary offers the opportunity to present contradictory opinions and finally to point out a path leading to the absence of contradiction. The most delicate instrument is the "Chairperson's perception", which inherently already conveys the thought that the envisioned summary does not have the total agreement of all delegations, but that the Chair would nevertheless like to make a recommendation on how to proceed further on the issue. The technique behind using all these statements is to conduct consultation that is as sound as possible beforehand as well as having sure instincts on the spur of the moment.

Consultation Mechanisms

The requirement of a formal or also informal consensus means that one of the most important tasks of the Chairperson of the Permanent Council is clarifying all intentions through consultation. In this connection, there is a whole series of consultation processes in various formats that have proven their worth, which each Chair can shape according to his own priorities. The weekly meetings of the Chairperson of the Permanent Council with the Representatives of the other two Troika States (the previous and succeeding

Chairs) as well as the OSCE Secretary General have been quasi-institutionalized.

In the consultations with the delegations of the participating States, one must of course be especially considerate of all participating States that are directly affected by a specific plan and/or those that show a special interest in the developments. This circle changes depending on the topic. However, there is a group of participating States that comment on every topic and who, because of the staff at their disposal, are also in a position to do this. In practice, these participating States together with the OSCE Troika form a kind of informal steering group, an instrument without which the Chairperson-in-Office could hardly fulfil his/her multi-faceted tasks and his/her responsibility for running the Organization.

The Common Foreign and Security Policy of the EU is reflected in a very strong coherence within the European Union on OSCE issues. The regular meetings with the participating State that holds the EU Presidency have the advantage that this information is conveyed to the 14 other EU member states and that common positions are then developed with them. Moreover, countries that are candidates for accession generally subscribe to these EU positions so that the Chairperson, through consultations with the delegation of the participating State who holds the EU Presidency, can reach a group of up to 28 countries. Another group whose members most often have common positions are the GUUAM states (Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova) as does the group of the Visegrád states (Hungary, Poland, the Slovak Republic, the Czech Republic), although only case by case. Alongside these, there are other groupings and informal formations which all help in the process of reaching agreement.

Despite this endless sequence of meetings of larger and smaller groups, there are a number of delegations that have repeatedly expressed criticism on the *issue of the insufficient transparency* of the decision-making process, as they do not feel they are being adequately informed. This has posed an almost insoluble task for the Chairperson. On the one hand, he/she must have the most important actors on board, but at the same time must not give other interested participating States the feeling that their interests are not being given adequate attention. This is a task which requires a huge amount of time, patience and diplomatic expertise.

Sub-Bodies of the Permanent Council

Preparatory Committee

In November 1999, a Preparatory Committee was established to “assist in its (the Permanent Council’s) deliberations and decision-making and to strengthen the process of political consultations and transparency within the Organi-

zation".⁸ The Austrian Chair, who for the first time had the task of bringing life to this body, used the Committee to debate and clarify the willingness for consensus on impending decisions as well as to provide information on and discuss current developments and the Chair's intentions. The informal atmosphere of this Committee was meant to allow for open discussion and had immense value for the Chairperson as consultations could be extended to all interested participating States. In addition to the process of finding a consensus, the Committee thus served to provide the transparency being rightly called for. Succeeding Chairs have not only not developed and improved the potential of this organ further, but have let it waste away; in fact, the Preparatory Committee is now leading a shadowy existence and is used merely (and not always even this) to determine whether there is willingness for a consensus with respect to decisions to be put before the Permanent Council.

Informal Open-Ended Working Groups

The Chair can, of his own accord or upon the application of participating States, establish informal working groups on regional issues as well as factual topics. It has become common practice that informal groups meet in which members have the opportunity to discuss the reports from Heads of OSCE Missions, namely before their appearance at the Permanent Council. There are topic-oriented working groups or they are being planned on gender issues and trafficking in human beings, in particular trafficking in women, on tolerance issues (i.e. in the area of racism and xenophobia) as well as on issues in which the Bucharest Ministerial Council tasked the OSCE with developing follow-up measures (terrorism, OSCE reform). The chairmanship of these topic-oriented working groups has to an increasing extent been transferred from the Chairperson-in-Office to the delegations of other participating States. This reasonable development allows for broader integration and support of interested and engaged personalities. The responsibility for building a consensus on the texts developed in these working groups, however, ultimately remains in the hands of the Chairperson-in-Office.

The Informal Financial Committee

The Informal Financial Committee (IFC) prepares Permanent Council Decisions on budgetary and organizational issues. Moreover, it provides the participating States with information from the Chair and the Secretariat. Already the fact that the OSCE budget is continually growing has led the IFC to develop into an important steering body in which not only the Secretariat and institution budgets, but also the individual field mission budgets are critically examined and analysed.⁹ In the past, the required funding for political ac-

8 Ibid., p. 435.

9 The regular OSCE annual budget for 2002 totalled 172 million euro.

tions, which due to critical developments had to be implemented rapidly, was sometimes only allocated after the fact. This practice no longer seems feasible. The process of forming opinions in the IFC has become increasingly difficult. For example, the total annual budget for the year 2002 was only accepted in April of the current budget year. There is a dangerous tendency by those who refuse to agree to a budget for projects they do not support to say these could be financed through voluntary payments. In addition to the necessary budgetary discipline, austerity and control, a certain amount of solidarity in funding operations that are not directly in one's own interest is also essential for a co-operative security organization. This is the Achilles' heel of the celebrated flexibility of the Organization.

The Economic and Environmental Sub-Committee

The establishment of this Sub-Committee, which was decided upon at the Bucharest Ministerial Meeting in December 2001, is to be seen in the context of strengthening the economic dimension of the OSCE. This Committee, with the involvement of the Co-ordinator of OSCE Economic and Environmental Activities, is to offer the participating States the opportunity for a permanent dialogue on economic and environmental issues, in particular from the point of view of security policy. In addition, it is to prepare the Economic Forum as well as implementing its follow-up measures. After only one meeting, an assessment of the work of this new body would be premature.

Reinforced Formations of the Permanent Council

The establishment of the Permanent Council in Vienna made the Senior Council, which is still in existence, *de facto* superfluous (up to now, the last Senior Council met at the Political Directors level in Prague in 1996). Instead of the Senior Council, the so-called *Reinforced Permanent Council* has been created, which allows calling in experts from state capitals on important regional as well as thematic issues.¹⁰ Reinforced sessions took place in July 2000 on the situation in Moldova and Georgia, in the year 2001 on the topic of OSCE reform as well as in 2002 on issues related to combating terrorism. However, the Senior Council does still meet annually in Prague as the *Economic Forum* and not least should be revitalized by the decision passed in Bucharest to strengthen the OSCE economic and environmental dimension as well as by the creation of the above-mentioned sub-committee of the Permanent Council.

The *Supplementary Human Dimension Meetings*, to be held three times a year, are also a new institution assigned to the Permanent Council. The Chair

10 The set phrase "meetings of the Permanent Council in a special or reinforced format" found its way into the Charter for European Security; the Senior Council was no longer mentioned.

selects the issues to be dealt with and although prior consultations are required on this, a consensus need not be reached. The decision to hold these meetings in Vienna emerged from the need to support the human dimension not exclusively at the annual Human Dimension Implementation Meeting in Warsaw, but to discuss topical issues with experts from other international organizations and the non-governmental area concentrated in one day and to draw conclusions from this. A follow-up by the Permanent Council is envisaged. The next logical step, namely the establishment of a sub-committee on the human dimension (similar to the Economic and Environmental Sub-Committee), which would meet on a case-by-case basis, did not find a consensus in Bucharest in 2001. The main argument against this was that the OSCE had already overly emphasized the human dimension and it should not be given even more focus.

A project that was also taken up again in the reform discussion last year, but not met with approval either, was the transformation of the autonomous Forum for Security Co-operation (FSC), the central body of the politico-military dimension of the OSCE, into a sub-committee of the Permanent Council. The FSC is now to become more closely linked to the Permanent Council primarily by having the Chair of the FSC represented in the Permanent Council Troika and vice versa.¹¹ As is so often the case, one has been unable within the OSCE to find a consensus for a solution which seems logical to outsiders - namely a Permanent Council with three sub-committees for the three OSCE dimensions. Thus it remains difficult for outsiders to see through the inter-governmental structure of the Organization.

Evaluation

The Permanent Council has continually performed the central consultation and steering role assigned to it by the Heads of State or Government of the OSCE participating States in Budapest (1994) and Istanbul (1999) and has proved its worth in this role.

Nevertheless, there have been criticisms as well as reform approaches. The cornerstones of possible reform could be, on the one hand, to further strengthen the Permanent Council at the cost of the Chairperson-in-Office. In detail, this would imply that as many decisions as possible - also those of a procedural and technical nature - be reserved for consensus-based decision-making by the Permanent Council. On the other hand, the necessary flexibility of the leading OSCE functionaries is also being emphasized, as otherwise the ability to react rapidly to emerging crises would no longer be assured.

11 The two Troika formations mentioned here are not identical: The FSC Troika rotates every three months according to the alphabet, the OSCE Troika is made up of the participating State which holds the Chair, the participating State that held the Chair in the preceding year and the participating State to hold the Chair in the succeeding year, which rotate annually.

Another criticism is directed at the substance of the activities of the Permanent Council. The development of the OSCE towards concrete operations starting with the first Missions of Long Duration in Kosovo, Sandjak and Vojvodina in 1992 and strengthened by the establishment of the first large OSCE Mission to Bosnia and Herzegovina, has led to a fact that not all participating States find desirable, i.e. that the Permanent Council has concentrated on events in participating States, which - in the words of the Russian delegation - are all "East of Vienna". To correct this "imbalance", the Permanent Council has also been dealing increasingly with topics that affect all participating States equally (e.g. terrorism, trafficking in human beings; issues in the area of racism and xenophobia are being considered for the future). Moreover, proposals to deploy "roving missions" - which, in addition to or instead of the quasi-permanent missions, are to take action on the demands of the host state(s) and in close co-operation with it (them) - point in this direction. Naturally, the weight that the Permanent Council carries is closely related to that of the entire Organization. Both developments in other European security organizations as well as the commitment of the individual participating States have their effect on the Organization.

Up to now, the OSCE has consistently adapted to the changing needs of the community of states in a flexible manner and provided proof of its merit in certain sectors. It is the author's personal hope that this unique security organization - which is comprehensively extensive, both spatially as well as thematically, which as a priority uses civilian, non-military instruments and whose participating States, equally and to a certain extent in a democratic dialogue, take action on measures directed at more stability and human dignity even though this is on the basis of unanimity - will, also in future, be able to prove its *raison d'être*.