

Graeme P. Herd/Pál Dunay

## The European Security Treaty (EST): Collective Security or Collective Inaction?

*Introduction: The EST – an Attempt at Collective Security*

The Russian idea of a European Security Treaty is an explicit attempt to establish a new collective security regime. Collective self-regulation occurs when “a group of states attempts to reduce security threats by agreeing to collectively punish any member state that violates the system’s norms”.<sup>1</sup> Historical experience – as exemplified by the Concert of Europe between the Vienna Congress and the Crimean War, the inter-war Covenant of the League of Nations, and then the post-World War II UN Charter – and current practice suggest that for collective security systems to function effectively, the following three conditions must be met:

1. All states, especially the most powerful, must sign a legally binding arrangement – there must be universality of membership.
2. All states must agree which state is the aggressor in any given conflict.
3. All states must be able and willing to actively oppose the aggression and the aggressor, resorting to the threat of collective action against an aggressor as the last resort. There must be a high degree of commitment and automaticity within the system if there is to be a reliable promise of redress to potential victims of aggression.

There must be universality of membership, and, just as important, universality of commitment to upholding the principle of collective security. If the assumption of solidarity and shared responsibility underpinning a collective security system is questioned, states might rather act according to their own immediate interests and priorities, privileging this above the longer term interests of the preservation of peace in the system. If a collective security system is not universal, the states that form it always have to take into account the interests and challenges they potentially face from states outside the system. This may be particularly relevant for a regional collective security system in Europe, as intra-European inter-state security concerns have certainly declined significantly since the end of the Cold War. Thus, an imbalance could emerge between extra- and intra-European threats. Furthermore, for the last 65 years, the existence of nuclear weapons has modified the pic-

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1 George W. Downs/Keisuke Iida, Assessing the Theoretical Case against Collective Security, in: George W. Downs (ed.), *Collective Security beyond the Cold War*, Ann Arbor, Michigan, 1994, pp. 17-39, here: p. 18.

ture, as there are severe doubts concerning enforcement against nuclear weapons states. This is certainly a factor behind the remark made by Adam Roberts, according to whom collective action is most likely against “especially glaring aggressive actions by military powers of the second rank”.<sup>2</sup>

For a collective security regime to be applied, it requires definitional clarity. The meaning of “preparation for an armed attack” is contested; it is a matter of opinion, and hence subjective and context-specific in most cases. Moreover, the state preparing for such an attack will itself contest the impression, if not outright conviction, of other actors that it has prepared for an attack, and thus the universal system will not work. Although the UN General Assembly passed a resolution in 1974 on the definition of aggression, and as of 2017 there will be a legally binding document in force to the same effect, subsequent experience demonstrates that there is no more clarity regarding the application of the definition of an armed attack in practice than before. Open questions abound: 1. Can a state claim to mobilize for self-defence when in fact it is preparing for an armed attack? 2. Can a cyber-attack be counted as an armed attack? Or does it depend on the object of the attack? Should we conclude that a cyber-attack on another country’s critical infrastructure or air defence systems qualifies as an armed attack, and that attacks that stop short of this do not? 3. Does the prohibition on preparing for an armed attack invalidate the possession of an offensive capability?

It is difficult to imagine a system that is sufficiently effective and has enough “teeth” to enforce peace. It would require a serious disincentive to deter and eventually punish transgressors. If a collective security system is based on consensus, and hence gives de facto veto rights to every participating state, it is difficult to imagine such a sanction system working. Conversely, in the case of a system based on the privileged position of some participants, similar to the UN Security Council, one could easily imagine those members abusing their privileged position. In either case, the absence of consensus could paralyse the system. Legally binding regimes, whether universal as in the case of the UN or regional like the Council of Europe and the CFE Treaty, have not demonstrated their superiority to politically negotiated trade-offs. A fundamental problem can thus be highlighted: “The theory of Collective Security proposes a legal response to issues that remain fundamentally political.”<sup>3</sup>

Moreover, under current conditions, particularly in the Euro-Atlantic area, the primary threat is not inter-state aggression – an armed attack by one party to the treaty on another. A more urgent threat is posed by the dangers of state fragility and security challenges presented by non-state actors. The events in Kyrgyzstan since April 2010 have given a fresh demonstration of

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2 Adam Roberts, The United Nations and International Security, in: *Survival* 2/1993, pp. 3-30, here: p. 24.

3 Lynn H. Miller, The Idea and Reality of Collective Security, in: *Global Governance* 3/1999, pp. 303-332, here: p. 323.

this challenge, while the instability evident in Tajikistan in September 2010 adds further weight to this contention. Proliferation, terrorism, organized crime, cyber-attacks on critical infrastructure, and large-scale illegal migration all suggest that hybrid threats – “intermestic” and transnational – as well as both long-established and recently emerged global structural sources of insecurity are higher on the risk and vulnerability indexes of most European countries than classical interstate aggression. This agenda shapes the perceptions of populations and therefore determines political priorities and contingency planning in democracies.

Collectively, these reservations pose the general question: Is collective security fit for purpose in the 21st century? If not, can it be made so? If not, should we not rather look to reinforce the framework of existing tried-and-tested institutions, structures, and mechanisms, seeking to make them more efficient and effective, and addressing the fundamental problem of implementation, which is a function of political will? In short, an extremely persuasive case must be presented in favour of collective security before those regimes that currently shape the European security system can be revised.

### *The Presentation and Reception of the EST*

Russia’s European Security Treaty (EST) proposal has been described as “Moscow’s first attempt in 20 years to formulate a coherent foreign-policy vision”.<sup>4</sup> It was advanced at the height of an official state narrative that portrayed Russia as a “sovereign democracy”, excluded and marginalized from strategic decision-making. Global affairs were being determined by a US-dominated “unipolar decision-making process”, and a “bloc”, or, more specifically, a “NATO-centric approach” predominated within Europe, creating imbalances and tensions, and has “shown its weakness”.<sup>5</sup> Through 2009 and 2010 Russia’s narrative, as elaborated by a very active foreign minister in Sergei Lavrov, has evolved to focus more on restoration and the necessity of “conservative modernization” and “technological modernization” as means of consolidating Russia’s re-emergence as a centre of global power in a multipolar, polycentric, and therefore stable world order.

In this period, Russia has shepherded its EST proposal through various conferences and meetings. While declaratory rhetoric and aspiration typified the first 18 months of the EST’s roll-out, the barebones concept was given

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4 Fyodor Lukyanov, Rethinking Security in “Greater Europe”: Why Russia Is Seeking a New Architecture, in: *Russia in Global Affairs* 3/2009, pp. 94-102, here: p. 94, at: [http://eng.globalaffairs.ru/number/n\\_13589](http://eng.globalaffairs.ru/number/n_13589).

5 President of Russia Dmitry Medvedev, *Speech at World Policy Conference*, Evian, France, 8 October 2008, at: [http://archive.kremlin.ru/eng/text/speeches/2008/10/08/2159\\_type82912type82914\\_207457.shtml](http://archive.kremlin.ru/eng/text/speeches/2008/10/08/2159_type82912type82914_207457.shtml).

flesh in a draft text elaborated in November 2009.<sup>6</sup> Though this text appeared to be designed to downgrade or replace the Organization for Security and Cooperation in Europe (OSCE), we now face the prospect of the EST being discussed at the OSCE Summit in Astana in December 2010. As Ukrainian President Viktor Yanukovich stated: “We support the Kazakh chairmanship’s idea regarding the convention of an OSCE summit and are prepared to work in line with its agenda. We are willing to take active part in discussing Kazakhstan’s initiative on a new European security treaty and believe that the OSCE is the most convenient forum for such discussions.”<sup>7</sup>

In July 2010, President Medvedev offered an assessment of the EST and its reception and progress: “I am pleased to note that although this initiative received quite a chilly, not to say hostile, response at the outset, it has now become subject of lively discussions, and not only with our traditional partners such as Germany, France and Italy but with the majority of participants of the Euro-Atlantic security system. Therefore, we must take this issue further”.<sup>8</sup> Russian deputy foreign minister Alexander Grushko was even more upbeat in his assessment: “As for the European security treaty, a draft has been sent to all the heads of state of the Euro-Atlantic region. They include not only European states, but also Central Asian countries, the USA and Canada. We continue to receive replies. Approximately 20 countries have replied at the top level, their reaction is unequivocally positive”.<sup>9</sup>

It is understandable that Russian politicians did not present a complex picture of varied opinions. In January 2010, US Secretary of State Hillary Clinton gave the first signal concerning the position of the US following the publication of the draft EST: “The Russian Government under President Medvedev has put forth proposals for new security treaties in Europe. Indivisibility of security is a key feature of those proposals. And that is a goal we share, along with other ideas in the Russian proposals which reaffirm principles of the Helsinki Final Act and the NATO-Russia Founding Act. However, we believe that these common goals are best pursued in the context of existing institutions, such as the OSCE and the NATO-Russia Council, rather than by negotiating new treaties, as Russia has suggested – a very long and cumbersome process.”<sup>10</sup> Since then, countries have either remained silent on the EST, leaving the debates to scholars and analysts, or have taken predict-

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6 Cf. President of Russia, *The draft of the European Security Treaty*, 29 November 2009, at: <http://eng.kremlin.ru/news/275>.

7 Viktor Yanukovich, Ukraine willing to discuss new European security treaty, Kiev, 31 March 2010, *Russia & CIS Military Information Weekly*, 2 April 2010.

8 President of Russia Dmitry Medvedev, *Speech at meeting with Russian ambassadors and permanent representatives in international organizations*, 12 July 2010, at: <http://eng.kremlin.ru/transcripts/610>.

9 Cited in: Interfax news agency, *Russia’s partners agree on need to revamp European security structure*, 28 May 2010 (author’s translation); cf. also RIA Novosti news agency, *Russia sees improved atmosphere in Euro-Atlantic diplomacy*, Moscow, 19 May 2010.

10 Hillary Rodham Clinton, *Remarks on the Future of European Security*, Paris, France, Ecole Militaire, 29 January 2010, at: <http://www.state.gov/secretary/rm/2010/01/136273.htm>.

able positions. For instance, in July 2010, Armenia declared itself supportive of the EST, while Romania opposed it,<sup>11</sup> and this fundamental divergence on the perceived utility of the EST in the Euro-Atlantic space suggests an eventual stalemate in the process of discussing the EST to Russia's declared conclusion.

The German and Russian foreign ministers issued a joint statement that aimed to reinforce the picture of progress: "We intend to build on the European continent a space of stability and security without dividing lines and demarcations. A significant contribution to launching the dialogue on this topic has been made by the Russian initiative for a European Security Treaty. Our common position is that the security of one state cannot be achieved at another's expense. On the contrary, it is determined by the highest possible degree of security for your neighbor. Therefore, we intend to jointly conduct a broad dialogue on European security, to delve deeper into the different points of view on this matter and to overcome contradictions. This is especially true of confidence-building measures, disarmament and arms control initiatives and conflict resolution."<sup>12</sup>

The EST should have been dead on arrival: Its launch in June 2008 was eclipsed by the August conflict between Russia and Georgia. Rather than delegitimizing the treaty proposal, Russia argued that this conflict merely reinforced its central logic and hence its necessity. The fact that the conflict took place, Russia argued, demonstrated that existing institutional structures and mechanisms – all of which had their genesis in the Cold War period – were ill-suited to address the root causes of crisis in the 21st century. During and in the immediate aftermath of the conflict, talk of a "new Cold War" underscored the notion that the Cold War remains unfinished business.<sup>13</sup> NATO's continued geopolitical expansion into the grey zone – the countries

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11 Cf. *Russia's European Security Treaty in harmony with Armenia's security efforts: Secretary of Armenian National Security Council*, ARMinfo independent news agency, 25 June 2010; *Romania rejects Russia's EU security proposal*, Agence France Presse, 2 June 2010.

12 Permanent Mission of the Russian Federation to the European Union, Joint Article "Euro Repair" by Russian Foreign Minister Sergey Lavrov and German Vice Chancellor and Foreign Minister Guido Westerwelle, published in the newspaper *Rossiiskaya Gazeta*, 31 May 2010, at: <http://www.russianmission.eu/en/news/joint-article-euro-repair-russian-foreign-minister-sergey-lavrov-and-german-vice-chancellor-and>.

13 "European security has become wobbly in all its aspects over the previous twenty years. This includes the erosion of the arms control regime, atrophy of the OSCE, emergence of serious conflicts and the danger of their uncontrolled escalation, and the attempts to turn frozen conflicts into active ones. Statements like 'everything is all right, let's do business as usual' fail to convince. In my view, key issues to analyze in the current situation are the theory and practice of the comprehensive approach to security, including the future of the OSCE and an integrated and pragmatic solution in the form of a treaty on European security advocated by Russia." Sergey Lavrov, Euro-Atlantic: Equal Security for All, in: Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, *Article by Russian Foreign Minister Sergey V. Lavrov to be Published in Revue Defense Nationale, May 2010 Issue* (unofficial translation), 24 May 2010, at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcb3/ef1f3c48ad0e5959c325772d0041fa53?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/ef1f3c48ad0e5959c325772d0041fa53?OpenDocument).

in between (Georgia, Ukraine, Moldova, and Belarus) – is cited by Russia as further evidence of this – a view shared by some other Collective Security Treaty Organization (CSTO) members, but this is not the position of the rest of Europe or the US.

The way NATO is perceived within NATO itself is at radical odds with Russia's declared view of the Alliance. NATO's self-perception is increasingly one of weakness. Instead of investing its energies in considering how it might better exercise balance-of-power politics in the Black Sea region or project power through Eurasian space, NATO is absorbed by the debate over how to avoid the very real possibility of strategic withdrawal from Afghanistan appearing to be a strategic failure. NATO also contests the Russian argument that existing institutional structures and mechanisms do not work (as evidenced by the Kosovo conflict of 1999 and the Russian-Georgia conflict of 2008) but would if only there was a legally binding basis to co-operation.

Many EU and NATO states argue that these two conflicts point to the need to make better use of and build on existing tried-and-tested institutions, structures, and mechanisms – including the OSCE, the NATO-Russia Council, and the Euro-Atlantic Partnership Council – by working to modify, reform, and strengthen them, rather than replacing them with an all-encompassing, legally binding treaty. For NATO, the situation presents a dilemma as to whether its co-operation with certain institutions would add to its legitimacy or would actually reduce it. As Robert Blake, US assistant secretary of state for South and Central Asian affairs, noted: “We don't see that there's any need for any kind of new treaties in Europe to augment the existing security architecture. We think that we already have a very good system and very good series of mechanisms in place.”<sup>14</sup>

*The Attribution of Multiple Motives: “Heads I Win; Tails You Lose?”*

The outcome that Russia wishes to see is a legally binding treaty signed by all states. According to one proponent, “the very idea of reviving the inter-governmental dialogue on security in Europe reflects the *legal universalism* of Russian politics that has been characteristic of this country throughout almost all of its history since Peter the Great and that is typical of Medvedev's political style”.<sup>15</sup> A legally binding treaty removes ambiguity, builds trust and confidence, and reduces threat perception and misperception, the argument being that a treaty would make explicit expectations and so increase predictability in international relations. This would allow Russia, Europe, and the

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14 Interview by Assistant Secretary of State for South and Central Asian Affairs Robert O. Blake, Jr., with *Itar-Tass*, Washington, DC, 2 February 2010, available at: <http://kazakhstan.usembassy.gov/st-02-02-10.html>.

15 Boris Mezhyuev, Towards Legal Universalism: The Origins and Development of the Medvedev Initiative, in: *Russia in Global Affairs* 3/2009, pp. 103-109, here: p. 103 (emphasis in original), at: [http://eng.globalaffairs.ru/number/n\\_13590](http://eng.globalaffairs.ru/number/n_13590).

US to finally leave behind Cold War mindsets<sup>16</sup> and collectively address the real and shared threats to global stability. This latter point, the focus of a cooperative US-EU-Russian condominium or triangular relationship as the objective basis for political co-operation in the Euro-Atlantic region, serves a larger purpose: It could, in the words of Sergei Lavrov, “become a major element of the new coordinate system on the world’s geopolitical map and work to strengthen the position of the whole European civilization in an increasingly competitive world”.<sup>17</sup>

However, since 2008, in a period that has been marked by the evolution of narratives on Russia’s role in the world and regime continuity in Russia itself (in the shape of the Medvedev-Putin tandem), virtually all analyses and assessments of the proposed EST have highlighted the issue of hidden agendas and purposes. Theories about undeclared objectives have been raised, if only to be dismissed as a non-issue by some.<sup>18</sup> This contention could mask a number of factors, including: a residual distrust of Russia’s resurgence, on occasion spilling over into outright Russophobia; a predilection for conspiracy theory-based explanations that is an enduring characteristic of the post-Soviet world; a response to the gap between the rhetoric of June 2008 and the reality of August 2008; and an attempt to account for a draft treaty document published in November 2009, which lacks substance, and is vague, inconsistent, and contradictory.<sup>19</sup>

### “Heads I Win”

If the Treaty is signed, so the hidden-agenda argument runs, its legally binding nature will result in a freezing of the status quo – an outcome that is

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16 “Only in this way is it possible to ‘turn over the page’ and finally resolve the question of ‘hard security’, which has been haunting Europe throughout its history.” Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, *Russian Foreign Minister Sergey Lavrov’s Article “One for All”, Itogi Magazine*, 17 May 2010, at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/0776574c05e9cacc32577270023594a?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/0776574c05e9cacc32577270023594a?OpenDocument); see also Sergey Lavrov, *Russian Diplomacy in a Changing World, Federal Year Book*, Moscow, 30 April 2010 at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/4e37152b4a140c1ec325771c004c7dbb](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/4e37152b4a140c1ec325771c004c7dbb); cf. also Dmitry Trenin, *The Kyrgyz Bell*, Carnegie Endowment for International Peace, OpEds/Articles, Moscow, 29 June 2010, at: <http://www.carnegie.ru/publications/?fa=41126>.

17 Lavrov, *One for All*, cited above (Note 16).

18 See Yuri Fedorov, *Medvedev’s Initiative: A Trap for Europe*, Prague, Association for International Affairs, Research Paper 2/2009, at: <http://www.amo.cz/publications/medvedevs-initiative-a-trap-for-europe-.html?lang=en>; Bobo Lo, Medvedev and the new European security architecture, *OpenDemocracy*, 3 August 2009, at: <http://www.opendemocracy.net/article/email/medvedev-and-the-new-european-security-architecture>; Sergey Karaganov, The Magic Numbers of 2009, in: *Russia in Global Affairs 2/2009*, at: <http://eng.globalaffairs.ru/printver/1279.html>; Andrew Monaghan, *Russia’s “Big Idea”: “Helsinki 2” and the reform of Euro-Atlantic Security*, NATO Research Report, NATO Research Division – NATO Defense College, Rome, 3 December 2008, at: <http://www.ndc.nato.int/research/series.php?icode=3>.

19 Cf. Ulrich Kühn, Medvedev’s Proposals for a New European Security Order: A Starting Point or the End of the Story? In: *Connections: The Quarterly Journal* 2/2010, pp. 1-16.

to Russia's advantage given the reality of current power differentials. Article 1 of the draft treaty promotes the principle of "indivisible, equal and undiminished security". To that end, "any security measures taken by a Party to the Treaty individually or together with other Parties, including in the framework of any international organization, military alliance or coalition, shall be implemented with due regard to security interests of all other Parties". The 1975 Helsinki Final Act, the 1990 Charter of Paris for a New Europe, and the 1999 European Security Charter all stipulate that states are free to choose which alliances they join – a stipulation "ominously omitted"<sup>20</sup> in the EST, though in its preamble, it suggests it is "guided by the principles" embodied in those accords. Dmitry Trenin notes that the EST, "if enacted, would de facto abolish other treaties, including the Washington one".<sup>21</sup> Charles Kupchan has suggested that Russia should pursue integration with NATO: "There are, of course, many other options for pursuing a pan-European order, such as fashioning a treaty between NATO and the Russia-led Collective Security Treaty Organization; elevating the authority of the Organization for Security and Co-operation in Europe (OSCE), of which Russia is a member; or picking up on Russia's proposal for a new European security treaty."<sup>22</sup> Rather than such a radical step, which would be extremely difficult to implement for a variety of reasons in the shorter term, the process of discussions, exchanges of views, and consultations engendered by the EST initiative is more likely to help build mutual trust and confidence, as this deficit is the underlying fundamental source of tension between Russia and many other states in the Euro-Atlantic space.

Article 2 stipulates that the use of state territory "with the purpose of preparing or carrying out an armed attack against any other Party or Parties to the Treaty or any other actions affecting significantly security of any other Party or Parties to the Treaty" should not take place. To that end, Article 3 allows any signatory to request of another "information on any significant legislative, administrative or organizational measures taken by that other Party, which, in the opinion of the Requesting Party, might affect its security". What constitutes preparations for an armed attack? Who decides whether a certain activity significantly threatens or affects the security of other parties? The state that plans to carry out the activity or the state that feels threatened? If Ukraine, for example, had refused to renegotiate the status of Russia's Black Sea Fleet, which has enabled it to remain *in situ* after

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20 Janusz Onyszkievicz, Europe should be wary of the Russian bear's embrace, in: *Europe's World*, Summer 2010, at: [http://www.europesworld.org/NewEnglish/Home\\_old/Article/tabid/191/ArticleType/articleview/ArticleID/21668/Default.aspx](http://www.europesworld.org/NewEnglish/Home_old/Article/tabid/191/ArticleType/articleview/ArticleID/21668/Default.aspx).

21 Dmitry Trenin, *From a "Treaty to Replace All Treaties" to Addressing Europe's Core Security Issues*, Carnegie Endowment for International Peace, Web Commentary, 30 November 2009, at: <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=40470>.

22 Charles A. Kupchan, NATO's Final Frontier: Why Russia Should Join the Atlantic Alliance, in: *Foreign Affairs* 3/2010, at: <http://www.foreignaffairs.com/articles/66217/charles-a-kupchan/natos-final-frontier>.

2017, could Russia not have claimed that this would have significantly threatened its security?

Article 4 stipulates that consultations and conferences between the parties can take place “to settle differences or disputes that might arise between the Parties in connection with its interpretation or application” (reiterated in Article 8). Article 5 (para. 3) notes that “any Party not invited to take part in the consultations shall be entitled to participate on its own initiative”. Article 6 (para. 3) stipulates that “the Conference of the Parties shall be effective if it is attended by at least two-thirds of the Parties to the Treaty. Decisions of the Conference shall be taken by consensus and shall be binding.” Thus, on any issue, any single participating state would have a veto right over the decision of all the others.

Article 7 notes that every Party has the right of self-defence under Article 51 of the UN Charter, but what are states, coalitions, or alliances allowed to do if the actors in the “common security space” cannot agree on collective measures?

Article 8 outlines a decision-making mechanism and adjudication procedures for such cases. For a conference to be held, two-thirds of signatories to the Treaty need to be present, four-fifths for an extraordinary conference, where binding decisions are “taken by unanimous vote”. In other words, a single veto determines whether enforcement takes place. The draft does not outline how defectors from the collective security system could be punished. If sanctions are to be enforced, could they be applied without violating the norm of non-intervention in a state’s domestic affairs?

Given these operational ambiguities, how would parties that sign such a treaty avoid collective inactivity? If states are determined to instrumentalize the Treaty, it is not clear how they would be prevented from doing so. Would the outcome not be strategic paralysis in and between Moscow, Brussels, and Washington? If so, might then the primary aim of the consensus principle be to freeze the political and territorial status quo in Europe, as changes that reinforce current trends only serve to further diminish Russia’s power relative to the West? Evidence to support this contention is found in the implicit logic of the EST, namely that Russia will have the power of veto over all security-related decisions of NATO and the EU, just as it currently already does in the OSCE.<sup>23</sup> Given that “security” can be widened to include political, economic, environmental, and social as well as military matters, this would grant Russia *carte blanche* veto power over all strategic decision-making in the Euro-Atlantic space. According to this reading, the EST proposal is primarily a tactical initiative whose main purpose is to demonstrate that there is no chance of reorganizing Europe as a collective security area. As well as freezing political and territorial space, the EST has been interpreted as attempting

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23 Cf. Leon Aron, Dmitri Medvedev’s Glasnost: The Pudding and the Proof, *Russian Outlook*, American Enterprise Institute for Public Policy Research, Winter 2010, p. 2; Onyszkiewicz, cited above (Note 20).

to return Europe to the normative-legal world of 1945. The legally binding nature of the Treaty is seen as an attempt to re-establish the primacy of a state-centric system of international law as enshrined by the principles in Article 2 of the 1945 UN Charter, which protect sovereign states. This would eliminate the advances made in international law during the last sixty years by disregarding the principles enshrined in the Helsinki Final Act of 1975 (the rights of peoples to self-determination and of individuals to human rights) and United Nations General Assembly Resolution 2625 (Declaration on Principles),<sup>24</sup> which qualify and balance sovereignty and accept that European state borders should not be absolute, fixed, and unchangeable under any and all circumstances. On balance, would any benefits generated by the EST be outweighed by the costs?

*“Tails You Lose”*

If the EST fails to garner support, Russia will gain the freedom and additional legitimacy to build its own “sphere of privileged interest” even more overtly, and thereby to consolidate and institutionalize its control over post-Soviet space. This contention rests upon a paradox: Failure by key Western Euro-Atlantic states to ratify a legally binding treaty represents a successful outcome for Russia and its friends and allies. Russia is able to argue that it advanced an alternative to the status quo in an open and transparent manner in multiple international forums, repeatedly and at the highest levels. Its proposal was rejected primarily by EU and NATO member states. These states rejected it because the status quo upholds best their state interests. To avoid a double standard, Russia will now look to see how it can best preserve and secure its own interests. In this sense, apparent failure to achieve the stated primary intended outcome cloaks strategic success – the achievement of the undeclared real purpose of the proposal, namely the consolidation and institutionalization of Russian influence in post-Soviet space: “All these models have had a common aim: The European order which Russia desires should, on the one hand, not be antagonistic or discriminatory and, on the other hand, potentially replace NATO or make it superfluous.”<sup>25</sup>

This outcome would result in the redivision of Europe and the long-term coexistence of two groups of states operating on the basis of partly different principles: In the politico-military sphere, this can be understood as a market-authoritarian or neutral non-NATO and a market-democratic NATO. In the

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24 Cf. Pál Dunay/Graeme P. Herd, Redesigning Europe? The Pitfalls and the Promises of the European Security Treaty Initiative, in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2009*, Baden-Baden 2010, pp. 77-98, here especially: pp. 81-82.

25 Rolf Mützenich, Security with or against Russia? On the Russian Proposal for a “European Security Treaty”, in: *Internationale Politik und Gesellschaft/International Politics and Society* 2/2010, pp. 65-78, here: p. 67, at: [http://www.rolfmuetzenich.de/lecturesand\\_publications/index\\_2010.php?oid=1977](http://www.rolfmuetzenich.de/lecturesand_publications/index_2010.php?oid=1977).

process, the solidarity of Western space – particularly of the NATO alliance – will have been undermined, and the EST “divide and conquer” process proved effective.<sup>26</sup> This would be of concern especially if a minority of NATO states had demonstrated a willingness to sign the treaty proposal, while a majority had opposed it.

### *Kyrgyzstan: the Challenge of Fragile States and Regional Crises*

A general, if superficial, impression might suggest that Central Asia (usually identified with the five Soviet successor states of the region) is tranquil. Except for Tajikistan, where a civil war was fought between 1992-97, there was no lasting or extensive violence. Exceptions, less visible to the Western public than the conflicts in the South Caucasus, have been reported, ranging from terrorist activity in Uzbekistan, to violence associated with regime change in Kyrgyzstan (2005, 2010), to civil violence in Uzbekistan (2005), and Turkmenistan (2009). Nevertheless, the image of Central Asia generated by the five successor states is a fairly peaceful one in relative terms, particularly if the former Yugoslavia or the South Caucasus is taken as a reference point.

Given that the Kyrgyz crisis of April and June 2010 is the latest “catastrophic event” to disrupt Euro-Atlantic space, it is worth examining the crisis in light of the logic, principles, and rationale of the EST. The Kyrgyz crisis shared and exemplified many of the challenges, obstacles, and dilemmas generated by complex emergencies. It embodies the nature of wars amongst peoples rather than between states, conflict generated by state failure rather than inter-state rivalry, catastrophes whose second- and third-order cascading, transborder, and international effects can be worse than the first-order effects, and in which few strategic blueprints exist to provide post-conflict management roadmaps, let alone “security solutions”. In short, it captures one type of strategic threat identified by the EU Security Strategy of 2003, US National Security Strategies of 2002, 2006, and 2010, and Russia’s 2010 National Security Strategy – regional crisis and fragile states – and so offers a profound contemporary prism through which to ask: If the EST was in force, what would have been the result?

On 10 June, violence erupted in the southern Kyrgyz city of Osh, spreading to Jalal-Abad two days later, with reports of armed gangs, inter-ethnic violence, rape, and stampedes at border crossings into Uzbekistan. The OSCE and the Office of the United Nations High Commissioner for Refugees

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26 “The treaty obliges the signatories to support one another militarily in the event of armed attack and can therefore be interpreted as in direct competition with the promise of mutual assistance (Article 5) contained in the North Atlantic Treaty.” Ibid., p. 66; “many western countries responded with the suspicion that the proposal served merely to ‘divide and conquer’. [...] In particular points 3 and 4 aim unmistakably at the weakening of NATO’s role in Europe [...]”. Cortnie Shupe, Cooperation with the Kremlin, in: *spotlight europe* 1/2010, p. 3, at: <http://aei.pitt.edu/12876>.

(UNHCR), as well as Roza Otunbayeva, the acting interim prime minister and president, stated that over 200 people had been killed, over 2,000 wounded, with 400,000 (eight per cent of the Kyrgyz population) displaced – 300,000 internally, 100,000 as asylum seekers into Uzbekistan’s neighbouring Andizhan province. China, India, Turkey, South Korea, Germany, and Russia, amongst others, airlifted their nationals out of the area of conflict to Bishkek and beyond.

What were the causes of such violence and what are the likely implications? The UNHCR has stated that “we have strong indications that this event was not a spontaneous interethnic clash, we have some indications that it was to some degree orchestrated, targeted and well planned.”<sup>27</sup> A report by the OSCE High Commissioner on National Minorities (HCNM) noted “attempts at ethnic cleansing”.<sup>28</sup> Latent inter-ethnic animosity can be understood as the trigger for the civil conflict in the south and as the means through which violence was instrumentalized by former president Kurmanbek Bakiyev’s clan leaders, behind-the-scenes power brokers, former advisors and security service loyalists, and organized crime figures to serve other ends.

What light does the Kyrgyzstan case study and the issue of intervention shed on the EST? Had a legally-binding EST been in place, would this complex emergency have been resolved sooner? If the CSTO was never planning to intervene, why did it, on Russia’s initiative, initially oppose the intervention of the OSCE, which has just agreed to send a 52-person police mission? One logical path, which assumes that Russian policy choices are shaped by promotion of the EST, might run as follows: The CSTO, although legally binding, is a collective defence organization and therefore unable to intervene to ameliorate intra-state conflict, as this type of threat is not covered by its mandate; the OSCE, although a collective security organization, was prevented from intervention because it could not achieve consensus on the matter. The OSCE, due to its foundational principle of consensus-based decision-making, was ineffective. Russia would like to suggest that only a legally binding consensus-based EST can effectively, efficiently, and legitimately address sources of insecurity. In reality, an OSCE that is politically binding, consensus-based, and able to respond efficiently and effectively undercuts the argument that a legally binding EST is needed – hence the Russian reluctance to agree to an OSCE mission. Reluctance can also be explained by Russia’s unwillingness to set precedents for the involvement of pan-European collective security organizations in intra-state conflicts, particularly those within Russia’s “sphere of privileged interest”. The EST, as currently drafted, “would enshrine the principle of avoiding external force to settle national disputes and so would mean no interference in the problems in the northern

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27 Agence France-Presse, *UN agencies fear escalation in Kyrgyz “ethnic tinderbox”*, Geneva, 15 June 2010.

28 Deutsche Presse-Agentur, *OSCE says attempted ethnic cleansing underway in Kyrgyzstan*, Vienna, 15 June 2010.

Caucasus”.<sup>29</sup> This necessity is implicitly acknowledged by President Medvedev’s announcement that the charter documents of the CSTO will be amended in order to create a more effective and efficient organization with broader powers and “anti-crisis mechanisms” – a lesson identified during the Kyrgyz experience.<sup>30</sup>

The Kyrgyz crisis highlights serious flaws in the EST. The draft treaty text calls for collective self-regulation only in the context of violations of state sovereignty and territorial integrity by other states in the state-centric international system. Nowadays, however, most conflicts are not classical inter-state affairs. Instead, they may be intra-state conflicts caused by internal state weakness or the repression of socio-political transformation efforts. Sometimes they have limited transboundary relevance. In other cases, their sources are not internal but transnational: non-state actors – whether terrorist groups, organized criminals, political extremists, purveyors of ethnic violence, or a combination thereof – involved in intra-state conflict with the potential to spillover to other states and societies. These threats are not addressed by the draft treaty text and hence would not form part of the potential collective security regime. This is all the more surprising as containment of the potential consequences of such intra-state conflict cannot be guaranteed even within the collective security regime – that is, from Vancouver to Vladivostok. The example of Kyrgyzstan suggests that Afghanistan in South Asia and China in East Asia could have had their sovereignty and territorial integrity violated had this complex emergency spiralled out of control. In a sense, the EST is touchingly nostalgic for a lost era of inter-state warfare, absolute/unlimited sovereignty, and centralized elite-decision-making structures. It unconsciously betrays an almost Brezhnevian sympathy for strategic stagnation and status quo in an era in which recognition is growing that structural and systemic root causes of instability tend to be increasingly non-state based and solutions lie in human security and development agendas that are targeted at individuals, societies, and regions.

Decision-making based on consensus gains democratic procedural legitimacy but at the potential price of lowering its effectiveness or performance outcome. Any intergovernmental institution that applied the consensus principle would inevitably face this classic trade-off, irrespective of whether its founding document was politically or legally binding. Replacing the OSCE by a consensus-based EST only displaces rather than eliminating this challenge. Fragile states and the threats of proliferation, terrorism, cyberwarfare, financial crisis, critical infrastructure breakdown, food shortages, and migration are illustrative of strategic insecurity today. Geographical proximity as well as shared network membership and connectivity render all states, but especially global powers, vulnerable to crisis, contingency, and

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29 Onyszkiewicz, cited above (Note 20).

30 Cf. Interfax news agency, *CIS security bloc should learn from NATO, EU, bolster institutions – Medvedev*, Moscow, 20 August 2010.

catastrophe, including totally unprecedented “Black Swan”-type events. Such systemic shocks, which are occurring ever more frequently, have unintended consequences, and lead to spillovers, and cascading second- and third-order effects, can be more devastating and the resultant disorder much harder to manage than the initial source of insecurity. The growing interconnectedness of complex systems generates unpredictable, non-linear behaviour and effects. It creates a power vacuum, raising questions of authority and control: Who “owns” the crisis? Who must manage it? The management of such threats suggests the need for procedures and mechanisms that can constantly calibrate a negotiated equilibrium point between effectiveness (joint approach in terms of what is appropriate), efficiency (timeliness and cost in terms of what is affordable), and legitimacy (moral and political in terms of what is acceptable) of responses.

### Conclusions

Russia’s EST proposal, which argues that a legally binding collective security regime be front and centre in the Euro-Atlantic region and the new cornerstone of regional security architecture, has placed the spotlight on the strengths and weaknesses of collective security in general, and those of Russia’s proposal in particular. However, if one refocuses attention and analyses the initiative as an intellectual challenge posed by Russia to its partners and not as a master plan or strategic blueprint designed to enact a legally binding treaty document, the proposal can be viewed in a different light: as a provocation to kick-start a discussion with the aim of rethinking and reconsidering security provisions and structures in Euro-Atlantic space, with a special emphasis on greater efficiency, effectiveness, and legitimacy. This has been recognized by Russian diplomacy. A deputy foreign minister of Russia juxtaposed the situation in Europe with that of Asia and concluded with regard to the latter: “For a variety of reasons the region lacks a coherent system of collective security arrangements. While *the question in the Euro-Atlantic area is one of improving the existing structures so as to create a common security space from Vancouver to Vladivostok* the focus of our initiative for a European Security Treaty in particular we observe in the Asia-Pacific region, from Vladivostok to Vancouver, a clear shortage of such mechanisms, along with their insufficient effectiveness.”<sup>31</sup> Russia has certainly been right to call attention repeatedly to the fact that one should not regard the European secur-

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31 Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, *Speech by Russian Deputy Minister of Foreign Affairs Aleksei Borodavkin at the Theoretical and Practical Conference Organized by the Federation Council of the Federal Assembly of the Russian Federation on the Theme of “The Asia-Pacific Region and Russian National Security”*, Moscow, 19 March 2010 (emphasis added), at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcb3/e2d6cdc4691c2e5ac32576eb00488a39?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/e2d6cdc4691c2e5ac32576eb00488a39?OpenDocument).

ity architecture as a completed “blueprint” but rather as an organic development that may very well require further adjustment.

Where does the EST go from here? How should Russian-Western relations be framed, both in general and with regard to the post-Soviet space in particular? There is no agreement within the West on this matter, partly a result of the West’s ability to act strategically, partly because of intra-European and transatlantic splits (“the West” is an increasingly incoherent concept). Nor is there agreement in Russia on how to engage with the West, partly because of the complete estrangement of the political elite from the West over the last 20 years, partly due to a series of Western actions, from Kosovo to Iraq, that Russia, for entirely understandable reasons, finds difficult to digest, and partly due to a lack of willingness to address the domestic “elephant in the room” – the opposition of internal vested interests to the modernization of Russia’s economy and society, as the latter implies a different political order – i.e., one that is indeed democratic.

Discussions carried out in relation to the EST proposal that seek to reassess European security structures and propose reforms to existing institutions and practice are valuable, as they address the real agenda: lack of trust. Some rebalancing of the various dimensions of the OSCE, with an increased importance attributed to its politico-military dimension, may be the outcome, as well as the launching of arms-control negotiations and the granting of greater Euro-Atlantic recognition to the CSTO. This will immediately raise the question of how the EST will relate to the Corfu Process launched by the Greek OSCE Chairmanship in 2009, as both have the same declared objective – the rejuvenation of European security with an emphasis on the OSCE’s role.

In sum, the EST has shown signs of exhaustion as far as it can be considered an attempt to agree upon a new legally binding foundation for European security. Yet to the extent that it can be considered an intellectual challenge, it may contribute to shaping the agenda for a long time to come.