



1/2

Institute for Peace Research and Security Policy  
at the University of Hamburg / IFSH (Ed.)

# OSCE-Yearbook 1995/1996

Yearbook on the Organization for Security and  
Co-operation in Europe (OSCE)



Nomos Verlagsgesellschaft  
Baden-Baden

Die Deutsche Bibliothek – CIP-Einheitsaufnahme

**Organization for Security and Co-operation in Europe:**

OSCE Yearbook ... : Yearbook on the Organization for Security and Co-operation in Europe (OSCE) / Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.). Founded by Dieter S. Lutz. – Baden-Baden : Nomos Verl.-Ges.

Erscheint jährl. – Aufnahme nach Vol. 1/2. 1995/96 (1997)  
Vol. 1/2. 1995/96 (1997)

ISBN 3-7890-5059-8

1. Auflage 1997

© Nomos Verlagsgesellschaft, Baden-Baden 1997. Printed in Germany. Alle Rechte, auch die des Nachdrucks von Auszügen, der photomechanischen Wiedergabe und der Übersetzung, vorbehalten.

This work is subject to copyright. All rights are reserved, whether the whole or part of the material is concerned, specifically those of translation, reprinting, re-use of illustrations, broadcasting, reproduction by photocopying machine or similar means, and storage in data banks. Under § 54 of the German Copyright Law where copies are made for other than private use a fee is payable to »Verwertungsgesellschaft Wort«, Munich.

# Contents

Editor's Note	11
<i>Flavio Cotti</i> Preface	13
<i>Wilhelm Höynck</i> Preface*	15
<i>Kurt P. Tudyka</i> Foreword	19
<i>Dieter S. Lutz</i> Introduction	21

## I. The Situation

### *OSCE: Developments and Prospects*

<i>Hans-Dietrich Genscher</i> Strengthening the OSCE - An Indispensable Condition for a Just and Lasting Peaceful Order from Vancouver to Vladivostok	49
<i>László Kovács</i> The Future Role of the OSCE in the European Security Architecture	57
<i>Wilhelm Höynck</i> The OSCE in Mid-1996: Stock-Taking and Prospects	69

### *The Interests and the Commitment of the OSCE States*

<i>Kurt P. Tudyka</i> The Attitude of Participating States Toward the OSCE	79
<i>Régis de Belenet</i> France and the OSCE: The OSCE in Today's Europe	87

<i>Andrew Cottey</i> Britain and the OSCE	93
<i>Jan Pecháček</i> The Czech Republic and the OSCE	105
<i>Jerzy M. Nowak</i> Poland and the OSCE: In Search of more Effective European Security	111
<i>Omar A. Sultanov</i> Kyrgyzstan and the OSCE	129
<i>Alois Reznik</i> Uzbekistan and the OSCE	139

## II. Instruments, Means, Mechanisms and Procedures

### *Conflict Prevention and Settlement of Disputes*

<i>Dieter S. Lutz</i> The OSCE Court of Conciliation and Arbitration*	151
<i>Robert H. Frowick</i> The OSCE Mission to Bosnia and Herzegovina	163
<i>István Gyarmati</i> The Hungarian Chairmanship and the Chechnya Conflict	175

### *The Human Dimension and the Development of Democracy*

<i>Hans-Joachim Gießmann</i> Democracy as a Creative Task - Challenging or Overburdening the OSCE?	187
<i>Gerald Mitchell</i> Election Observation is More than just a One Day Event	199

<i>Peter Emery</i> OSCE Parliamentary Assembly Election Monitoring: The 1995 Russian Elections	211
--	-----

### *The Building of Cooperative Security*

<i>Benedikt von Tscharnner/Linus von Castelmur</i> The Work on a Security Model for Europe for the 21st Century	227
--	-----

<i>Jörg Wallner</i> The Implementation of Conventional Arms Control Agreements	241
---	-----

<i>Rüdiger Hartmann</i> The Significance of Regional Arms Control Efforts for the Future of Conventional Arms Control in Europe, Exemplified by the Arms Control Negotiations in Accordance with the Dayton Agreement	253
--	-----

<i>Joanna van Vliet</i> Principles Governing Conventional Arms Transfers	265
---	-----

<i>Ortwin Hennig</i> The Code of Conduct on Politico-Military Aspects of Security	273
---	-----

<i>Jonathan Dean</i> The OSCE "Code of Conduct on Politico-Military Aspects of Security": A Good Idea, Imperfectly Executed, Weakly Followed-up	291
--	-----

<i>Pál Dunay/Wolfgang Zellner</i> The Pact on Stability in Europe - A Diplomatic Episode or a Lasting Success?	299
--	-----

### *Economic Transformation and Limitation of New Risks*

<i>Hans-Hermann Höhmann</i> Problems of Economic and Social Transformation in Eastern Central Europe and the CIS States: Fields of Activity for the "Economic Dimension" of the OSCE?	315
--	-----

*Kurt Schelter/Michael Niemeier*

The Fight against Organized Crime as a Challenge for Europe - for the OSCE as well?	325
--	-----

### III. Organizational Aspects

#### *OSCE Institutions and Structures*

*Piotr Switalski*

The OSCE Chairmanship: Development of an Institution	337
--	-----

*Márton Krasznai*

Consultation and Political Dialogue in the Permanent Council	345
--	-----

*Michael Fuchs/Angelika Pendzich-von Winter*

The OSCE Parliamentary Assembly	355
---------------------------------	-----

*Frans Timmermans*

The Activities of the OSCE High Commissioner on National Minorities in Conflict Prevention	365
---	-----

*Heather F. Hurlburt*

The Office for Democratic Institutions and Human Rights: OSCE's Response to the Challenges of Democratization*	369
---	-----

#### *External Relations and Influences*

*Mario Sica*

The New Mediterranean Dimension of the OSCE	379
---	-----

*Ingo Peters*

The Relations of the OSCE to Other International Organizations	385
--	-----

*Aaron Rhodes*

The Continuing Challenge of the International Helsinki Federation for Human Rights (IHF)	401
---	-----

*Ulrich Fastenrath*

The Legal Significance of CSCE/OSCE Documents	411
---	-----

## Annex

Vienna Document 1994/ Global Exchange of Military Information	431
Annual Report of the Secretary General 1995	483
Forms and Fora of Cooperation in the OSCE Area	517
The 55 OSCE Participating States - Facts and Figures	519
OSCE Chronology	535
OSCE Selected Bibliography	539
Acronyms	545
Contributors	547





## Editor's Note

The German language OSZE-Jahrbuch is edited by the Institute for Peace Research and Security Policy at the University of Hamburg since 1995 with the support of international co-editors: Prof. Arie Bloed, Secretary General of the Netherlands Helsinki Committee, Utrecht (until the 1996 edition); Prof. Jonathan Dean, Ambassador ret., Union of Concerned Scientists, Washington D.C. (since the 1996 edition); Prof. Pál Dunay, Deputy Director of the Hungarian Institute of International Affairs, Budapest; Dr Adam Daniel Rotfeld, Director of the Stockholm International Peace Research Institute; and Prof. Andrei Zagorski, Deputy Director of the Moscow State Institute for International Relations.

The encouraging reception of the German version of the OSCE Yearbook induced us to offer an English version in order to make the OSCE Yearbook available to a broader community of readers interested in detailed information and first-hand analyses on the OSCE process.

Consequently, we present a translated version of the OSCE Yearbook 1996, supplemented by some articles from the Yearbook 1995, indicated by an asterisk and a respective footnote.

While minor details may have become overtaken by events, we are convinced that this is more than outweighed by the substance and validity of the essays.

Beginning with the 1997 issue, an English version of the OSCE Yearbook will appear on a regular basis.



## Preface

The publication of the second volume of the OSCE Yearbook is taking place at a time when the Organization for Security and Cooperation in Europe is undergoing significant change and facing new kinds of challenges. Thus it is especially worthwhile to have a new collection of knowledgeable articles which provide critical comment on these changes while at the same time offering suggestions and ideas.

The many smouldering conflicts in the Balkans, the Caucasus and Central Asia have made conflict prevention the most important practical activity of the OSCE. Very soon after the division of Europe ended, the OSCE created original instruments and methods for reacting to tensions at the earliest possible time. Its international presence can prevent escalation and contribute to peaceful solutions. Conflict prevention is always particularly effective when the underlying tensions do not become manifest and, hence, do not engage the awareness of the public at large.

Half a decade after the end of the Cold War, Europe's security structures have still not been firmly established. International relations and the relevant security organizations are still in transition. One thing has become clear, however: today, security and stability can no longer rest on military factors alone but must also include political, economic and social dimensions. Over the long term, we will only have security and stability in Europe if we succeed in eliminating the causes of tensions not just between countries but also within them - between citizens and their governments or between segments of the population.

I personally regard the establishment of civil societies as one of the most important ways of preventing conflicts at their roots. I am convinced that this will be one of the central tasks of the OSCE in the future. Civil societies are resistant to the new threats, which are growing in significance, such as aggressive nationalism, racism, intolerance and organized crime - threats which jeopardize human rights and cannot be dealt with by the resources of states alone. The problems we encounter are different from one country and region to another. But there is hardly a society which is not somehow affected by these new risks. This is a realm in which the OSCE, with its broad geographic framework of cooperation, can continue to make a significant contribution in the future.



## Preface\*

I am pleased to present the first edition of an OSCE Yearbook to our readers. The publication of this Yearbook occurs at a time when we can celebrate the 20th anniversary of the signing of the Helsinki Final Act. In 1975 the Heads of State or Government of 35 European and North American states initiated the CSCE process. The Final Act has provided millions of people with hope for a better future and with the courage to stand up for their human rights and for liberty. This was the most important contribution of the CSCE process to a peaceful democratic change and to the overcoming of the bloc confrontation. Back in 1989, however, the CSCE States already realized that after the end of the East-West confrontation a pan-European security space would need new comprehensive security arrangements. Therefore the basis for a new, operative CSCE was created by the Charter of Paris in 1990.

Twenty years after the signing of the Helsinki Final Act we must not restrict ourselves to a mere reflection of the past. We have to look into the future, at the tasks confronting the OSCE today as well as tomorrow. Europe and the whole OSCE area are facing serious challenges. During half a century the East-West conflict was the decisive factor of almost all our problems, starting with local conflicts up to questions of world economy. Now, however, we are confronted with a great number of conflicts and crises that are caused by a multitude of local or regional problems. How can we find answers to these new - and in many cases very old - questions? Which standard should be applied to decide what is important enough to involve the international community? These questions elude a uniform, general answer. We need specific case-to-case-solutions. At the moment we are in the middle of a process of development and adjustment of the instruments and institutions, that are necessary to find such solutions. The OSCE is no exception to that rule. It is also still defining its role in the identification, prevention and overcoming of crises. Yet, crisis management actually is not the central task of the OSCE. The great political challenge nowadays rather is to create a new and permanent stability in the OSCE area as a whole.

The fundamental principle of the OSCE's activity is its substantially and geographically comprehensive concept of security. It takes into account the connection between human rights, democracy, economic prosperity, and military security. The geographical aspect of a new understanding of security is of

---

\* Preface to the 1995 Yearbook: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 13-15 (in German).

similar importance. The OSCE endeavors to contribute to the prevention of new divisions, it is obliged to follow the principle of indivisible security from Vancouver to Vladivostok. Based on such a comprehensive security concept, the OSCE makes its contribution especially in the following three crucial areas:

- the strengthening of the human dimension and of the principles of a social free market economy as the foundations of a civil society;
- preventive diplomacy, conflict prevention and crisis management;
- the development of a cooperative security order in the OSCE area.

These focal points have emerged since the Charter of Paris. What can be considered to be new in that respect is the widening of the traditional CSCE frame from a mere forum for negotiations to a place for continuous political consultation and operative action. The 1994 Budapest Summit marks the beginning of this new era. The CSCE changed its name into OSCE, the Organization for Security and Cooperation in Europe. The changing of the name bears in mind the growing number of activities over the past years as well as the desire of the participating States for a central role of the OSCE in the building of a secure and stable OSCE community.

The European security landscape is so diverse, the challenges are so complex, that one institution alone can hardly cope with them. Rather, the cooperation of a multitude of institutions is necessary. The OSCE is one of them. The United Nations, the European Union, the NATO, the WEU and the Council of Europe as well as other organizations make specific, indispensable contributions to the consolidation of the European security structures. Stability and security can be created and preserved by the coordinated cooperation of these institutions, each possessing its own characteristic profile.

In order to fulfill its new function, the OSCE needs the continuous support of its participating States. As a community of democratic states it especially needs the attention and the understanding of its citizens. Activities in the sectors of the human dimension and of preventive diplomacy do not hit the headlines. Therefore an OSCE Yearbook is important. It paves the way to public opinion. It gives opportunity to an open and critical analysis of the tasks and activities of the OSCE.

Anybody who deals with the OSCE daily needs to take a distant view once in a while - reminiscent as well as foresighted. In view of the current credibility crises of all international organizations nothing is as important as a realistic evaluation of their possibilities and limits.

Therefore the Yearbook on hand is of high value.

Furthermore, the Yearbook is an example of fruitful cooperation of the OSCE with research institutions, a cooperation that both sides urgently need. I wish to thank the Director of the publishing institution, the Institute for Peace Research and Security Policy at the University of Hamburg, Dieter S. Lutz, and the Editor-in-Chief, Kurt P. Tudyka, as well as the responsible persons at the other participating institutes for their initiative. The OSCE Yearbook is their work and it is published in their responsibility. I also wish to thank the authors of the different articles who have contributed to a constructive, critical, and pluralistic dialogue.

All of them is to be wished that the OSCE Yearbook 1995 will have a wide circulation. This will widen the circle of those who, even acting from different positions, strive for a just and lasting peaceful order in Europe.





## Foreword

When the Heads of State or Government of the participating States parted after their Meeting on 6 December 1994, they had "set up a milestone in the history of the OSCE" with the Budapest Document - as Heinrich Schneider wrote in the first volume of the OSCE Yearbook -, but a number of things that could be found on the tables of their delegations were left behind unfinished. There was some hope that the decisions that were left open could be adopted in the next period or - together with new proposals - on the next Meeting in Lisbon in December 1996 at the latest. Moreover, something new was initiated in Budapest - the discussion on a European Security Model for the 21st Century. What has happened meanwhile?

In the 20 months since Budapest the Ministerial Council and the Senior Council met as frequently as agreed upon, but these meetings could neither compensate the Budapest deficits nor did they produce any results with regard to a forward-looking discussion on the Security Model. There is a shortage of visions and care for "the biggest organization of states in the northern hemisphere", as a member of the Parliamentary Assembly called the OSCE recently. Much of the attention of the foreign and security policy establishment of the participating States was claimed by the debates on NATO enlargement and the deepening of the European Union. Yet it wouldn't be correct to reproach the diplomats and military officers directly involved in OSCE events for indifference. Operative tasks - first of all the efforts on mediation and conflict settlement in Chechnya, then especially the qualitatively new engagement in Bosnia and Herzegovina - required a great deal of time and effort.

The Mission to Bosnia and Herzegovina will prove to be a touchstone for the OSCE and its participating States. From the experiences garnered in that Mission and the results achieved it will be possible not only to gain specific insights into the aims of a mission as such, but also into the responsibilities and perspectives of the OSCE in general.

Each of the operative actions of the OSCE, its missions, has its own characteristics. The peculiarity of each of their profiles can be seen in differences in mandate, size, duration and equipment, the local settings, the activities carried out and in the modification of the political and social environment. But the Mission to Bosnia and Herzegovina differs to an even greater extent from all the other missions. This Mission has to be seen as a new quality of mission as its mandate forms nothing less than a new category of OSCE activities; it has nothing to do with conflict prevention, conflict settlement or conflict management nor with specific concerns about human rights. It means

something new and different. The activity of the OSCE Mission to Bosnia and Herzegovina can be characterized as a post-conflict reconstruction of political institutions and political culture. It resembles the political work of the Allies in Germany between 1945 and 1947.

A failure of this Mission could spread resignation and fatalism like no other failure could, it could even jeopardize the future of the OSCE. Conversely, a successful Mission in Bosnia and Herzegovina could give the OSCE an impetus that is currently not attainable in other ways, although possibly an impetus that could be just unbalanced. In 1995 the Hungarian Chairman-in-Office called the impending task confronting the OSCE intimidating and described it as the biggest challenge in the history of the Helsinki process. His Swiss successor, who has to carry it out, admitted in mid-1996 that the conditions had not yet turned out the way they were supposed to, but that there wasn't any alternative to continuing the already undertaken course of action at an extraordinarily high risk.

Against this background, what should the people between Vancouver and Vladivostok expect from their representatives at the Lisbon Summit?

First, the execution of already overdue tasks. These include: the clarification of the relationship between different international organizations, e.g. "OSCE first"; the creation of a general treaty basis for the OSCE; a reform of the internal structure; strengthening the position of the Secretary General and strengthening the Organization itself, especially the Secretariat; the harmonization of competences in the sphere of confidence-building measures and arms control; a decision on the third-party-involvement; and the provision of peacekeeping units as well as an innovative and substantial development of the economic dimension appropriate to present requirements.

Furthermore, the Heads of State or Government will have to turn to that particular issue they have promised themselves and the public in Budapest to deal with: the discussion on the Security Model for the 21st Century.

This Yearbook - the first as well as the volume on hand - intends to make a contribution to this discussion. If we are successful with the modest means at our disposal in the first place it will be thanks to our authors, the benevolent, immaterial and orientating support of the OSCE Secretariat and other official authorities and their incumbents in the ministries of the participating States. In my position as responsible editor I wish to thank them for contributing to the new issue of the Yearbook.

## Introduction

### *The OSCE - Foundation of the European Security Structure, Basis of the European Security Space*

#### *The Situation*

Twenty-one years after the signing of the CSCE Final Act on 1 August 1975 in Helsinki<sup>1</sup> and six years after the signing of the Charter of Paris on 21 November 1990<sup>2</sup>, the basic changes in Europe's political structure have become clear. Blocs and the system of deterrence - essential components of Europe when the CSCE was founded - have disappeared. Europe's "new beginning"<sup>3</sup> - the central requirement of the Charter - has taken form in a variety of ways. Overcoming the division of Germany has been a part of this as is the reorientation of the peoples of Eastern and Central Europe toward democracy and market economies.

Nevertheless, Hans-Dietrich Genscher, the former Foreign Minister of the Federal Republic of Germany, deserves full agreement when he writes in this Yearbook: "(...) we are still far from achieving (...) a just and lasting peaceful order for all of Europe. It is true that the great changes of recent years have largely nullified the risk of a 'big' war in Europe; at the same time, however, the bloody conflict in former Yugoslavia has demonstrated in a horrifying way that armed struggles emerging from aggressive nationalism and intolerance are still possible in Europe."<sup>4</sup>

- 
- <sup>1</sup> Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 141-217.
  - <sup>2</sup> Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (Ed.), cited above (Note 1), pp. 537-566.
  - <sup>3</sup> Ibid., p. 537.
  - <sup>4</sup> Hans-Dietrich Genscher, *Strengthening the OSCE - An Indispensable Condition for a Just and Lasting Peaceful Order from Vancouver to Vladivostok*, in this volume, p. 50; cf. also: CSCE Helsinki Document 1992: *The Challenges of Change*, Helsinki, 10 July 1992, in: Bloed (Ed.), cited above (Note 1), p. 703; cf. in addition: Dieter S. Lutz, *Die OSZE im Übergang von der Sicherheitsarchitektur des Zwanzigsten Jahrhunderts zum Sicherheitsmodell des Einundzwanzigsten Jahrhunderts* [The OSCE in Transition from the Security Architecture of the Twentieth Century to the Security Model for the Twenty-first Century], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), *OSZE-Jahrbuch [OSCE Yearbook] 1995*, Baden-Baden 1995, pp. 63-96.

The dreadful forms and dimensions that these armed conflicts can still take on, even after the historical turning point of 1989/90, are described in this volume by István Gyarmati, the Personal Representative of the OSCE Chairman-in-Office in Chechnya (among other countries): "My generation, happily, had no experience of war. I myself have been in a number of countries scourged by conflict, but Grozny was not even comparable to Sarajevo. For me, the only comparable experiences were the pictures of Dresden and Coventry from the Second World War. Downtown there was not a building left intact for miles. Not a one. The streets were full of ruins. At every step there were dead animals and corpses. The horrible odors of burning buildings, gunpowder and decomposing bodies spread through the air. Old people - they were almost the only ones, on both sides, who had survived or been unable to escape - were using miserable fires in front of their houses to cook roots, dogs, cats or crumbs given them by soldiers. The number of dead is still not known. I am convinced that tens of thousands fell victim to the fighting in Grozny alone."<sup>5</sup>

### *New Risks, Threats, Dangers*

It is not only the revived danger of armed conflict, however, which calls Europe's "new beginning" into question. Stability is put at risk by a large number of problems which have so far remained unsolved or been neglected. Thus it is no coincidence that many of the authors represented in the Yearbook on hand return again and again to such threats and problems as economic distress, secession movements, endangerment of the natural bases of life, border-crossing crime, terrorism, and other sources of peril.<sup>6</sup> That the OSCE itself has recognized the new perils and risks emerges with special clarity from the discussions on the Security Model for the 21st Century.<sup>7</sup>

<sup>5</sup> István Gyarmati, The Hungarian Chairmanship and the Chechnya Conflict, in this volume, pp. 181ff.

<sup>6</sup> See for example in this volume: Genscher, cited above (Note 4), pp. 49ff.; Hans-Joachim Gießmann, Democracy as a Creative Task - Challenging or Overburdening the OSCE?, pp. 187ff.; Ortwin Hennig, The Code of Conduct on Politico-Military Aspects of Security, pp. 273ff.; Hans-Hermann Höhmann, Problems of Economic and Social Transformation in Eastern Central Europe and the CIS States: Fields of Activity for the "Economic Dimension" of the OSCE?, pp. 315ff.; Wilhelm Höynck, The OSCE in Mid-1996: Stock-Taking and Prospects, pp. 69ff.; Kurt Schelter/Michael Niemeier, The Fight against Organized Crime as a Challenge for Europe - for the OSCE as well?, pp. 325ff.; Mario Sica, The New Mediterranean Dimension of the OSCE, pp. 379ff.; Omar A. Sultanov, Kyrgyzstan and the OSCE, pp. 129ff.; Frans Timmermans, The Activities of the OSCE High Commissioner on National Minorities in Conflict Prevention, pp. 365ff.; Benedikt von Tscharner/Linus von Castelmur, The Work on a Security Model for Europe for the 21st Century, pp. 227ff.; Jörg Wallner, The Implementation of Conventional Arms Control Agreements, pp. 241ff.

<sup>7</sup> In this connection, see also: Dieter S. Lutz/Andrei Zagorski, A Security Model for the 21st Century, in: "Arbitration Court" and "Security Model", *Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik* [Hamburg Contributions on Peace Research and Security

Benedikt von Tschärner, the Swiss Ambassador to the OSCE, and Linus von Castelmur, Deputy Head of the OSCE Section in the Foreign Ministry of Switzerland, provide an overview of the broad range of risks identified in these discussions.<sup>8</sup> The magnitude of the threats, especially for the young democracies of Eastern Central and Eastern Europe, is illustrated by the German Secretary of State, Kurt Schelter, and by the expert in fighting crime, Michael Niemeier, using organized crime in Europe as an example. They believe that the OSCE might provide an organizational framework for "an overall European strategy".<sup>9</sup>

### *Prevention*

"One essential element of this overall strategy must be prevention, in both a technical and organizational sense, which has often been neglected in the past."<sup>10</sup> In issuing this warning, Schelter and Niemeier have in mind new technologies such as electronic anti-theft devices or tamper-proof credit cards. But their legitimate demand for better prevention goes far beyond new technologies and aims in essence at the real task of peace and security policy - the prevention of conflict.

This task presents itself particularly with regard to armed struggles: the job of security policy is to prevent war, not to wage it.<sup>11</sup>

For this reason, Frans Timmermans, the Dutch Adviser to the High Commissioner on National Minorities, believes that the lesson the international community must draw from the wars in former Yugoslavia is that "the OSCE (...) has to come into action at a very early stage".<sup>12</sup> It is the view of the OSCE Chairman-in-Office in 1996, the Foreign Minister of Switzerland, Flavio Cotti, that already today the most important practical activity (of the OSCE) lies in conflict prevention.<sup>13</sup> Frans Timmermans notes that the OSCE's High Commissioner on National Minorities, Max van der Stoep, emphasizes that conflict prevention means, among other things, fighting the *causes* of conflict: "If the OSCE wants to be successful in conflict prevention, in the broadest sense of the expression, it has to concentrate on the elimination of

---

<sup>8</sup> Policy] 99/1996, pp. 5-30.

<sup>9</sup> Cf. von Tschärner/von Castelmur, cited above (Note 6), especially p. 231.

<sup>10</sup> Schelter/Niemeier, cited above (Note 6), esp. p. 330.

<sup>11</sup> Ibid., p. 331.

<sup>12</sup> Cf. Dieter S. Lutz, Frieden ist das Meisterwerk der Vernunft [Peace is the Masterpiece of Reason], Hamburger Informationen zur Friedensforschung und Sicherheitspolitik [Hamburg Papers on Peace Research and Security Policy] 17/1996, esp. p. 4.

<sup>13</sup> Timmermans, cited above (Note 6), p. 365.

<sup>14</sup> Cf. Flavio Cotti, Preface, in this volume, p. 13.

the potential causes of conflict (...) The High Commissioner strongly believes that it should be the task of the OSCE to identify the root causes of conflict and to help combat these (...)"<sup>14</sup>

### *OSCE as a Community of Values and its Comprehensive Security Concept*

To combat and, indeed, prevent the new risks and perils in all of their variety a comprehensive peace and security concept is needed, one which is understood not just in politico-military terms. Also needed are common values which can be used as a point of departure in avoiding conflict. The OSCE regards both elements as given<sup>15</sup> and they are commented on in positive terms by the contributors to the volume on hand:<sup>16</sup> "In the Charter of Paris (1990) the CSCE States committed themselves to democracy, human rights and the rule of law, market economies, social justice, and a responsible attitude toward the environment. Since that time they have been emphasizing that they belong to a new community of values."<sup>17</sup> "These values apply to all those who want to be part of the OSCE community; they are indivisible, non-negotiable and universal (...). It would be wrong to perceive these values as belonging solely to part of the OSCE area, or as religious dogmata some OSCE States want to impose on others. Rather, they are the core of the Helsinki process, which starts from a comprehensive concept of security which relates peace, security and prosperity directly to the sharing of the values."<sup>18</sup>

### *The Development of Civil (Citizen-Based) Societies*

There is no doubt that the OSCE concept of comprehensive security based on common values aims at the development and establishment of civil societies.<sup>19</sup> Indeed, the Chairman-in-Office of the OSCE, Flavio Cotti, and the

---

<sup>14</sup> Timmermans, cited above (Note 6), pp. 365-366.

<sup>15</sup> For example, in the 1994 Budapest Document the terms "values" and "comprehensive concept of security" are used more than a dozen times - cf. CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106.

<sup>16</sup> For example, see the articles in this volume by Genscher, Gießmann, Höynck, Timmermans, von Tscharner/von Castelmur, all cited above (Note 6); also Michael Fuchs/Angelika Pendzich-von Winter, The OSCE Parliamentary Assembly, pp. 355ff., and Aaron Rhodes, The Continuing Challenge of the International Helsinki Federation for Human Rights (IHF), pp. 401ff.

<sup>17</sup> Von Tscharner/von Castelmur, cited above (Note 6), p. 227.

<sup>18</sup> Timmermans, cited above (Note 6), p. 366.

<sup>19</sup> The concepts of "civic society", "citizen-based society" and "civil society" can be found in this volume, e.g. in the articles by Cotti, cited above (Note 13), Fuchs/Pendzich-von Winter, cited above (Note 16), Genscher, Gießmann, Höynck, all cited above (Note 6), and Rhodes, cited above (Note 16).

former Secretary General of the OSCE, Wilhelm Höynck, regard the "establishment of civil societies" and/or the "strengthening of civil societies" as the "most urgent" or "central" task of the OSCE.<sup>20</sup> This applies to the current work of the OSCE in Bosnia and Herzegovina and, in a fundamental way, to the social restructuring of the reform states in Eastern and East-central Europe. However, it also applies, as Hans-Joachim Gießmann warns us, to the Western states which "should be measured by the extent to which (they) have themselves met the requirements they have set for the establishment of civil societies".<sup>21</sup>

But does this also apply to the Central Asian States participating in the OSCE? If one agrees with the former Secretary General of the OSCE, it was not only "right to invite these countries into the CSCE in 1992 following the collapse of the Soviet Union"<sup>22</sup>; beyond that, the OSCE has, through its support program, contributed to "the stabilization of the Central Asian region" by "strengthening the habit of dialogue, supporting integrative forces in the region itself and building up the position of States from that region within the OSCE".<sup>23</sup>

This judgement is supported by the two articles in this volume which stem from and concern themselves with Uzbekistan and Kyrgyzstan. For example, Alois Reznik, Head of the OSCE Liaison Office for Central Asia in Tashkent, cites the final report of the UNDP Mission which confirms "that the basic democratic institutions (...) had been created in Uzbekistan within a short time" and that "the structures of a civil society were beginning to develop".<sup>24</sup> Still, some criticism seems in order. Omar A. Sultanov, Kyrgyzstan's Permanent Representative to the OSCE, writes in his article: "A comprehensive democratization of the country is being presented as almost the *only* solution for the situation that has arisen (...) But the question is whether this view is sufficient and, if it is, whether democratization can even succeed fully under present conditions, when the risk of destabilization in the entire Central Asian region is greater than ever before."<sup>25</sup>

### *The Comparative Advantages and Strengths of the OSCE*

We shall return to this criticism of Sultanov's, which is directed not so much against the concept of a civil society as against the inadequacy of its financ-

---

<sup>20</sup> Cotti, cited above (Note 13), Höynck, cited above (Note 6), p. 69.

<sup>21</sup> Gießmann, cited above (Note 6), p. 189.

<sup>22</sup> Höynck, cited above (Note 6), p. 71.

<sup>23</sup> Ibid.

<sup>24</sup> Alois Reznik, Uzbekistan and the OSCE, in this volume, p. 143.

<sup>25</sup> Sultanov, cited above (Note 6), p. 134 (emphasis in the original text).

ing. Despite the criticism, the OSCE's efforts are fundamentally correct. What other European institution, if not the OSCE, should pursue this cause? What emerge from this question are the comparative advantages and strengths of the OSCE. According to Höynck, the former Secretary General of the OSCE, they lie in the "institution of the Chairman-in-Office as a source of energy and inspiration, renewed each year", further in "the direct engagement of the participating States" and, finally, "in the lean administration of all OSCE institutions by a highly competent core group".<sup>26</sup> Whoever reads attentively the enthusiastic article in this Yearbook by the former OSCE Chairman-in-Office, Hungarian Foreign Minister László Kovács, will find Höynck's statements fully confirmed.<sup>27</sup> The same holds true for the Hungarian Ambassador and Head of his OSCE delegation, Márton Krasznai, and for his analysis of the work of the OSCE's Permanent Council.<sup>28</sup> Even so, a further element must be added to those listed by Höynck. In fact, the OSCE's main strengths or advantages - in comparison with institutions such as the EU, the WEU, the Council of Europe or NATO - also lie precisely in its broad range of participants and its comprehensive concept of security. In the view of the Swiss contributors, von Tscharner and von Castelmur, for example, the OSCE constitutes "the broadest dialogue network in Europe. It is only in the OSCE that all 55 States in the region between Vancouver and Vladivostok participate".<sup>29</sup> Even from the British perspective, as described by Andrew Cottey, the OSCE, which Great Britain generally tends to view with reservation, has "a number of advantages which make it suited for particular roles. The OSCE's central advantage is that it remains 'the European security structure with the broadest membership', providing it with a 'unique perspective for promoting peace and stability in Europe' (...) The OSCE's pan-European membership and agreed norms also give it a legitimacy and authority which other institutions, such as NATO and the European Union (EU), lack".<sup>30</sup> In the words of Régis de Belenet of the French Foreign Ministry, the "following principle guides the French approach: the OSCE is the only European security institution offering a multi-lateral framework in which Russia can carry on a direct dialogue with all other European countries (...) It is the largest pan-European and trans-Atlantic forum for cooperation and dialogue on common security interests."<sup>31</sup>

<sup>26</sup> For more see Höynck, cited above (Note 6), p. 75.

<sup>27</sup> László Kovács, *The Future Role of the OSCE in the European Security Architecture*, in this volume, pp. 57-67.

<sup>28</sup> Márton Krasznai, *Consultation and Political Dialogue in the Permanent Council*, in this volume, pp. 345-353.

<sup>29</sup> Von Tscharner/von Castelmur, Cited above (Note 6), p. 229.

<sup>30</sup> Andrew Cottey, *Britain and the OSCE*, in this volume, pp. 94-95.

<sup>31</sup> Régis de Belenet, *France and the OSCE: the OSCE in Today's Europe*, in this volume, p. 89.



As a consequence, the opportunities for making arrangements that transcend borders are seen to lie in the OSCE and not in other European institutions and structures. This applies, as already mentioned, to the international fight against crime.<sup>32</sup> And it is particularly true of the OSCE's "economic dimension". According to Hans-Hermann Höhmann of the Federal Institute for Russian, East European and International Studies in Cologne, the value of the economic and social activities of OSCE lies in the fact that "the OSCE is the largest institutionalized forum, focused on but at the same time transcending Europe, for the discussion of relations between economic, ecological and social developments, on the one hand, and the entire complex of security issues on the other. At the same time, it is a forum in which developed industrial countries and less developed transitional countries have almost equal shares of the overall membership. This not only opens up the possibility of an East-West dialogue but offers an opportunity for intensive communication amongst Eastern participating States - badly needed to discuss regional cooperation, which is still too weakly developed as a result of the attractive force of the EU, and to forestall further disintegration of the economic space in Eastern Europe. In addition - an aspect which is of particular importance for CIS members - the OSCE is the most important pan-European organization which includes countries that never have an opportunity to become real economic partners, let alone become full members of the EU."<sup>33</sup>

#### *Foundation of the European Security Structure - Basis of the European Security Space*

Is the OSCE, then, more than just one institution among others in the concert of European and trans-Atlantic arrangements? Does the OSCE have - as former Ambassador Jonathan Dean stated in last year's Yearbook - "the potential, as it enters its third decade, to become the prime security organization in Europe"?<sup>34</sup>

In the opinion of the former Chairman-in-Office of the OSCE, László Kovács, the OSCE, based on its "comprehensive and integrative character" is in any event "suitable as the basis for creating a security space that will guarantee greater security and stability for all participating States".<sup>35</sup> And the Director for Strategic Affairs, Security and Disarmament in the French Foreign

---

<sup>32</sup> See Note 9.

<sup>33</sup> Höhmann, cited above (Note 6), p. 323.

<sup>34</sup> Jonathan Dean, Die Vereinigten Staaten und die OSZE - Im Wechsel von Förderung und "wohlwollender Vernachlässigung" [The United States and the OSCE - Alternating between Support and "Benign Neglect"], in: OSZE-Jahrbuch 1995, cited above (Note 4), p. 107; see also: Lutz, cited above (Note 4), p. 96.

<sup>35</sup> Kovács, cited above (Note 27), p. 66.

Ministry, Régis de Belenet, writes in his contribution to this volume: "In the debate on the various concepts of European security (...) we are in favor of making the OSCE the foundation of European security architecture."<sup>36</sup>

### *Mutually Reinforcing Institutions*

The concepts of "foundation" and "basis" as a characterization of the OSCE do not (or not yet), however, signify a desire "to put it above the other security organizations in Europe".<sup>37</sup> The assumption underlying the positions of a majority of OSCE States and the majority of articles in the Yearbook on hand is that of an "institutional network", a "network of complementary and mutually reinforcing institutions".<sup>38</sup> Ortwin Hennig, for example, in his analysis of the "Code of Conduct on Politico-Military Aspects of Security", describes the OSCE's relationship with other security institutions as follows: "A 'key role' is assigned to the OSCE for a system of cooperative security in the OSCE area. But the fact that the OSCE States have agreed to go on developing 'complementary and mutually reinforcing institutions' makes clear that there is to be no hierarchical order amongst the various security institutions."<sup>39</sup> If one accepts the interpretation of von Tscharner and von Castelmur, this statement is not only confirmed by the current OSCE discussions on the "Security Model for Europe for the 21st Century"<sup>40</sup> but will doubtless continue to hold true for the coming years.

It is questionable, to be sure, whether the theoretical construct of an institutional network in fact does justice to the contrariness of the real situation. Won't the magic formula of "interlocking institutions" turn out to be an empty phrase - as Ralf Roloff<sup>41</sup> has already suggested in the 1995 Yearbook - with "interlocking" turning into "interblocking"? Pál Dunay and Wolfgang Zellner state that "the Stability Pact proved that the often-cited 'interlocking

<sup>36</sup> De Belenet, cited above (Note 31), p. 90.

<sup>37</sup> Ibid.

<sup>38</sup> See for example the articles in this volume by Cottey, cited above (Note 30), p. 100; Pál Dunay/Wolfgang Zellner, The Pact on Stability in Europe - A Diplomatic Episode or a Lasting Success?, in this volume, p. 310; Gyarmati, cited above (Note 5), p. 180; Hennig, cited above (Note 6) p. 283; Höynck, cited above (Note 6), p. 69; Kovács, cited above (Note 27) pp. 59-60; Krasznai, cited above (Note 28), p. 353; Jerzy M. Nowak, Poland and the OSCE: In Search of more Effective European Security, in this volume, pp. 122, 125; Ingo Peters, The Relations of the OSCE to Other International Organizations, in this volume, pp. 385ff.; von Tscharner/von Castelmur, cited above (Note 6) pp. 234, 237.

<sup>39</sup> Hennig, cited above (Note 6), p. 283.

<sup>40</sup> See von Tscharner/von Castelmur, cited above (Note 6), pp. 234, 237, 239.

<sup>41</sup> Ralf Roloff, Die OSZE und das Verhältnis zu den Vereinten Nationen - Im Wechsel von Kooperation, Konkurrenz und Subsidiarität [The OSCE and its Relations to the United Nations - Alternating between Cooperation, Competition and Subsidiarity], in: OSZE-Jahrbuch 1995, cited above (Note 4), p. 375; see also Lutz, cited above (Note 4), p. 82ff.

institutions' really can interlock in a useful way and do not have to stymie each other through institutional egoism".<sup>42</sup> The Head of the OSCE Mission to Bosnia and Herzegovina, US Ambassador Robert H. Frowick, also offers praise in his article in the volume on hand: "IFOR support for the OSCE Mission has been exceptionally outstanding."<sup>43</sup> But these examples still seem to be more the exception than the rule. Ingo Peters of the Free University, Berlin, at any rate, draws a clearly negative balance at the end of his systematic analysis of the "Relations of the OSCE to Other International Organizations": "Still, the overall impression one gets of the network of European security institutions is doubtless one of institutional competition, inadequate coordination and cooperation between them and, as a result, of insufficiency in achieving the common goals of the international community as well as inefficiency in the tools and instruments used. The evidence has been provided by our practical experience, e.g. with regard to the role of international institutions in conflict prevention and crisis management in former Yugoslavia or in the successor states to the Soviet Union. Moreover, the documents produced by the various institutions contain repeated confessions of the urgent need to improve coordination and cooperation also between them; these too point to existing weaknesses."<sup>44</sup>

### *A Regional System of Collective Security in and for Europe*

Is it then the case that the search for an alternative peace and security policy for Europe has not yet been completed? Is the modification of the European security structure toward a regional system of collective security such as was proposed, for example, by the Hamburg Peace Research Institute (IFSH) in its ESC study<sup>45</sup>, an absolute necessity? The Charter of the United Nations not only provides for such regional systems but actually assigns priority to them. The same holds true for the constitutions of some countries, e.g. for the Basic Law of the Federal Republic of Germany.<sup>46</sup> A number of OSCE/CSCE States attributed great importance to collective security in the period immediately after 1989, as Hans-Joachim Gießmann wrote in last year's Yearbook: "The

<sup>42</sup> Dunay/Zellner, cited above (Note 38), p. 310.

<sup>43</sup> Robert H. Frowick, The OSCE Mission to Bosnia and Herzegovina, in this volume, p. 174.

<sup>44</sup> Peters, cited above (Note 38), p. 398.

<sup>45</sup> Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg (IFSH) [Institute for Peace Research and Security Policy at the University of Hamburg (IFSH)], The European Security Community (ESC), The Security Model for the Twenty-First Century, Baden-Baden 1996.

<sup>46</sup> See for example: Dieter S. Lutz, Krieg und Frieden als Rechtsfrage im Parlamentarischen Rat 1948/1949 [War and Peace as a Legal Question in the Parliamentary Council 1948/1949], Baden-Baden 1982.

plan for expanding the CSCE into a collective security system which was put forward by the then Foreign Ministers of the Soviet Union and Czechoslovakia, Eduard Shevardnadse and Jiri Dienstbier, represented at the time the conviction of the majority in the states of Eastern Central Europe."<sup>47</sup> A short time later, however, this conviction gave way to a more sober view, as Jan Pecháček of the Czech Foreign Ministry writes<sup>48</sup> and as the Polish Ambassador to the OSCE, Jerzy M. Nowak, also reports in the Yearbook on hand: "However, some of the early initiatives, hastily formulated under new conditions and in a mood of euphoria, were more like 'ambitious experiments' than realistic objectives, and were sometimes 'at odds with the main stream security thinking of the West'. For example, in early 1990 Poland proposed the creation of a Council of European Cooperation within the CSCE. This was followed by a more developed Czechoslovak proposal calling for the dissolution of both NATO and the Warsaw Pact and suggesting a treaty on European security under the aegis of the CSCE."<sup>49</sup> What the Pole, Nowak, means by the "main stream" thinking of the West with regard to collective security is formulated by the Briton, Cottey, on behalf of his country in the following terms: "Britain has (...) opposed proposals to turn the OSCE into a collective security organization involving formal security guarantees, a Security Council or OSCE armed forces. British officials argue that such ideas are unrealistic, would threaten the OSCE's character as an inclusive, cooperative security organization, and could undermine NATO."<sup>50</sup> In the judgement of Benedikt von Tscharner and Linus von Castelmur, this attitude, which is shared by a majority of OSCE States, is not likely to change in the future. With a view to the work being done on the Security Model for the 21st Century, the two Swiss writers state: "We know what the Security Model cannot be: a ponderous new collective security structure with rigid and binding allocation of tasks which claims exclusive responsibility for security in Europe and, from a position at the top of the hierarchy, dictates to other institutions what they must do."<sup>51</sup>

---

<sup>47</sup> Hans-Joachim Gießmann, Die "Westdrift" Ostmitteleuropas [The "Western Drift" of Eastern Central Europe] in: OSZE-Jahrbuch 1995, cited above (Note 4), p. 356 ff.

<sup>48</sup> Jan Pecháček, The Czech Republic and the OSCE, in this volume, pp. 106-107.

<sup>49</sup> Nowak, cited above (Note 38), p. 115; see also p. 116: "(...) there were no illusions that the CSCE had the potential to offer so-called 'hard security guarantees' or to serve as a collective security structure."

<sup>50</sup> Cottey, cited above (Note 30), p. 102; see also pp. 95 and 101.

<sup>51</sup> Von Tscharner/von Castelmur, cited above (Note 6), p. 239ff.

These judgements of Cottey, von Tscharnher and von Castelmur are more than realistic. Even so, they do not fully take into consideration the possible effects of the "Code of Conduct on Politico-Military Aspects of Security"<sup>52</sup> adopted by the Budapest Review Conference in 1994.

At the heart of this Code of Conduct "are guidelines for tying armed forces into the democratic structures of a civil society characterized by separation of powers and the rule of law. At the same time it sets forth rules for the permissible use of armed forces, not only externally but also in domestic conflicts (...) At the same time, the Code affirms and refines those OSCE norms designed to ensure security and stability in international relations. At the center is the prohibition of the use of force, which is embodied in a number of fundamental security commitments."<sup>53</sup>

According to Jonathan Dean, the OSCE participating States most active in working out this text were "Poland, the European Union, acting as a unit, and Austria and Hungary in tandem. Poland's approach was the most ambitious in the political sense; its underlying aim was to use the formulation of the Code as the *kernel of a European security system*".<sup>54</sup> In point of fact, Dean says, the principles in the text of this Code "contain new material going beyond earlier CSCE decisions"<sup>55</sup> and Ortwin Hennig points out that "the call for solidarity in the Code of Conduct offers a usable normative basis for the possible expansion of the OSCE into *a system of collective security* which, when there is a threat of military force, guarantees a certain level of solidarity from the other participating States".<sup>56</sup>

Is the OSCE after all embarked on the path to a regional system of collective security in and for Europe? The Deputy Head of the German Permanent Mission to the OSCE, Ortwin Hennig, casts doubt on this prospect when he writes that the commitments included in the Code "in no way alter the fact that for the foreseeable future the OSCE will not be able to offer its participants the protection of a functioning system of collective security".<sup>57</sup> Jonathan Dean, too, is skeptical: the Code of Conduct "joins other OSCE concepts and projects in waiting for the day when OSCE gains sufficient weight to put more energy and authority behind implementing its own decisions and principles".<sup>58</sup>

---

<sup>52</sup> Cf. Budapest Document 1994, cited above (Note 15), pp. 87-91.

<sup>53</sup> Hennig, cited above (Note 6), pp. 273-274.

<sup>54</sup> Jonathan Dean, The OSCE "Code of Conduct on Politico-Military Aspects of Security": A Good Idea, Imperfectly Executed, Weakly Followed-up, in this volume, p. 292 (emphasis added by DSL).

<sup>55</sup> Ibid., p. 294.

<sup>56</sup> Hennig, cited above (Note 6), pp. 282-283 (emphasis added by DSL).

<sup>57</sup> Ibid., p. 282.

<sup>58</sup> Jonathan Dean, cited above (Note 54), p. 298.

*The Code of Conduct on Politico-Democratic Aspects of Co-operation and the Proposal for a Code of Conduct on Economic, Social and Environmental Aspects of Security*

Dean's criticism may be justified for the present. Even so, the Code has promoted additional projects and related ideas in neighboring fields of security. In 1995 and 1996, especially the Parliamentary Assembly of the OSCE, at the initiative of the President of the German *Bundestag* and Head of the German Delegation, Rita Süßmuth, established an ad hoc committee to work out a "Code of Conduct on Politico-Democratic Aspects of Co-operation". This Code of Conduct which, according to Michael Fuchs and Angelika Pendzich-von Winter, was to be worked out "to parallel and supplement the 'Code of Conduct on Politico-Military Aspects of Security' which had been adopted by the OSCE executive",<sup>59</sup> was recently adopted unanimously by the Fifth Annual Session of the Parliamentary Assembly in July 1996 in Stockholm. In addition, as reported by Benedikt von Tscharner and Linus von Castelmur, there was a proposal in connection with the work on a Security Model for the 21st Century to produce a "Code of Conduct on Economic, Social and Environmental Aspects of Security".<sup>60</sup> We must wait and see what consequences, if any, this proposal, presented by the Russians, will have.

*The "Obligation to Intervene" or: The Principle of "Human Rights above National Sovereignty"*

One thing that underlies the Code of Conduct and, in a general way, distinguishes the OSCE from other international organizations<sup>61</sup> is doubtless the resolution of the tension between two fundamental principles of international law: the right of self-determination, on the one hand, and territorial integrity along with state sovereignty on the other.<sup>62</sup> Hitherto, customary law stipulates "that states may not intervene in matters which are essentially within the domestic jurisdiction of another state. But the area thus reserved to the states has not been defined conclusively or in a generally valid way. Internationalized, and thus removed from the exclusive domestic jurisdiction of states are, first, all matters regulated by international law. Thus the scope of the *domaine réservé* of states varies, depending on treaty ties of a bilateral and

---

<sup>59</sup> Fuchs/Pendzich-von Winter, cited above (Note 16), p. 359.

<sup>60</sup> Von Tscharner/von Castelmur, cited above (Note 6), p. 236.

<sup>61</sup> "The OSCE's norms on protection of minorities, for example, *go beyond* those of the UN, especially with regard to the explicit authority to involve itself in the internal conflicts of countries." Peters, cited above (Note 38), p. 387 (emphasis added by DSL).

<sup>62</sup> Cf. also: Hennig, cited above (Note 6), p. 285.

multilateral kind, and it has been especially eroded by the international protection of human rights.

But it is not just through rules of international law that matters are internationalized. Non-legal agreements and other international soft law can accomplish this as well. It was in this sense that the Foreign Minister of the Federal Republic of Germany pointed out that 'applying pressure to ensure that the commitments taken over from the Final Act of Helsinki are observed does not constitute intervention in the internal affairs of another state'. Thus it is no longer an intervention when the participating States of the OSCE deal with the constitutional order of other participating States, which traditionally belongs to the core elements of states' sovereignty. Starting with the Conference on the Human Dimension and the Charter of Paris, democracy, the separation of powers and the rule of law have become international matters, subject to international control through the Moscow Mechanism and the implementation meetings on human dimension issues."<sup>63</sup>

This opinion of the legal scholar, Ulrich Fastenrath, is emphatically supported by the past OSCE Secretary General, Wilhelm Höynck: "The new threats to security, including nationalism and intolerance, are mainly the result of domestic problems. For that reason, the principle of 'human rights above national sovereignty' is of particular importance for the OSCE's efforts in the area of conflict prevention. Questions of human rights, democracy and the rule of law are of concern to all in the OSCE and their discussion cannot be abridged by objections based on national sovereignty. This principle makes it possible to have a direct and open conversation between all 'concerned' and works against security risks resulting from insufficient democracy. Democratic and pluralistic social structures help to maintain a balance between the interests of minorities in a given country and the overall interest of that state. This principle of a 'legitimate concern on the part of all' or of an obligation to intervene is one aspect of the OSCE's concept of comprehensive security; it strengthens and binds together the civil societies. By agreeing to the dispatch of an OSCE Assistance Group to Grozny, Russia strengthened the OSCE's right of intervention."<sup>64</sup>

What Fastenrath and Höynck put on record in their articles in the Yearbook on hand<sup>65</sup> is the 'obligation of the community of nations to intervene'. In the logic of language and law, however, they can no longer speak of intervention since the circumstances that justify intervention in the internal affairs of another State have been internationalized and thus removed from the sole competence of an individual State. If the diplomat Höynck nevertheless

---

<sup>63</sup> Ulrich Fastenrath, *The Legal Significance of CSCE/OSCE Documents*, in this volume, p. 426.

<sup>64</sup> Höynck, cited above (Note 6), pp. 71-72.

<sup>65</sup> See also: Gyarmati, cited above (Note 5), p. 178.

speaks of an "obligation to intervene" (unlike the legal scholar, Fastenrath) it is out of a debt to the moral and ethical feelings of the general public. In common parlance, the principles of "human rights above national sovereignty" and of "legitimate concern" will no doubt continue to be summarized and articulated as an "obligation to intervene".<sup>66</sup>

*Solidarity and Mutual Assistance - Security Guarantees and the OSCE's Own Peacekeeping Forces*

"Intervention" and "being concerned" are two sides of the same coin. "Solidarity", for its part, is the twin sister of "concern". With the principle of "human rights above national sovereignty" the OSCE is thus venturing into new territory in a two-fold sense. It is setting out on a path whose structural consequences - including those of an economic and social kind - could, if it is consistently followed to the end, go far beyond what has hitherto been contemplated. In the narrower sense of security policy, the result could be mutual assistance guarantees and peacekeeping forces belonging to the OSCE itself.<sup>67</sup> A first step in this direction already exists in the Code of Conduct on Politico-Military Aspects of Security: "(The CSCE States) are determined to act in solidarity if CSCE norms and commitments are violated and to facilitate concerted responses to security challenges that they may face as a result. They will consult promptly, in conformity with their CSCE responsibilities, with a participating State seeking assistance in realizing its individual or collective self-defence. They will consider jointly the nature of the threat and actions that may be required in defence of their common values."<sup>68</sup>

According to Ortwin Hennig in this volume, "at first blush these commitments do not seem to go very far. But they represent a first step toward a concrete mutual commitment of countries to support each other in warding off attacks against their security. They in no way alter the fact that for the foreseeable future the OSCE will not be able to offer its participants the protection of a functioning system of collective security since it, unlike the UN, does not have the means to put the violator in his place with coercive force when a breach of law has occurred. Indivisible security, which really does apply to all OSCE States, is an objective but, as Bosnia and Herzegovina as well as the Caucasus have demonstrated, still not the reality. Even so, the call

---

<sup>66</sup> Perhaps they will even *have to be* articulated that way. There will probably always be a few States that oppose these principles and try to maintain the fiction of "internal affairs"; see also: Kovács, cited above (Note 27), pp. 62ff.; also the examples offered in: Gießmann, cited above (Note 6), pp. 190ff.; Dunay/Zellner, cited above (Note 38), p. 311.

<sup>67</sup> Cf. in this connection: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg (IFSH), The European Security Community (ESC), cited above (Note 45).

<sup>68</sup> Budapest Document 1994, cited above (Note 15), p. 88.



for solidarity in the Code of Conduct" - as already noted - "offers a usable normative basis for the possible expansion of the OSCE into a system of collective security which, when there is a threat of military force, guarantees a certain level of solidarity from the other participating States."<sup>69</sup>

The former Foreign Minister, Genscher, calls as well for an option to send out peacekeeping forces. His article in the volume on hand states, *inter alia*, that "the proposal, based on an initiative of Foreign Minister Kinkel and his then Dutch colleague, Koojmans, that the OSCE must be enabled to recommend coercive measures to the UN Security Council, even without the agreement of the parties to the conflict, should be put into effect quickly. But the effectiveness of such decisions depends heavily on whether the OSCE has the instruments to carry them out. These includes the dispatch of peacekeeping troops if other measures do not lead to the desired result."<sup>70</sup>

We have a long way to go, however, before these proposals by Genscher and others can be realized. For the time being, Andrew Cottey is probably correct in his estimate that "the reluctance of the major powers to intervene militarily in the Yugoslav conflict certainly suggests that hopes for the provision of mutual security guarantees to all OSCE States or widespread use of OSCE peacekeeping or enforcement forces are unrealistic".<sup>71</sup>

#### *Activities and Responsibilities of the OSCE*

It remains to be seen whether and how the Code of Conduct and the principles it enunciates will influence the OSCE and what the role and the significance of the OSCE will be in security structures now under development. The former Secretary General of the OSCE, Wilhelm Höynck, believes that our "main concern, therefore, need not be about the OSCE as an institution but about the fulfillment of its responsibilities".<sup>72</sup> Among these tasks<sup>73</sup> in recent months were the following:

- the continuation of numerous missions, e.g. in the Baltic states, Croatia, Nagorno-Karabakh and Macedonia,
- election monitoring,<sup>74</sup>
- the work on the Security Model for the 21st Century,<sup>75</sup>

<sup>69</sup> Hennig, cited above (Note 6), pp. 282-283.

<sup>70</sup> Genscher, cited above (Note 4), p. 53.

<sup>71</sup> Cottey, cited above (Note 30), p. 102.

<sup>72</sup> Höynck, cited above (Note 6), p. 74.

<sup>73</sup> For an abstract definition, cf. Kovács, cited above (Note 27), pp. 60-62.

<sup>74</sup> Cf. Gerald Mitchell, Election Observation is More than just a One Day Event, in this volume pp. 199-210; Peter Emery, OSCE Parliamentary Assembly Election Monitoring: The 1995 Russian Elections, in this volume, pp. 211-224; Frowick, cited above (Note 43).

<sup>75</sup> Cf. von Tscharnier/von Castelmur, cited above (Note 6).

- arms control and disarmament efforts,<sup>76</sup>
- the promotion of democracy and of civil societies,<sup>77</sup>
- overcoming problems of economic and social transformation,<sup>78</sup>
- the activities of the High Commissioner on National Minorities,<sup>79</sup>
- and, above all, the fulfillment of the requirements in Bosnia and Herzegovina.<sup>80</sup>

The missions to the states and regions listed will be treated in the Yearbook in two-year cycles. Since they were covered extensively in 1995,<sup>81</sup> the Yearbook on hand will be limited to two first-hand reports on developments in Chechnya and on the major tasks in Bosnia and Herzegovina.

Among the lessons which István Gyarmati, the Chairman's Personal Representative in Chechnya, learned from the OSCE's engagement there is the recognition that "few diplomats and military experts can accomplish miracles", assuming that the international organization which they represent remains "neutral".<sup>82</sup> Additional lessons from the OSCE's undertaking in Chechnya include that "one must interfere in a conflict at the earliest possible stage. But we should also not shy away from playing an active role at a later stage."<sup>83</sup>

This last point certainly applies with particular force to the "afterthoughts" in connection with the armed conflict in Bosnia and Herzegovina following the Dayton Agreement. If we can believe Robert H. Frowick, the Head of the OSCE Mission to Sarajevo, the elections which had to be set up there were the "most complex ever".<sup>84</sup> In Frowick's view, the OSCE meets "the extraordinary challenges" and "is doing its best".<sup>85</sup>

With a view to the election scheduled for 14 September, we must wait and see what the result of this aspect of the OSCE effort will be; however, the OSCE's engagement - and that of Germany in particular - in the field of arms control can already be expressed in terms of concrete data and facts. According to Rüdiger Hartmann, the German Government Commissioner for Disarmament and Arms Control, "the stocks of heavy weapons in the region (...)

---

<sup>76</sup> Cf. Wallner, cited above (Note 6); Rüdiger Hartmann, *The Significance of Regional Arms Control Efforts for the Future of Conventional Arms Control in Europe, Exemplified by the Arms Control Negotiations in Accordance with the Dayton Agreement*, in this volume pp. 253-263.

<sup>77</sup> See Note 19.

<sup>78</sup> Cf. Höhmann, cited above (Note 6).

<sup>79</sup> Cf. Timmermans, cited above (Note 6).

<sup>80</sup> Cf. Frowick, cited above (Note 43); Hartmann, cited above (Note 76).

<sup>81</sup> Cf. OSZE-Jahrbuch 1995, cited above (Note 4), particularly pp. 147-220.

<sup>82</sup> Gyarmati, cited above (Note 5), p. 184.

<sup>83</sup> Ibid.

<sup>84</sup> Frowick, cited above (Note 43), p. 170.

<sup>85</sup> Ibid., p. 174.

will be reduced by about a third. When reductions are complete, *all* Parties will have fewer weapons than before."<sup>86</sup>

If the OSCE's efforts and achievements in Bosnia and Herzegovina can be described as spectacular, this is not true of most of the rest of its activities. Among those of public interest is perhaps the not yet concluded work on the Security Model for the 21st Century and the implementation of the arms control agreements in the CFE Treaty. Election monitoring, diplomatic missions and the activities of the High Commissioner on National Minorities, for their part, belong to the area of preventive diplomacy - the quiet and discrete activities whose successes are not so readily apparent to the public eye. It remains true that a conflict that has not taken place is not worth a news report.<sup>87</sup> But this phenomenon does not detract from the capabilities and successes of the OSCE, which are generally judged positively in the articles in the Yearbook on hand; on the contrary, if it is rightly understood it confirms them.

### *Criticism of the OSCE*

As appropriate as this praise of the OSCE - of its accomplishments and successes - is, it should not make us close our eyes to those areas where justifiable criticism exists. Among those touched on by the authors are:

- neglect of the OSCE's own potential for pursuing a pan-European stability policy favoring the so-called enlargement of NATO,<sup>88</sup>
- weaknesses in the cooperation between OSCE and the concrete efforts and programs of the "Partnership for Peace",<sup>89</sup>
- the modest results of the Pact on Stability,<sup>90</sup>
- the substantial weaknesses in the network of interlocking and mutually reinforcing institutions,<sup>91</sup>
- the nominal transformation of the CSCE into the OSCE, i.e. into an organization, but without giving it the status of an organization,<sup>92</sup>

<sup>86</sup> Hartmann, cited above (Note 76), p. 261 (emphasis in original).

<sup>87</sup> See: Dieter S. Lutz, Vorwort [Foreword], in: OSZE-Jahrbuch 1995, cited above (Note 4), p. 9.

<sup>88</sup> "This is a mistake" says Genscher, cited above (Note 4), p. 52.

<sup>89</sup> Cf. Höynck, cited above (Note 6), p. 74.

<sup>90</sup> Cf. Dunay/Zellner, cited above (Note 38), p. 309.

<sup>91</sup> Cf. Peters, cited above (Note 38), particularly pp. 397-399.

<sup>92</sup> The Budapest Document of 1994 states *inter alia*: "The change in name from CSCE to OSCE alters neither the character of our CSCE commitments nor the status of the CSCE and its institutions", Budapest Document 1994, cited above (Note 15), p. 84. This leads, among other things, to the "noteworthy fact" that the member states of the OSCE still have to be referred to as participating States - a phenomenon which caused even the contributions of OSCE office holders and functionaries in the 1996 OSCE Yearbook occasionally to require the corrective hand of the editor.

- the fundamental lack of legally binding rules for the protection of minorities,<sup>93</sup>
- the necessity of implementing norms which have been jointly accepted as binding by OSCE States and of supervising and supporting this implementation,<sup>94</sup>
- the indefiniteness and lack of precision of many rules in the Code of Conduct on Politico-Military Aspects of Security, along with the lack of any implementation mechanisms going beyond a vague commitment to provide information,<sup>95</sup>
- the lack of an agreed and precise interpretation of the Principles Governing Conventional Arms Transfers,<sup>96</sup>
- the existence of a two-class system in the verification and evaluation of military data, in which only a few large states (US, Russia, Germany, France, Great Britain) have the means of ensuring that their rights are observed, along with the weak security standards for non-CFE states,<sup>97</sup>
- the one-sided way in which minority problems are dealt with only in Central and Eastern European countries but not in Western Europe,<sup>98</sup>
- the limits on decision-making competences and on the potential of the OSCE Chairman-in-Office,<sup>99</sup>
- the inadequate effectiveness of the (too) numerous mechanisms and structures in the area of the human dimension,<sup>100</sup>
- the artificial separation between consultations on military aspects of security in the Forum for Security Cooperation (FSC) and all other consultations in the Permanent Council of the OSCE,<sup>101</sup>
- the lack of interest on the part of some states in participating in the "conflict early warning system" promptly at the earliest possible time,<sup>102</sup>
- the West's resistance toward further measures to facilitate travel and improve human contacts,<sup>103</sup>
- the lack of ideas for solving the problems of Central Asia,<sup>104</sup>

---

<sup>93</sup> Cf. Dunay/Zellner, cited above (Note 38), p. 311; see also Gießmann, cited above (Note 6), pp. 190-192.

<sup>94</sup> Cf. *ibid.*, p. 194.

<sup>95</sup> Cf. Hennig, cited above (Note 6), p. 275; see also pp. 276-277 and 279ff.

<sup>96</sup> Cf. Joanna van Vliet, *Principles Governing the Conventional Arms Transfers*, in this volume, p. 267.

<sup>97</sup> Cf. Wallner, cited above (Note 6), p. 244.

<sup>98</sup> Cf. Dunay/Zellner, cited above (Note 38), p. 302.

<sup>99</sup> Cf. Gyarmati, cited above (Note 5), p. 176.

<sup>100</sup> Cf. Höynck, cited above (Note 6), p. 70.

<sup>101</sup> Cf. *ibid.*, p. 74.

<sup>102</sup> Cf. Gyarmati, cited above (Note 5), p. 182.

<sup>103</sup> Cf. Nowak, cited above (Note 38), p. 119.

<sup>104</sup> Cf. Sultanov, cited above (Note 6), pp. 134ff.

- the insufficient attention given to the Afghan conflict as a threat to the international community,<sup>105</sup>
- the inadequate adaptation of arms control and of arms control ideas to new circumstances such as future forms of high technology or the planned enlargement of NATO,<sup>106</sup>
- the rhetorical character of the economic dimension of the OSCE,<sup>107</sup>
- the inadequacy of means to provide economic-environmental-social backing for security and stability through a network of institutions or through financial resources of the OSCE.<sup>108</sup>

### *Economy and Finances*

These last two areas where problems exist and criticism has been heard - economy and finances - are unquestionably of special importance. Traditionally, the work of the CSCE/OSCE has been oriented toward the "three baskets" of the Helsinki Final Act. Economic questions belong in the "second basket". In the CSCE framework they tended to be neglected - also a kind of tradition.<sup>109</sup> In the OSCE they are discussed mainly in the annual Economic Forum at the level of the Senior Council. In addition to that, Höynck points out in this volume, "economic cooperation between the participating States of the OSCE is supported by numerous specialized organizations".<sup>110</sup> Nevertheless, there still seems to be a substantial gap between the claims and the reality: on the one hand, there is no statement on a comprehensive security concept for the OSCE and no discussion of the Security Model for the 21st Century which does not emphasize the connection between economic and military security;<sup>111</sup> on the other hand, "the range of instruments available to the OSCE for meeting its responsibilities in the economic dimension (...) is also extremely limited", as Hans-Hermann Höhmann writes in the volume on hand<sup>112</sup> and as Ivan Majercin had already emphasized in the 1995 Yearbook.<sup>113</sup> Until very recently, as Omar A. Sultanov writes in the Yearbook on

<sup>105</sup> Cf. Reznik, cited above (Note 24), p. 141.

<sup>106</sup> Cf. Wallner, cited above (Note 6), p. 251.

<sup>107</sup> Cf. Sultanov, cited above (Note 6), p. 136.

<sup>108</sup> Cf. Höhmann, cited above (Note 6), p. 323.

<sup>109</sup> Cf. Peters, cited above (Note 38), p. 389; also Fuchs/Pendzich-von Winter, cited above (Note 16), p. 361.

<sup>110</sup> Höynck, cited above (Note 6), p. 71.

<sup>111</sup> See, for example, von Tscharnier/von Castelmur, cited above (Note 6), pp. 232, 236, 237; Pecháček, cited above (Note 48), p. 108; Reznik, cited above (Note 24), pp. 142ff.; Timmermans, cited above (Note 6), pp. 365-366; de Belenet, on the other hand, calls on "the OSCE to reduce the economic dimension somewhat", cited above (Note 31), p. 90.

<sup>112</sup> Höhmann, cited above (Note 6), p. 322.

<sup>113</sup> Ivan Majercin, Die wirtschaftliche Dimension der OSZE: Neue Herausforderungen [The Economic Dimension of the OSCE: New Challenges], in: OSZE-Jahrbuch 1995, cited above (Note 4), pp. 368ff.

hand, the economic basket has been a "Cinderella along side of two beautiful sisters".<sup>114</sup>

A similar point can be made about the finances of the OSCE itself. While the acting Secretary General at the time the first Yearbook was presented was unwilling to admit to a financial problem,<sup>115</sup> Höynck writes in this year's volume, not without a critical undertone, that the Office for Democratic Institutions and Human Rights (ODIHR) accomplishes a remarkable amount "with a small staff and a very limited budget".<sup>116</sup> Or, that "a *solid financial basis*" is one of the decisive elements in the success of a mission.<sup>117</sup> A number of authors of the Yearbook on hand make this point even more clearly than Höynck.<sup>118</sup> For example, István Gyarmati, Personal Representative of the Chairman-in-Office of the OSCE, writes with respect to the Conflict Prevention Centre: "The OSCE works very cost-effectively. But a certain standard has to be assured. The Secretariat must be able to provide full support for the missions. Today, it cannot. The Secretariat - read: Conflict Prevention Centre - does not have the size of staff it needs, the missions are not financed in such a way that they can work effectively and financial matters are handled much too bureaucratically."<sup>119</sup> If we look at the very limited - indeed, almost laughably small - budget<sup>120</sup> of the OSCE (the figure for the regular budget in 1995 was US Dollars 30.6 million<sup>121</sup>) then this and similar complaints become readily understandable. Among the consequences are the cessation of some activities<sup>122</sup> and the appeal (more accurately, begging) for additional voluntary contributions.<sup>123</sup> In the meantime, there are even jokes making the round about the financial operations and behavior of the OSCE.<sup>124</sup> It is quite clear that the OSCE and its participating States have not yet taken sufficiently to heart the philosophy of conflict prevention which they like to propagate:

---

<sup>114</sup> Sultanov, cited above, (Note 6), p. 136.

<sup>115</sup> Press Conference at the City Hall in Hamburg on 8 September 1995.

<sup>116</sup> Höynck, cited above (Note 6), p. 70 (emphasis by DSL).

<sup>117</sup> Ibid., p. 73 (emphasis by DSL).

<sup>118</sup> See, among others: Peters, cited above (Note 38), pp. 398-399; Cottey, cited above (Note 30), p. 100; de Belenet, cited above (Note 31), p. 90; Höhmann, cited above (Note 6), p. 322; Gießmann, cited above (Note 6), p. 194; Dunay/ Zellner, cited above (Note 38), p. 306.

<sup>119</sup> Gyarmati, cited above (Note 5), p. 184.

<sup>120</sup> See in this volume: 1995 Annual Report of the OSCE Secretary General, pp. 515-516.

<sup>121</sup> For purposes of comparison, the administrative costs of NATO are said to run to about US Dollars 200 million.

<sup>122</sup> The OSCE is unable financially even to support disarmament liabilities - cf. Jörg Wallner, cited above (Note 6), pp. 242-243.

<sup>123</sup> The former Danish Foreign Minister and Special Representative, Uffe Elleman-Jensen, even had to beg for the resources for Bosnia and Herzegovina when payments into the voluntary fund failed to materialize or did so only very slowly - see Frowick, cited above (Note 43), p. 166.

<sup>124</sup> Cf. Sultanow, cited above (Note 6), p. 135.

"In the end, it is obvious that preventing conflict is cheaper than enforcing or keeping peace and rebuilding societies after a violent conflict."<sup>125</sup>

#### *Proposals for Further Development of the OSCE*

Although the criticism enunciated in the last two sections may at first appear overwhelming, it is in no way intended to diminish the importance of the OSCE in the European security structure or the value of the work it has done in recent months and years. On the contrary: rightly understood, it is a plea not against but for the OSCE and for its continuation and further development. After all, only consistent and thoughtful criticism opens the mind for alternatives, other options and proposals. Among the alternatives put forward by the authors of this volume are:

- strengthening the OSCE as a regional arrangement in the sense of Chapter VIII of the UN Charter (principle of "OSCE first", dispatch of OSCE peacekeeping forces),<sup>126</sup>
- discussion of a new overall concept which, along the lines of a Harmel II Report, would point the way to a durable system of security and stability from Vancouver to Vladivostok,<sup>127</sup>
- gradual enactment of the OSCE's system of rules into law,<sup>128</sup>
- continued systematic development of the Code of Conduct on Politico-Military Aspects of Security,<sup>129</sup>
- strengthening cooperation between the OSCE and the programs of "Partnership for Peace",<sup>130</sup>
- strengthening the Mediterranean dimension of the OSCE,<sup>131</sup>
- including internal security matters in the OSCE and promoting cooperation between participating States in all questions relating to fighting criminal activity, especially border-crossing organized crime,<sup>132</sup>
- strengthening the OSCE's decision-making capacity by using and expanding the formula of "consensus minus one",<sup>133</sup>

---

<sup>125</sup> Timmermans, cited above (Note 6), p. 367; equally critical: cf. Schelter/Niemeier, cited above (Note 6), p. 330, especially the damage estimates just for organized crime.

<sup>126</sup> Genscher, cited above (Note 4), pp. 52-53.

<sup>127</sup> Ibid., p. 55.

<sup>128</sup> Ibid., p. 52; see also Dean, cited above (Note 54), p. 292; Gießmann, cited above (Note 6), p. 196.

<sup>129</sup> Dean, *ibid.*, esp. p. 297.

<sup>130</sup> Höynck, cited above (Note 6), p. 74.

<sup>131</sup> Sica, cited above (Note 6).

<sup>132</sup> Schelter/Niemeier, cited above (Note 6), p. 332.

<sup>133</sup> Genscher, cited above (Note 4), p. 53; de Belenet, cited above (Note 31), p. 91.

- enlarging the potential for action of the OSCE Chairman-in-Office and Secretary General,<sup>134</sup>
- establishing a Security Council, comparable to the UN Security Council, within the OSCE framework,<sup>135</sup>
- improving the operational relationship between the Forum for Security Cooperation and the Permanent Council,<sup>136</sup>
- deepening mutual relations between the OSCE's Parliamentary Assembly and its executive,<sup>137</sup>
- using carefully selected Special Representatives of the Chairman-in-Office in critical situations affecting the stability and credibility of the OSCE,<sup>138</sup>
- strengthening the OSCE's capacity for acting in the field through its missions,<sup>139</sup>
- focusing OSCE efforts on the removal of potential causes of conflict,<sup>140</sup>
- strengthening support for the process of economic reform along with the development of market economies and environmentally friendly policies,<sup>141</sup>
- expanding the economic functions of the OSCE and strengthening them institutionally,<sup>142</sup>
- improving the financial situation of the OSCE,<sup>143</sup>
- moving ahead with conventional arms control,<sup>144</sup>
- developing the future OSCE arms control agenda,<sup>145</sup>
- establishing an OSCE Conventional Arms Register whose scope would go beyond the categories of arms of the UN Register,<sup>146</sup>
- making information, documents, recommendations, etc. available not only in the official OSCE languages but in the languages of the parties concerned.<sup>147</sup>

This list of ideas put forward by the authors in the volume on hand is by no means complete. It must, in any event, be enlarged to include the numerous

---

<sup>134</sup> Genscher, *ibid.*; de Belenet, *ibid.*

<sup>135</sup> Genscher, *ibid.*, pp. 53-54.

<sup>136</sup> Höynck, cited above (Note 6), p. 74.

<sup>137</sup> Fuchs/Pendzich-von Winter, cited above (Note 16), pp. 363-364.

<sup>138</sup> Höynck, cited above (Note 6), pp. 70-71.

<sup>139</sup> De Belenet, cited above (Note 31), p. 91.

<sup>140</sup> Timmermans, cited above (Note 6), p. 366.

<sup>141</sup> Höhmann, cited above (Note 6), pp. 321-322.

<sup>142</sup> *Ibid.*, pp. 323-324.

<sup>143</sup> In this connection, see Notes 107-125.

<sup>144</sup> Genscher, cited above (Note 4), p. 54; but see also the opposing view expressed by Cottey, cited above (Note 30), p. 98.

<sup>145</sup> Nowak, cited above (Note 38), pp. 122-123.

<sup>146</sup> Van Vliet, cited above (Note 96), p. 272.

<sup>147</sup> Gießmann, cited above (Note 6), p. 198.



proposals made in the course of discussions on a European Security Model for the 21st Century. These proposals are discussed thoroughly in the volume by Benedikt von Tscharnier and Linus von Castelmur.<sup>148</sup> Which of these ideas and proposals will determine the future contours of the OSCE will depend ultimately on the participating States and on their interests and attitudes toward the OSCE.<sup>149</sup> The former Chairman-in-Office of the OSCE, László Kovács, rightly reminds us in his article of the "generally valid rule that any organization can only be as effective as its members allow".<sup>150</sup> But the necessity of a "common political will" does not rule out the engagement of individual states - on the contrary, it requires such engagement. As Hans-Dietrich Genscher points out, if strengthening the OSCE is an indispensable condition for a just and lasting peaceful order from Vancouver to Vladivostok<sup>151</sup>, it can only be attained through the engagement of all individual states.

---

<sup>148</sup> Cited above (Note 6), esp. pp. 233-240.

<sup>149</sup> For a thorough discussion, cf. Kurt P. Tudyka, *The Attitudes of the Participating States Toward the OSCE*, in this volume, pp. 79-86.

<sup>150</sup> Kovács, cited above (Note 27), p. 59.

<sup>151</sup> Genscher, cited above (Note 4), p. 49.



## I.

### The Situation



## OSCE: Developments and Prospects



## **Strengthening the OSCE - An Indispensable Condition for a Just and Lasting Peaceful Order from Vancouver to Vladivostok**

In NATO's 1967 Harmel Report, the Atlantic Alliance stated that overcoming the division of Germany and Europe and creating a "just and lasting peaceful order" for all of Europe were its highest goals. The great changes of 1989/90 achieved the first part of this goal - overcoming the division of Germany and Europe. The CSCE made a decisive contribution to this. Its Final Act of 1975, along with other CSCE documents that followed, provided an essential foundation for the peaceful freedom-seeking revolutions in Central and Eastern Europe. With the signing of the Helsinki Final Act, observance of human rights had become a central element of West-East relations. For the first time in European history, the observance of human rights was no longer a question of the "internal affairs" of states. Beginning in 1975, the civil rights movements in the countries of Central, Southeastern and Eastern Europe had a basis to refer to that had been acknowledged by their communist leaders themselves. If the peaceful freedom-seeking revolution of 1989/90 owed its success to the courageous desire for freedom of the people in the countries of Central, Southeastern and Eastern Europe, its peaceful course and its result are nevertheless unthinkable without the conditions created by the CSCE process. For the first time in the history of the Cold War, the CSCE established a forum for dialogue between governments in East and West, including the US and Canada, which spanned and opened the systems. At the same time, the CSCE opened the way for a cooperative security policy, for confidence-building and disarmament.

The CSCE's central role in European security and stability also made itself evident in the establishment of German unity. Unified Germany's demand that it be able to choose which alliance it wished to belong to rested to a significant degree on the CSCE Final Act, according to which every State has the right to join or not to join an alliance. The CSCE also eased the establishment of German unity by fundamentally improving conditions for all of Europe. The "Charter of Paris for a New Europe", signed by the Heads of State or Government of the CSCE States in 1990, not only embedded German unity in a pan-European framework but also formulated guidelines for a lasting and just peace order resting on respect for human rights, free democracy, prosperity through economic liberty and social justice, and the principle of indivisible security for all countries. Zones of varying security and spheres of influence are no longer to be permitted in Europe.

Six years after the signing of the Charter of Paris the situation in Europe has in many respects undergone fundamental change. The objectives of the Charter have taken root in many countries of the former Warsaw Pact or in their successors. The relevant CSCE documents were an important guidepost in this transition from communism to democracy. To that extent, the Charter signatories' call for a "new beginning" in a now undivided and free Europe has been fulfilled. And yet, even after overcoming the division of Germany and Europe we are still far from achieving the Harmel Report's second objective - a just and lasting peaceful order for all of Europe. It is true that the great changes of recent years have largely nullified the risk of a "big" war in Europe; at the same time, however, the bloody conflict in former Yugoslavia has demonstrated in a horrifying way that armed struggles emerging from aggressive nationalism and intolerance are still possible in Europe. In addition, there are new risks to stability stemming from unsolved minority problems, endangerment of the natural bases of life, the proliferation of weapons of mass destruction, unsettled border issues, and migration problems as well as border-crossing crime and terrorism. Following the end of the Cold War, stability has to be defined more and more in economic, social and also ecological terms.

To ward off these dangers and to realize the principles of the Charter of Paris for a New Europe, there must be an effective order of security and stability from Vancouver to Vladivostok. The NATO Summit in Rome in November 1991 observed in this connection: "The challenges we will face in this new Europe cannot be comprehensively addressed by one institution alone, but only in a framework of interlocking institutions tying together the countries of Europe and North America." Thus a new order of security and stability in the aftermath of the Cold War must be underpinned by:

- NATO, which remains the indispensable heart of the trans-Atlantic partnership and expression of the community of values and responsibility between Europe, the United States and Canada;
- the EU, as the furthest developed form of integrated political and economic cooperation between European states - fifteen of them at present but there will be significantly more in the future;
- the WEU, as the EU's future representative in defense policy and the European pillar of NATO;
- the Council of Europe as the community of European states which have committed themselves to maintaining high standards in democracy and human rights;
- the North Atlantic Cooperation Council, as the framework for cooperation between NATO and the states of the former Warsaw Pact or their successors;



- new forms of European-Atlantic cooperation such as the Partnership for Peace.

In the framework of this new European-Atlantic structure, which is based on confidence and transparency, the OSCE is indispensable. Its "comparative advantage" in comparison with all other European-Atlantic institutions lies in its being the only institution which includes the North American democracies and Russia as well as the other successor states of the Soviet Union and makes it possible for them to cooperate on an equal basis. Another fundamental advantage of the OSCE lies in its importance for crisis prevention and management. For that reason, and also because of its comprehensive view of security, the OSCE has an independent significance and function which cannot be assumed by any of the other European-Atlantic institutions.

In view of the fundamental changes in Europe, there have been efforts since 1990 to strengthen the CSCE as the guardian of pan-European security and stability. It seemed particularly important, in this connection, to equip the CSCE with a more effective range of instruments in preventive diplomacy in order better to uphold and implement its principles in the area between Vancouver and Vladivostok. The creation in 1992 of the position of High Commissioner on National Minorities, the establishment of numerous OSCE long-term missions in crisis areas of Central, Southeastern and Eastern Europe as well as Central Asia, and the creation of the Office for Democratic Institutions and Human Rights in Warsaw have contributed in an important way to building and strengthening democratic structures and the rule of law. The establishment of the Forum for Security Cooperation (FSC) in Vienna represented an important step forward in the areas of disarmament, confidence-building and arms control. Important documents such as the "Code of Conduct on Politico-Military Aspects of Security" were negotiated in the FSC. The CSCE was strengthened by the establishment of the Senior Council as well as the Permanent Council and the Secretary General. Finally, the CSCE's growing importance was manifested when at the CSCE Summit in Helsinki it declared itself to be a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations. This made it possible to carry out peacekeeping measures in the area between Vancouver and Vladivostok on the basis of an appropriate mandate from the UN Security Council. The CSCE's enhanced position was made evident when at the CSCE Summit in Budapest in 1994 it was transformed from the "Conference on Security and Cooperation in Europe" into the "Organization for Security and Cooperation in Europe" (OSCE). There, the Heads of State or Government agreed to continue developing the OSCE in three particular areas in order "to move towards a genuine partnership in a new era":

- the development of civil societies through the realization of democracy, human rights and the rule of law;
- the strengthening of preventive diplomacy for conflict prevention and settlement;
- the deepening of cooperative security structures and the creation of a "European Security Space".

Despite this noteworthy progress it is clear that the OSCE's possibilities have by no means been exhausted. Rather, the debate in recent years has been focused more on the so-called "NATO enlargement", while the opportunities for a pan-European stability policy which are inherent in the OSCE have for the most part been neglected. This is a mistake. The OSCE remains the only Euro-Atlantic institution in which the North American democracies and Russia as well as the other successor states of the Soviet Union all work together. It would be a fatal error to think that security and stability in Europe could be ensured without Russia or even against Russia and the other successor states of the Soviet Union. Thus it is urgently necessary to continue developing the OSCE as an effective pan-European institution with an emphasis on conflict prevention and crisis management. Persistent efforts toward this pan-European approach in the framework of the OSCE are all the more important because Russia and the other successor states of the Soviet Union do not enjoy the prospect of NATO membership and have also not concluded association agreements with the EU providing an option of joining. Strengthening the OSCE along these lines does, however, depend on a number of additional initiatives which should be undertaken now.

1. Hitherto, the OSCE's extensive regulations have only been politically binding but do not bind the participating States in a legal sense. In order to make the OSCE regulations more effective and to strengthen the OSCE within the framework of Euro-Atlantic institutions, the regulations should gradually be given the status of law. One could begin, for example, by concluding legally binding agreements between the OSCE participating States with regard to carrying out peacekeeping measures in the OSCE area. For the medium term, we should consider the conclusion of a legally binding Treaty of Establishment for the OSCE.
2. The experience of past years has shown that the United Nations is overburdened by the need to deal with a growing number of conflicts in all parts of the world. It needs relief from regional institutions for the maintenance of peace under the terms of Chapter VIII of the UN Charter. For that reason, it was an important step forward when at the Helsinki Summit in 1992 the CSCE declared itself to be a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations.

The possibilities that this opens up should henceforth be used more frequently than in the past. Thus the OSCE, acting on the principle of "OSCE first", should generally be the first to deal with a crisis in the OSCE area. An important first step on the road to greater responsibility for the OSCE was the decision of the CSCE Summit in Budapest that the CSCE participating States may in exceptional circumstances jointly decide that a dispute will be referred to the United Nations Security Council on behalf of the CSCE. But that alone is not enough. The proposal, based on an initiative of Foreign Minister Kinkel and his then Dutch colleague, Koojmans, that the OSCE must be enabled to recommend coercive measures to the UN Security Council, even without the agreement of the parties to the conflict, should be put into effect quickly. But the effectiveness of such decisions depends heavily on whether the OSCE has the instruments to carry them out. This includes the dispatch of peacekeeping troops if other measures do not lead to the desired result.

3. The decision-making ability of the OSCE must be strengthened. For this purpose, the OSCE's option of deciding on measures without the agreement of the affected states ("consensus minus one") when OSCE principles have been clearly and seriously violated - an option created at my instance when I was Foreign Minister - should be used in determined fashion.
4. Past experience has shown that the large number of participating States in the OSCE occasionally makes it difficult to reach decisions quickly and act decisively. For that reason, OSCE institutions must be made more efficient and capable of action. One requirement in this connection is to expand the opportunities of the Chairman-in-Office and the Secretary General to act. The responsibilities of the Secretary General should not be limited to the administrative area. On the contrary, he should be given the option of bringing before the Ministerial Council, the Senior Council or the Permanent Council any matters which in his view represent a threat to peace and security in the OSCE area.

There are, moreover, strong arguments for supplementing the existing structures by creating a small body analogous to the UN Security Council which would act as a catalyst in the OSCE decision-making process. The establishment of a "security council" in the OSCE, along with the question of how it would be organized in concrete terms, should be put up now for serious discussion within the organization. The composition and competences of this OSCE Security Council would be of great significance. With regard to composition, it would have to be such as to enable the OSCE to act decisively and quickly while at the same time taking appropriate account of the interests of the small and medium-sized States. The objective in establishing an OSCE Security Council would not be to set up a directorate of the "great powers" but, rather, to strengthen the op-

erational options of the OSCE.

5. The OSCE's Court of Conciliation and Arbitration has now been established as a new instrument for the peaceful settlement of disputes. The Convention on this Court, which was reached at the meeting of OSCE Foreign Ministers in Stockholm in 1992 and signed initially by 32 and now by 33 States, came about as the result of a German-French initiative and entered into force on 5 December 1994. The Court is tasked with the responsibility of reaching peaceful settlement of disputes between participating States of the OSCE by means of conciliation and, if appropriate, of arbitration. In this way, the OSCE has substantially enlarged its opportunities for peaceful settlement of conflicts. However, the Court will only be able to carry out its task when all States, or as many as possible, have signed and ratified the Convention. It is regrettable that only 21 States have ratified so far. Of the permanent members of the UN Security Council, France is unfortunately the only one to have done so.
6. In the past, the CSCE has played a decisive role in confidence-building, arms control and disarmament in Europe. This must continue to be the case in the future. It is true that the OSCE is not in a position, as are military alliances, to provide security guarantees to its participating States. Nevertheless, the dialogue in the OSCE on security issues and on standards for disarmament and arms control makes an indispensable contribution to strengthening cooperative security structures. Thus participating States of the OSCE declared at the CSCE Summit in Budapest in 1994 their willingness to establish a genuine security partnership between all participating States, regardless of whatever membership they might have in other security organizations. The "Code of Conduct on Politico-Military Aspects of Security", agreed to at the Budapest CSCE Summit, provides for this purpose an important basis which now must be further developed. In accordance with the charge of the Budapest CSCE Summit, the OSCE should in the future also devote more attention to regional cooperation in security matters in order to counter regional threats to stability. This would be an important contribution to preventive diplomacy and to strengthening stability in the area between Vancouver and Vladivostok. Southeastern Europe and the Baltic area merit particular attention with regard to regional arms control. At the same time, it is important to continue pushing for conventional arms control on the basis of existing agreements such as the CFE Treaty and the "Code of Conduct".
7. Regional cooperation in the OSCE should not be limited to disarmament and arms control but should be extended, in accordance with the OSCE's comprehensive approach to security, to include other areas such as cooperation across borders and minority questions. The "Pact on Stability in

Europe" adopted on 20/21 March 1995 by the Foreign Ministers of OSCE participating States should provide the starting point for such an effort. This Pact, and hence its objective of making vital issues such as minorities and cooperation across borders the subject of regional "round table" discussions, has been turned over to the OSCE for further development. We now need to examine which regional round tables should once again be convoked. The Baltic area and Southeastern Europe are particularly important in this regard. The French initiative for starting a process of stability and good-neighborliness in Southeastern Europe which might at some point develop into a "Balkan Regional Round Table", also merits support.

8. At Russian initiative the CSCE Summit in Budapest decided to begin discussing a "Common and Comprehensive Security Model for Europe for the 21st Century" based on CSCE principles and documents. A model of this kind is to be presented at the impending OSCE Summit in Lisbon toward the end of 1996. We should make good use of this discussion to strengthen the OSCE. It should culminate in a forceful and politically binding document which reaffirms and develops further the principles of Helsinki. At the same time, this "Model" should contain the basic elements of a pan-European order of security and stability resting on an effective combining of Euro-Atlantic structures but not on a hierarchical relationship between them, say, in the sense of a priority of the OSCE over NATO.

There is still much conceptual work to be done in this regard. The focus on so-called NATO enlargement which has prevailed until now has contributed little. Even the concept of "NATO enlargement" is misleading. What is really at issue is not NATO enlargement but the right of every State, affirmed in CSCE documents, to decide on its own affiliation with an alliance. Thus the real need is for a new overall concept along the lines of a Harmel II Report which would point the way to a durable order of security and stability from Vancouver to Vladivostok. NATO and the European Union, in the framework of the EU's Common Foreign and Security Policy, should present such a concept. This would have to be discussed thoroughly with Russia and the other successor states. If we are able to reach agreement on the basic structures of European security and on the role of Russia and the other successor states, the question of new memberships in the Atlantic Alliance will lose its polarizing character. Instead, within a durable security structure, the right of every state to join an alliance will be attainable without any further rifts or cleavages.

The OSCE offers the appropriate framework for the discussion of a just and lasting peaceful order for all of Europe - a discussion which is needed now.

The more determinedly the reform of the OSCE is carried through, the better it will be able to play this role. It is high time that this be done!

## The Future Role of the OSCE in the European Security Architecture

The 5th and 6th of December 1994 were important days in the history of Hungarian diplomacy: for those two days, as the Heads of State or Government of the participating States in the Conference on Security and Cooperation in Europe were our guests, Budapest became the political capital of Europe and North America and Hungary took over the Chairmanship of the OSCE (as the Organization has been called since that time) for one year from Italy.

This responsibility put the spotlight on Hungarian diplomacy just at the time when the Organization itself became a center of interest.

The CSCE, which during the first two decades of its existence had made an effective contribution first to the erosion and then the dissolution of the totalitarian regimes in Eastern Europe and had done a lot to promote democracy in those countries, found itself, along with other international organizations, confronted with another test at the beginning of the nineties. As a result of those historic upheavals, the security profile of Europe has changed in fundamental ways. The end of conflict between the blocs and the fall of the Wall (and with it the end of an artificial division) were accompanied by the arrival of new and mostly unknown problems and the recurrence of old ones that had been repressed for decades. The euphoria over the fall of the Wall dissipated quickly and in recent years the peoples of Europe have had to face numerous problems and new challenges including, for the first time in post-war history, a devastating war in the southern Slavic area.

For the CSCE, which had functioned successfully during the period of the Cold War, this meant moving beyond its traditional role of laying down the basic principles of European cooperation and setting norms for common European values. In adapting itself to changing requirements, it had to take on the operative capabilities it needed to come to terms with the new challenges. It is my view that giving the position of Chairman-in-Office to Hungary in this situation was symbolic in a number of respects. For one thing, it was an acknowledgement of the process which had made Hungary, owing to its democratic transformation and its responsible foreign policy, a full-fledged member of democratic Europe. For another, it gave us the opportunity to demonstrate, both to our partners and to the Hungarian public, that Hungary can and will meet the highest standards of Euro-Atlantic cooperation and represent the Organization, as well as the common values and interests, effectively.

Every participating State must respect the basic principles and norms of the OSCE. Every country must contribute, according to its size and ability, to the joint efforts aimed at putting these norms into practice. But the institution of the Chairman-in-Office meant substantially more to us. During the whole period of our Chairmanship, we construed this responsibility as involving substantially more responsibilities than rights. The Chairman must welcome and support all initiatives and endeavors which are based on the common values set forth in OSCE documents and seek to further their implementation. Our situation was made easier by the fact that the expectations directed at the country holding the Chairmanship as well as the representation of the OSCE's main objectives were in accord with Hungary's own goals in foreign and security policy. Indeed, the OSCE expressly supported realization of our objectives.

### *The OSCE as a Security Organization*

One of the OSCE's biggest problems is that it is not sufficiently known to the public as a security organization and that political decision makers do not seriously regard it as an option when they are preparing their decisions. That is in large part explained by the fact that the OSCE only started in recent years to transform itself from an international conference into a security organization which is capable of carrying out operational tasks. I regard it as an important result of the Hungarian Chairmanship that the OSCE has become better known through its numerous concrete actions. One obvious expression of this is the Dayton Agreement through which the Organization assumed important responsibilities in the areas of elections, human rights and arms control. Growing awareness of the OSCE in Hungary, both among the public and in political life, made it possible for us to view the process of Euro-Atlantic integration, which enjoys priority in our foreign policy, not from an isolated standpoint but in substantively and geographically expanded terms and, I believe, in a more responsible fashion.

A fundamental condition for fulfilling the responsibilities of the Chairman-in-Office is to believe firmly in the OSCE - to believe that the Organization can make an effective contribution to the strengthening of European security and stability. To do that, one must be familiar with the capabilities and the comparative advantages of the Organization; but it is at least equally as important to know its limits. By that I mean both the temporary limits, which depend on the development of the Organization and the changes it undergoes, and the "permanent" limits, which emerge from the fact that there are certain capabilities that the OSCE does not possess now and probably will



not acquire in the future - partly because of its fundamental character which we wish to retain and partly because there are other organizations with capabilities in the relevant areas which it would be not only senseless but counter-productive to duplicate or "reinvent". I am convinced that the solution here is to strengthen real, practical cooperation between international organizations and to optimize the division of labor. The long series of (no doubt instructive) mistakes that have been made in the course of the international community's efforts to get control of the Bosnia conflict demonstrates how catastrophic the consequences can be when actors on the international stage - states and organizations - are not capable of working together, hand in hand; at the same time, however, it shows what can be accomplished when the necessary determination and willingness to cooperate can be secured.

It is a generally valid rule that any organization can only be as effective as its members allow. No matter how impressive the instruments and mechanisms that an organization works out, it remains clear that there is no substitute for a common political will to act.

The special capabilities of the OSCE and its unique and apparently durable features, such as its two-fold comprehensiveness and the sovereign equality of its members, along with its relative flexibility and unbureaucratic structure, are the characteristics which particularly suit the Organization to carrying out certain tasks.

It is my conviction - and the experiences of the Hungarian Chairmanship only reinforced this view - that important responsibilities will fall upon the OSCE in connection with the developing European security architecture. I believe this despite the fact that international organizations have suffered considerable damage to their reputation and public image in recent years, primarily because of their inactivity during the Yugoslavia crisis. The Dayton Peace Agreement and the cooperation between international organizations and individual countries it made possible, leading to a kind of synergy of efforts, surely mark the beginning of a new era - which at the same time demonstrates that the idea of "mutually reinforcing institutions" is workable.

Recent times have demonstrated more than once through terrible tragedies that the concept of security under today's circumstances can only be interpreted comprehensively and must be expanded to cover all aspects of security. Past events have also confirmed the notion of the indivisibility of security: even if not immediately and directly, sooner or later every crisis affects the security of all European countries, including those far away from the center of the problem. It is obvious that the security and stability of the continent cannot be guaranteed by a single organization or a single country. Only a pan-European security architecture resting on the concept of cooperative security and supported by a number of pillars can offer an effective solution. It could, in my view, be made up of the following elements:

- Those European and trans-Atlantic organizations which spread stability: NATO, the European Union, the WEU and the Council of Europe. The adaptation of these institutions, retaining their basic functions while expanding them in a way which does not arouse a sense of isolation and hence of alienation on the part of those who remain outside, or does this to the least degree possible.
- The OSCE as the only security structure which is both geographically and thematically comprehensive and which, along with its continuing importance in norm-setting, also has a wide range of capabilities in preventive diplomacy and in crisis management. The OSCE is one of the "mutually reinforcing institutions"; it can bring its comparative advantages to bear most effectively through close cooperation with other security organizations, on the basis of equality and free of any hierarchical relationships.
- The dialogue on security policy and cooperation between integrative European and/or trans-Atlantic structures and those countries which for the time being, whether short or long, remain outside these organizations: the best example of this cooperation is the Partnership for Peace program.
- Various forms of regional or sub-regional cooperation (e.g. CEFTA, CEI) which carry on their activities in certain areas and in accordance with shared European norms.
- Bilateral and multilateral agreements on the most various aspects of security, ranging from military confidence-building to agreements already concluded or to be concluded in the future in connection with the Pact on Stability in Europe.
- The system of bilateral relations involves an increasingly dense network of cooperation, from the development of good-neighborly relations to various forms of cooperation in border areas and involving all areas of inter-state relations (economics, culture, protection of the environment).
- A fundamental element of the security architecture is the state which is committed to the values of pluralistic, parliamentary democracy, the rule of law, human rights and the free market economy. Thus the internal stability of a country, although it often goes unmentioned or is treated as a separate question, is an essential building-block in the security architecture.

On the basis of its special capabilities and comparative advantages, the OSCE must play a significant role in this security system, particularly in three important fields:

1. The first responsibility is related to its traditional norm-setting role. This includes working out norms based on shared democratic values which determine the rules of conduct between and within states but also, and in particular, substantially strengthening and modifying the mechanisms which make it possible to monitor the observance and implementation of these norms. In this area a change of emphasis can be observed involving efforts to implement the many jointly assumed commitments - to support and, where necessary, enforce such implementation. One specific field of OSCE activity, which is at the same time an indispensable and integral part of conflict prevention and settlement, is the continuation of the arms control process with respect to conventional armed forces in Europe - an area in which the OSCE has acquired extraordinary experience and specialized knowledge.
2. The second task involves early warning, prevention, resolution and elimination of the consequences of crises in the OSCE region, as a part of international efforts to conflict prevention and settlement - an area in which the capabilities and limits of the OSCE must be evaluated realistically. These are without doubt the functions of the Organization which are today most in the limelight. Successes and failures in these activities have an important influence on public opinion and policy toward the OSCE. Although we know that the efforts are justified, we must also emphasize that the OSCE can only offer its assistance in these areas. It is not in a position to solve the problems for the directly affected parties. What is of fundamental importance, along with the willingness of the conflicting parties to cooperate, is that the governments of countries in a position to exert direct or indirect influence on the region of crisis should be willing, in the interest of prevention and effective handling of the conflict, to commit sufficient political and economic capital and, when necessary, to involve themselves militarily.
3. The OSCE's third responsibility, which it shares with other fora and structures for cooperation (e.g. the Partnership for Peace), is to serve as an organizational framework for those European states which for the foreseeable future will not belong or do not wish to belong to any of the integrative Euro-Atlantic organizations such as NATO, the EU or the WEU. The common objective is to create for the continuously developing European security architecture a common security region which will in the final analysis ensure greater security as well as more stable and predictable surroundings for all participating States. In my view this process is moving ahead well owing to the way in which the Euro-Atlantic organizations have adapted themselves to common interests (with significant results which can already be seen, e.g. the IFOR mission in Bosnia under NATO leadership), to the enlargement process which has

begun as a result of this adaptation, and to the close cooperation on various levels resulting from a sense of stability spreading toward the East.

The experience garnered from cooperation between Euro-Atlantic organizations and individual countries in Bosnia has introduced a new phase in the development of Europe's security architecture and its common security space and will probably do more than all past confidence-building measures to break down a static way of thinking and eliminate the wrong approaches based on earlier concepts and perceptions. We can see that as a result of these positive experiences, old differences are disappearing and new forms of cooperation developing which tie countries more closely together. In the continuation of the discussions on the Security Model for the next Century, begun at the Budapest Summit in 1994, they will certainly play an important role.

#### *The Hungarian Chairmanship and the Reform of the OSCE*

The institutional structures of today's OSCE, along with its instruments and mechanisms, have a very brief history and their mandate at the time of founding was described only in general terms. As a consequence, their functions and areas of applicability have developed "under way", in the course of daily operations and in accordance with the requirements of practice. During the year of the Hungarian Chairmanship we regarded the strengthening of operational activities and the enhancement of the Organization's effectiveness and general relevance as particularly important goals. And the Organization really did change significantly under our chairmanship. I would like to emphasize the following aspects:

- In 1995 the OSCE opened offices in numerous crisis areas and contributed directly to the settlement of a number of problems. The new missions and other forms of involvement not only brought a quantitative increase in such activities by the Organization but opened up new qualitative opportunities for the OSCE. The following ones should be mentioned:

The establishment of the OSCE Assistance Group in Chechnya meant that for the first time a large international organization could set up a long-term presence in Russia and was in a position to counsel and mediate there on an issue which not only Moscow but many OSCE countries had for decades regarded as being exclusively an internal affair; some still regard it as such. It was clear from the very beginning of the conflict that it would achieve nothing simply to put Russia in the dock and

condemn the massive human rights violations because such a course would not have brought the parties to the negotiating table but would surely have eliminated any possibility of international involvement in the resolution of the conflict. In that way, the OSCE would have been indirectly responsible for prolonging the conflict and, with it, the violations of human rights. There was, moreover, the danger of a big international crisis developing which in time would have undermined the security of Europe and moved Russia away from the path of democratization and integration in European security systems. Based on these considerations, we wanted to find a solution which would, on the one hand, make possible a step-by-step involvement of the OSCE and, hence, the international community in finding a solution to the crisis and, on the other hand, make clear to Russia that toleration of the OSCE's presence and mediation was more advantageous for Russia itself than isolation and confrontation would have been. Once the Russian political leadership accepted this concept, the OSCE was in a position to work actively to protect human rights and provide humanitarian assistance and later to participate in the organization and implementation of negotiations on an armistice and a political solution of the conflict. This is particularly important even though the negotiations were broken off last fall and the carrying out of the military agreement began at the same time to falter.

The other new feature of fundamental significance in the activity of the OSCE is unquestionably the group of responsibilities assigned to the Organization by the Dayton Agreement, which put an end to the war in Bosnia. OSCE was given tasks of central importance in the preparation and carrying out of elections, promoting and monitoring respect for human rights, and in the military stabilization of the region. These responsibilities represent the biggest challenge the OSCE has faced in its history. Although there are many problems associated with the implementation of the Dayton Agreement and the region will presumably remain unstable and insecure for some time, it is already clear that the OSCE has done its best, within the limits of its capabilities, to carry out the assigned mission. The next big test for the OSCE and for the implementation of the Dayton Agreement will undoubtedly be the carrying out of elections on 14 September. At the beginning of 1995, long before the Dayton Agreement was signed, I had the opportunity as my first official act to designate the ombudsmen and -women of the Federation in Sarajevo. This institution, which has functioned very effectively to protect human rights in Bosnia since that time, has become a model which the OSCE and its participating States are attempting to use in other areas as well.

- Traditionally, the OSCE has often been heavily criticized for its slow and laborious decision-making process, resting on the consensus principle. Some of this criticism is justified, some not. I am convinced that the consensual approach to decisions should be retained in some areas, e.g. in working out norms and commitments. In these areas, the consensus procedure is more a strength than a weakness of the OSCE because it substantially increases the likelihood that the decisions taken and the commitments assumed will in fact be implemented. Nevertheless, I think it is also true that the area of application of "consensus minus one" (or "consensus minus the affected parties") should be expanded in cases where there have been gross violations of principles and commitments assumed by the participating States, precisely in order to protect common European values and the effectiveness of the Organization. This rule, based on an initiative of retired Foreign Minister Hans-Dietrich Genscher, has existed for years and has long been supported by Hungary.

There has been talk of enlarging the executive competences of the Chairman-in-Office in the interest of the OSCE's ability to act quickly. This actually completely new instrument in the history of the OSCE, is one which we significantly developed during the Hungarian Chairmanship, making frequent use of the options it offered.

- During the year of the Hungarian Chairmanship we made increasing use of the executive authority of the Chairman, at the same time strengthening the institution of the Troika and expanding its field of action. Apart from the established political bodies of the OSCE, the Chairman-in-Office and the Troika are the only institutions with political weight and standing. Their competences were never clearly defined, however, so that the actual authority of these institutions works itself out in combination with the participating States on the basis of a kind of "right of precedence". This also means that the Chairman's willingness to take initiatives largely determines the direction and tempo in which his own competences and those of the Troika develop.

My experience has shown that the executive competence of the Chairman-in-Office can be, on the one hand, of great assistance because it offers a way of circumventing consensual decision-making, which is often laborious and sometimes impossible; on the other hand, it entails substantial risks and only under the right circumstances is it appropriate to make use of this authority. The country which provides the Chairman must be prepared to play a leading and coordinative role; it must accept the responsibility which goes with that, along with the risks, and if necessary even enter into confrontations - on occasion when its national interests do not clearly call for such (or may even, for a time, argue against it). In principle, it is up to the Chairman and his staff to judge whether a step he plans in the name of the OSCE community enjoys the support of a substantial majority of the participating States or whether it

would seriously violate certain interests. At the same time it is vital for the participating States to express in some way their political willingness to provide support after the measure has been carried out, so that it will be clear that the Chairman's action really enjoys the agreement of a majority. It is helpful if those countries which have greater influence in the affected region are also prepared to use their reputation and their influence on a bilateral basis, as an expression of their agreement. The events of the past year have shown that in the area of preventing crises a high level of operational skill and flexibility is called for and that the rapid involvement of the Chairman can be of decisive importance.

Precisely for that reason it is important that the Chairman-in-Office choose the right instruments and use them at the right time. Thus, in urgent and unpredictable situations the most appropriate measure may be, for example, the dispatch of a Personal Representative with a fairly broad mandate; later, on the basis of his experiences and after consensus has been reached amongst the participating States, a mission with substantially more concrete competences can be sent to continue fact-finding and carry on the negotiations.

An important characteristic of the office of the Chairman is that it does not affect the Foreign Minister of the providing country or a narrow group of diplomats alone but, indirectly, a whole country. The Chairman-in-Office can only fulfill the expectations attached to his job if the whole diplomatic service of his country is willing and able to view all questions for an entire year *inter alia* through the "lenses" of the OSCE and if his diplomatic missions represent not only their own national interests but also those of the OSCE. Indeed, the conduct of the Chairman's office, in the broadest sense, goes beyond the apparatus of the Foreign Ministry. Quite apart from the good diplomatic services of the country in question, what goes on inside that country must also provide a basis and credibility for his work.

- Faced with developments which caused particular concern or in anticipation of events or negotiations where our experience told us we could make a positive contribution to solving a problem, it was our practice during our Chairmanship to issue numerous statements (on the arrests in Kosovo, the processes in the Sandjak, the illegal elections in the Trans-Dniester region, the withdrawal of the Russian 14th Army from Moldova, the military action in Western Slavonia, the terrorist acts in Chechnya and on conflict management in Nagorno-Karabakh). Their purpose was to give rapid expression to the OSCE's concerns over these developments and to demonstrate the attention being given to them. Although their importance should not be exaggerated, these statements did make it possible for the OSCE to react quickly and to be among the first to so react.

- Several times during the Hungarian Chairmanship we made use of the option to send Personal Representatives (to Chechnya, Croatia, Nagorno-Karabakh, etc.).

This enabled us, on the basis of talks carried out rapidly and directly with the concerned parties, to keep the OSCE community informed on events and to work out recommendations and proposals for solving those problems at the earliest possible time.

- We made an effort to carry out the intention, expressed for years in OSCE documents, to establish closer contacts with other European and trans-Atlantic organizations. Thus we were at pains to carry on a regular dialogue with those international organizations which play a role in shaping European security. For example, we invited representatives of these organizations to a number of working discussions. In addition to the OSCE Mission to Bosnia, which was started up during the Hungarian Chairmanship and did in fact lead to greater cooperation between international organizations than had existed previously, we tried in other areas to establish closer ties of practical co-operation with the UN, the Council of Europe, NATO and the WEU.

- Since its "birth" the OSCE has been known as an institution which is open to the public and to non-governmental organizations. In recent years there have been numerous efforts to tie the NGOs more directly into the work of the OSCE but concrete arrangements for such participation have not yet been established. Thus it was viewed as a novelty when we invited well-known international NGOs (Human Rights Watch, International Helsinki Federation) and national ones (SDA from Sandjak) to informal discussions of OSCE political bodies.

### *Conclusions*

In past years the OSCE has gone through a great change. It was transformed from a "travelling conference" into a security organization with certain operational responsibilities which, by promoting respect for common values, can make an effective contribution to the democratic development of participating States and to enlarging the field of cooperation on all aspects of security. Its comprehensive and integrative character make it suitable as a basis for creating a security space that will guarantee greater security and stability for all participating States. The OSCE has already demonstrated its ability to make a useful contribution to the security of the continent, not only during the years of the Cold War but also under the fundamentally different conditions that have prevailed since. Its precise position and role in the architecture of European security which is slowly taking form will of course depend not only on its own internal development but on other factors as well - on the way in which other elements of that security structure develop and on the kind of relationship that grows up between them.



But it is already clear that the OSCE, which must maintain its comparative advantages and specific capabilities and develop in a way consistent with them, will be a useful part of the security architecture of the future. Looking at the future, the success of the OSCE Mission to Bosnia and the appropriate use of the experience gathered there will certainly be of decisive importance in determining the Organization's position. As the OSCE comes to terms with the serious challenges it faces, the responsibility of the Chairman-in-Office at any given time will grow. As for 1996 and the first half of the Swiss Chairmanship, we can only congratulate our Swiss friends on the results so far achieved. I wish them a similar success in completing the tasks that remain for the second half year.



## The OSCE in Mid-1996: Stock-Taking and Prospects

Shortly before his death François Mitterrand cast his gaze on the future and described his starting point as a unique moment "when everything is possible in Europe".

What can the OSCE contribute to realizing favorable prospects while forestalling dangerous developments? There is a quick two-part answer: the OSCE must do more to ensure that the extensive commitments undertaken by the participating States - now 55 in number - are really carried out; and it must engage itself further on behalf of mutually reinforcing cooperation with other international organizations. The responsibilities which the OSCE has taken over - or to put it more precisely, had to take over - in Bosnia and Herzegovina demonstrate in concrete fashion the contributions to a new stability which are expected of the OSCE: contributions to the establishment and strengthening of "civil societies"; to cooperative (military) security; to crisis management in the sense of a rational division of labor or of closer cooperation with other international organizations - UN, NATO (IFOR), Council of Europe.

1. The Helsinki Document of 1992 describes the human dimension as the heart of the OSCE. Today, the same basic thought finds expression in a more comprehensive way: the main task of the OSCE and its specific contribution to the creation of new stability lie in strengthening civil societies everywhere in the OSCE area.

Nationalism and xenophobia, the denial of minority rights, growing social inequality, criminality and terrorism are today the most immediate challenges to our security and the potential causes of armed conflicts. Thus it is becoming increasingly clear that whole-hearted support for the (further) development of civil societies is the most urgent task of a comprehensive peace and security policy. This task varies within the OSCE area from one country and one region to another. But there is hardly a country between Vancouver and Vladivostok which does not face new economic and social challenges.

In retrospect it can be said that the CSCE did well to focus the expansion of its operational capabilities on the human dimension, i.e. on human rights, democracy and the rule of law. When the borders were opened in the early nineties, the CSCE made use of the readiness for substantial change that existed then. Especially at the Meetings on the Human Dimension in Copenhagen (1990) and Moscow (1991) the values associated with this area were

defined in such a far-sighted way that they provide a solid foundation for civil societies.

1.1. By way of support for civil societies, the Charter of Paris (1990) provided only for the Office for Free Elections in Warsaw with a staff of two, including the Director. The meeting of the Ministerial Council in Prague (1992) enlarged this narrow mandate and turned the Warsaw office into the Office for Democratic Institutions and Human Rights (ODIHR). Since then, the Office has acquired additional importance. With a small staff and a very limited budget, it has noteworthy accomplishments to its credit. The time has now come to define its main duties more clearly. Over the years the ODIHR has been saddled with more and more individual tasks, some of which bear no relationship to each other. By now the OSCE has enough experience to decide which measures in support of the human dimension, such as those the ODIHR has successfully worked out, can be carried out quickly and where they can best be applied. This will be of assistance to the ever closer cooperative relationship between the OSCE and the Council of Europe by making the division of labor an integral part of that cooperation.

It has often been said that the ODIHR should be included more directly in the OSCE's other activities. Here, too, there is work to be done although it should be noted that it is not a question of where the ODIHR is located. Matters relating to the human dimension and to civil societies have not yet found an appropriate place in the consultation process of the OSCE, in the Permanent Council, the Senior Council and the Ministerial Council.

Fulfillment of the ODIHR's responsibilities calls in particular for close cooperation between its Director and the High Commissioner on National Minorities, the OSCE Missions, the Secretary General and the Chairman-in-Office. This serves to improve the quality of its work and to make clear, both within the organization and to those outside, that the ODIHR is not just a "technical office" with a special mission but rather a part of the OSCE's comprehensive efforts to strengthen civil societies.

1.2. Finding the right reaction to the violation of commitments in the area of the human dimension poses special problems. It is obvious that the numerous mechanisms and structures created for this purpose have not yet proved themselves, with the noteworthy exception of the High Commissioner on National Minorities (HCNM). It is doubtful whether the ODIHR by itself can do much about this. Perhaps the Parliamentary Assembly and the Chairman-in-Office could concern themselves more intensively with these very delicate questions, bearing in mind the special characteristics of each individual case and each country. At stake are issues of central importance for stability and for the OSCE's credibility. In some situations a carefully selected Special

Representative of the Chairman-in-Office might try, through "quiet diplomacy", to find a remedy.

1.3. The concept of a civil society provides parameters and guidelines for the work of the OSCE in the fields of economic, environmental and cultural co-operation. Economic cooperation between the participating States of the OSCE is supported by numerous specialized organizations. The Helsinki Document of 1992 calls upon the OSCE to promote the further development of market economies "as an essential contribution to the building of democracy". The political impulses that the OSCE is expected to provide in this area could be carried out by other international organizations, especially by the ECE which, at the same time, could supply the OSCE with facts and analyses needed for the development of political impulses. Along the same lines, the Cracow Symposium (1991) emphasized how important the development of cultural life is for democratic countries which are undergoing the transition to a market economy. A symposium on these issues in the Caucasus or in Central Asia would also contribute to realizing the concept of comprehensive security.

1.4. This concept of comprehensive security, with an emphasis on the human dimension which is peculiar to the OSCE, also provides guidelines for the OSCE program of coordinated support for "recently admitted participating States". This program is directed primarily at the partner States of the OSCE in Central Asia and took form under the Swedish CSCE Chairmanship (1993). It is an important element of the "European dimension" in the foreign policy of the Central Asian states. The OSCE's contribution to stabilization of the Central Asian region consists of a broad range of programs for strengthening the habit of dialogue, supporting integrative forces in the region itself and building up the position of States from that region within the OSCE. The OSCE's Office for Central Asia in Tashkent, with the active support of OSCE States in that region, has contributed to progress in this area. The extension of the Office's mandate until 1998 and the fact that it has been reinforced by an expert in issues pertaining to the human dimension demonstrate that it was right to invite these countries into the CSCE in 1992 following the collapse of the Soviet Union.

1.5. The new threats to security, including nationalism and intolerance, are mainly the result of domestic problems. For that reason, the principle of "human rights above national sovereignty" is of particular importance for the OSCE's efforts in the area of conflict prevention. Questions of human rights, democracy and the rule of law are of concern to all in the OSCE and their discussion cannot be abridged by objections based on national sovereignty.

This principle makes it possible to have a direct and open conversation between all "concerned" and works against security risks resulting from insufficient democracy. Democratic and pluralistic social structures help to maintain a balance between the interests of minorities in a given country and the overall interest of that state. This principle of a "legitimate concern on the part of all" or of an obligation to intervene is one aspect of the OSCE's concept of comprehensive security; it strengthens and binds together the civil societies. By agreeing to the dispatch of an OSCE Assistance Group to Grozny, Russia strengthened the OSCE's right of intervention. It is of great importance for the future effectiveness of the OSCE that this standard be maintained and expanded by similar and further enlarged mandates in the future.

2. The concept of a civil society also provides a point of orientation for the operational responsibilities of the OSCE in the fields of conflict prevention and crisis management.

2.1. However, a more precise orientation is called for in connection with one important issue, namely, the relationship between the principle of the territorial integrity of states and that of self-determination of peoples. Applying one or the other of these principles in a one-sided way can cause or aggravate the numerous ethnic problems in the OSCE area. We should not attempt to reformulate these principles or to change their content. Nevertheless, it is time to work out some criteria which would make it easier to interpret each one of them in light of the other, as was mandated in the Helsinki Final Act. Such a clarifying interpretation could have two simple and widely accepted elements:

- The right of self-determination is not in itself identical with a right of secession.
- The right of self-determination can often be realized through one of the many forms of autonomy.

I believe that such ideas regarding interpretation could make a significant contribution to the solution of existing conflicts and to the prevention of future ones. They could be supplemented by reinforcing the principle of non-use of force and clarifying the limits on the use of military force for domestic purposes, as well as by emphasizing the whole range of commitments relating to the human dimension, including the rights of national minorities, and by making clear that these issues do not exclusively belong to internal affairs. If these OSCE principles, which were formulated under a completely

different set of conditions, were reinterpreted along these lines, it would improve the chances of finding peaceful solutions for internal conflicts.

2.2. The OSCE's nine Missions (to Moldova, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Croatia, Latvia, Estonia, Ukraine, Georgia and Tajikistan), along with the Assistance Group in Russia/Chechnya, are its most visible instruments. Even so, a mission is not a diplomatic army that only needs to be made strong enough in order to defeat the enemy or win a victory. Only to a very small degree are missions the masters of their own success. Unless the party or parties involved are willing to cooperate, the mission must fail. In almost every attempt to help solve a conflict there are phases of stagnation and, frequently, set-backs. These must be endured. However, if there is clearly no willingness to cooperate, a mission should be withdrawn.

Three elements are decisive for the success of a mission at the operational level: political leadership from the Chairman-in-Office, the right personnel and a solid financial basis. The broad mandate of the Chairman-in-Office and his option of naming Personal Representatives ease the way for the decisive move from early identification of an incipient conflict to early action. Because Heads of Mission are changed quite often (not infrequently after only six months) and the Chairman-in-Office stays for only a year, the involvement of the Secretariat in all aspects of a mission's work, at both the operational and advisory level, is vital for continuity. This is a part of the Secretary General's mandate as formulated in the decisions of the Stockholm meeting of the Ministerial Council and confirmed at the Budapest Summit.

Their name notwithstanding, the so-called long-term missions of the OSCE are also of limited duration. But the OSCE still has no experience with "withdrawal strategies". When a mission is being disbanded and following its disbandment, the High Commissioner on National Minorities and the ODIHR can provide valuable assistance by ensuring that the OSCE continues to provide support at the place where it is needed.

Experience has shown that missions are often viewed as serious intrusions from outside. For that reason we should also seek to develop "lighter" kinds of missions. They could consist of an OSCE office with one or two members providing information to the Chairman-in-Office, the HCNM and the ODIHR and serving as liaison for them. This office could be housed with other international organizations, as is the OSCE Office in Tashkent. Such an arrangement would stress the "normal" and undramatic character of the office.

Such OSCE offices would be useful not only in the final stages of missions but also in cases when employing a mission or an assistance group would (for the moment) be too much. A permanent presence on the scene, even if

very small, would ensure that the OSCE would continue to take an interest in the matter at hand.

3. I have the impression that the OSCE's work on military aspects of security and its contributions to the development of a cooperative security structure have been insufficiently recognized. Is it not an important question whether the OSCE has done enough to take account of the dramatic changes in strength and strategies of armed forces in almost all OSCE States? The focus of strategies of the armed forces of important OSCE States has been shifting more and more from national defense to the maintenance of international peace and security. Is this trend being adequately exploited to credibly build up cooperative security? In this area, cooperation between the OSCE and the specific undertakings and programs of the "Partnership for Peace" could be substantially improved.

The current mandate of the OSCE Forum for Security Cooperation (FSC) helps to explain a certain neglect of the military aspects of security. Developments of recent years in the OSCE have overtaken the mandate of the FSC. It can no longer do what it was set up for. Its job was to ensure that politico-military aspects of security were dealt with in the discussion process of CSCE/OSCE in a manner consistent with their importance. But the FSC mandate is today one of the main reasons why these issues do not find their appropriate place on the OSCE's agenda. How can the OSCE make its commitment to a comprehensive security system credible when there is an artificial division between the consultations on military aspects of security in the FSC and those on all other subjects under the OSCE aegis in the Permanent Council? Why does valuable time have to be lost when a conflict breaks out simply because the Permanent Council, as the "regular body for political consultation and decision-making", has no authority to make decisions about the mechanisms to be used in the event of unusual military activities? There may be reasons for keeping the FSC as the leading body for negotiations in politico-military matters and arms control. But the "security dialogue" must be a part of the overall political consultations which take place regularly in the Permanent Council.

4. The OSCE's place and significance in the new security structures which are now developing will depend on the OSCE's specific contribution to new stability. Its mission in Bosnia and Herzegovina will be a critical test.

Our main concern, therefore, need not be about the OSCE as an institution but about the fulfillment of its responsibilities. Above all it is important that the OSCE remains flexible so that it can constantly adapt itself to new tasks. In doing this, it can build on its comparative strengths:



- the institution of the Chairman-in-Office as a source of energy and inspiration, renewed each year, with the ability - indispensable for effective action - to mobilize the political will of the participating States in each case as it arises;
- the direct engagement of the participating States both in the continuous process of consultations and in contributing directly to the operational activities of the OSCE, including making personnel available quickly and unbureaucratically for missions and providing needed (short-term) personnel for the Secretariat;
- the lean administration of all OSCE institutions by a highly competent core group which, in case of need, can be quickly and temporarily enlarged (and correspondingly reduced).

OSCE principles and commitments can provide a durable basis for a security model for the 21st century, one which is accepted by all countries and by all organizations active in the OSCE area. In an operational sense, the OSCE would become part of a network of institutions which mutually support and strengthen themselves through cooperation.



The Interests and the Commitment  
of the OSCE States



## The Attitude of Participating States Toward the OSCE

When the governments of 55 States on three different continents agree to participate in the OSCE and to make harmonious decisions there on the most varied issues of security policy, the commonality thus achieved does not mean that they do not have differing motives, interests and objectives in so doing - quite apart from the fact that outside of the unity demonstrated in and through the OSCE they continue to pursue their own concerns.

During the period before the end of East-West antagonism it was relatively easy, compared with the present, to define and classify the constellations of interests amongst participating States. For one thing, the number of countries involved was more than one third smaller - 35 instead of 55; moreover, they could be assigned, in accordance with the way they viewed themselves and the way others saw them, to one of three blocs (NATO, Warsaw Pact, neutral/non-aligned), thus limiting their opportunities for deviational behavior and the extent of individual interests they might pursue.

Even so, there were from the very beginning certain particular situations and stubbornly protected special interests within the pan-European concert which proved to be very persistent. For that reason, the 35 participants in the period before 1989 were also divided into five groups: the super powers, the two German states, Alliance members with special roles to play such as France and Romania, the other Alliance members, and the neutral and non-aligned countries.<sup>1</sup>

A number of external characteristics which have remained more or less constant make it possible under present-day conditions to categorize the participating States, of which there are now 55. One approach involves the level of participation in the OSCE's budget which since the Helsinki Summit of 1992 has been determined by the size of the gross national product, permitting a division of the 55 countries into four groups in accordance with their social and economic strength. In this calculation, there are seven countries which each contribute more than five percent, twelve which contribute one percent or more, twelve which contribute more and 24 which contribute less than one-half percent to the OSCE budget. At US Dollars 28 million (1996, excluding the budget for the Mission to Bosnia and Herzegovina), the size of the OSCE budget is relatively small; payment is

---

<sup>1</sup> Thus, for example, Norbert Ropers and Peter Schlotter, *Regimeanalyse und KSZE-Prozeß* [Regime Analysis and the CSCE Process], in: Beate Kohler-Koch, *Regime in den internationalen Beziehungen* [Regimes in International Relations], Baden-Baden 1989, p. 319 ff.

obligatory and thus the sharing of these costs by participating States throws no light on the level of their interest in the OSCE. Nevertheless, a look at the first group of payers, which together provide just about 60 percent of the budget, makes clear who the main actors in the OSCE are: the United States, the Russian Federation, the four big EU countries (Germany, France, Italy and the United Kingdom) and, in addition, Canada.

At the other end of the financial scale we find almost half of the participating States, the 24 small and mini-states, along with the economically weak OSCE States. Their representatives, by the way they vote, can in some cases achieve a burdensome and time-consuming effect or they can present intelligent ideas, but they are scarcely able to exert a positive and creative influence.<sup>2</sup> Still, there are sharp differences among these participants in terms of the importance, actual or potential, which the OSCE has for them. On the one side, there are countries like Andorra, Iceland, the Holy See, Liechtenstein, Malta, Monaco and San Marino whose political leadership (apart from the special interests of the Holy See) view participation in the OSCE only as a matter of prestige and representation. On the other side, this group also contains the main contingent of countries which represent a significant security risk for others and at the same time have security requirements of their own, such as the Slovak Republic, Albania, Bosnia and Herzegovina, Croatia, Cyprus, Estonia, Latvia, Lithuania, Macedonia, Moldova, Slovenia, Armenia, Azerbaijan, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan. It should be pointed out that - with the notable exception of Cyprus - these are all countries where an OSCE mission is active or which the High Commissioner on National Minorities has had reason to visit. They do not, however, exhaust the list of problem countries in the OSCE area. At least three others from the two groups in the middle range of budget contributions must be included - the Ukraine, Hungary and Romania - whose minority problems have also claimed the attention of the OSCE but whose relationship to the OSCE is different for other reasons.

If we view the OSCE from the standpoint of an insurance operation we see that as a provider of security it is a fine address for those who do the most damage: the 20 biggest risks pay about one-sixteenth of the budget while more than half of it is borne by six countries that harbor no risks of their own. They do, however, insure themselves against risks created by others and, compared with these, they have by far the most to lose in an absolute material sense.

Even if these and similar quantitative calculations are interesting, it is clear that they hardly get at the heart of the relationship between participating States and the OSCE. Still, size categories strongly influence one's view of

---

<sup>2</sup>

An illustration of this is the objection of one of these countries to the proposal that the term "OSCE members" be used instead of "OSCE participating States".

oneself and of others as well as one's perceptions and thinking and, hence, the effects produced by participants. Quantity is translated into quality and political importance sets up a relationship of centers and peripheries. This kind of pattern makes it possible to identify three main categories in the OSCE community.

Thus, the Russian Federation, the United States and the European Union constitute the three big elements, although the latter requires further differentiation according to the character of its members. The Central Eastern European countries, from the Baltic Republics to Bulgaria, form a second group whose political and economic elites have, since 1990, been looking toward the West rather than the East, whether to the Brussels of the European Union or the Brussels of NATO and, hence, the United States. The third category of OSCE participating States, finally, is represented by the members of the CIS, with the exception of the Russian Federation. For a variety of reasons, one must distinguish within this group between the trans-Caucasian (Armenia, Azerbaijan, Georgia) and the Central Asian (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) on the one hand and the Eastern European (Belarus, Ukraine, Moldova) states on the other. Not included in this classification are the smallest countries, which have already been mentioned, and three economically strong ones (Norway, Canada and Switzerland) along with Turkey. The first three have the kind of disinterested objectivity which qualifies them for leading roles in the OSCE, as Switzerland is now forcefully demonstrating by supplying the Chairman-in-Office. Turkey, however, does not share those qualities of objective distance and commitment owing to its partisan support for the Islamic countries and its antagonism toward Russia and Greece. On various occasions and in connection with various issues the leaders of the Russian Federation have demonstrated their interest in the further development and strengthening of the OSCE, as indeed the Soviet Union had done as well.<sup>3</sup> This position has obviously not changed since the Budapest Summit. Russia has put forward proposals for discussion in connection with the Security Model for the 21st Century. The Russian delegation to the OSCE Economic Forum has again expressed its support for expanding the economic dimension and made suggestions on this subject. The Russian stance in connection with the human dimension has been cooperative thus helping the structure of the OSCE to win recognition. For example, the Russian representative in the Permanent Council supported the United States and the EU in their sharp evaluation of the limits which Belarus had imposed

<sup>3</sup>

Cf. Andrej Zagorski, Rußland und die OSZE - Erwartungen und Enttäuschungen [Russia and the OSCE - Expectations and Disappointments], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 109-119.

on freedom of the press and the freedom to demonstrate.<sup>4</sup> The Russian government shared responsibility for the mediation efforts of the Mission to Moldova.<sup>5</sup> Its attitude toward other missions has been more ambivalent; this is particularly true of the delicate work of the OSCE Assistance Group in Chechnya. Obviously, Russia may legitimize its policy by appealing to Russian interests as it interprets them. Its interest in the economic dimension, for example, is tied to a proposal for the creation of a pan-European economic zone which is clearly animated by the expectation of influencing projects and procedures, and perhaps the distribution of resources outside of the European Union. Nor does the Russian interest in developing the European Security Model go so far as to imply that the Russian Federation wants to modify its privileged status in the UN Security Council. For that reason, Russia will continue to reject a priority position for the OSCE vis-a-vis the United Nations and it is unlikely to support any "OSCE first" mechanism. While the Russian Federation's attitude toward strengthening the OSCE is basically constructive, even if sometimes poorly articulated and ambivalent, the United States' relationship has been explicitly ambiguous.<sup>6</sup> The United States opposes any further institutionalization of the OSCE or even giving it legal status; nor would such a step have a chance of success given the majority situation in Congress. The United States is opposed to a form of relationship with European institutions such as the Council of Europe in which the US would only have the status of an associate. On the other hand, the United States has continued in the OSCE to pursue its traditional human rights policy, as demonstrated by its support for the ODIHR and the Mission to Bosnia and Herzegovina. The OSCE's role in the arms control regime of the Dayton Agreement is also owing to the support of the United States.<sup>7</sup> Obviously, the US no longer fears that NATO will be undermined or degraded by the OSCE. To a noteworthy extent, the role of the OSCE is determined by the attitude of the great powers towards its newly created institutions and by their participation in their activities. Like the Russian Federation, the United States favors retaining and perhaps enlarging the economic dimension because it offers a way of opposing the European Union's claim of exclusive re-

<sup>4</sup> Cf. 76th Session of the Permanent Council, 27 June 1996, Agenda item 12.

<sup>5</sup> An account of this, from the beginning to the breakthrough, is in: Rolf Welberts, *Der Einsatz der OSZE in der Republik Moldau* [The the OSCE Involvement in the Republic of Moldova], in: *OSZE-Jahrbuch 1995*, cited above (Note 3), pp. 193-210, esp. p. 206ff.

<sup>6</sup> A detailed account can be found in: Jonathan Dean, *Die Vereinigten Staaten und die OSZE - im Wechsel von Förderung und "wohlwollender Vernachlässigung"* [The United States and the OSCE - Alternating between Support and "Benign Neglect"], in: *Ibid.*, pp. 99-108.

<sup>7</sup> Cf. Rüdiger Hartmann, *The Significance of Regional Arms Control Efforts for the Future of Conventional Arms Control in Europe, Exemplified by the Arms Control Negotiations in Accordance with the Dayton Agreement*, in this volume, pp. 253-263.



sponsibility for Europe. Both great powers, Russia and the United States, displayed a foreign policy in 1996 which, owing to their presidential elections, was motivated by considerations of domestic policy. This orientation also explains why there has so far been no progress in the discussion of the OSCE Security Model for the 21st Century which might have provided guidance for the forthcoming Lisbon Summit conference on 2 and 3 December 1996. Great powers tend to use international organizations as instruments for their own policy. The OSCE is no exception to this rule. Smaller states, on the other hand, see in multilateralism an opportunity to oppose the hegemonial arrogance of the great powers and to win recognition for themselves in a constructive way. An example of this is provided by the other North American OSCE State, Canada, whose representatives have dedicated themselves to strengthening the CSCE/OSCE, whether through institutionalization or the recruitment of suitable personnel.<sup>8</sup>

In OSCE bodies the member countries of the European Union, after prior consultation, present a common position, with the representative of the country which has the Presidency acting as spokesman; in the first half of 1996 this was Italy, in the second half, Ireland. Occasionally, as at the opening of the Budapest Review Conference in 1994, a representative of the European Commission asks for the floor. These positions, worked out in the framework of the EU's Common Foreign and Security Policy and presented by a single spokesman on behalf of all EU countries, do not rule out individual EU members taking the floor; the EU is not, after all, a participating State of the OSCE. One may ask to what extent this concerted activity of 15 states promotes decision-making within the OSCE - in the Permanent Council, for example - or whether it squelches possibly interesting initiatives by individual participating States, thus preventing their discussion by the whole OSCE. At any rate, it is well known that the present government of the United Kingdom takes just as negative an attitude toward proposals of other EU members to strengthen the OSCE as it does with respect to the EU itself. One can only guess whether internal EU conflicts of this kind have also paralysed the enthusiasm for reform which representatives of the Federal Republic of Germany showed in the earlier phase of the CSCE. In any event, the EU countries, with Germany in the van, have shown no interest in vitalizing the economic dimension of the OSCE. In its overall relationship to the OSCE, the German government has so far continued to take a positive attitude and it wants to table again the proposals which it, along with the

<sup>8</sup>

Other aspects are covered in: Michel Fortmann/Jens-U. Hettmann, Kanada und die KSZE/OSZE - Zwischen Enthusiasmus, Maximalismus und Ernüchterung [Canada and the CSCE/OSCE - Between Enthusiasm, Maximalism and Disillusionment], in: OSZE-Jahrbuch 1995, cited above (Note 3), pp. 137-144.

Netherlands, prepared in vain for Budapest.<sup>9</sup> France, too, continues to declare its interest in further development of the OSCE in a variety of ways.<sup>10</sup> While the positions of the big participating States - the Russian Federation, the United States and the group of countries which make up the EU - have remained more or less constant, a similar attitude does not exist, or is less obvious, in the countries of Central and Eastern Europe. At the time of the great change they were strong advocates of the CSCE and favored strengthening it. Their interest in the OSCE has waned, however, as they have begun to see a prospect of membership in NATO and/or the European Union. This is particularly true of the Czech Republic.<sup>11</sup> Poland's attitude toward the CSCE/OSCE has in part gone through a similar process of change, but without degenerating into indifference, especially with regard to recent thinking on the necessity of including Russia in European security structures. Rather, Polish diplomacy has taken initiatives of its own to develop the OSCE in its own interest and to avoid being given the role of a dependent variable in the triangular constellation constituted by US-Russia-EU.<sup>12</sup> Hungary has increased its prominence in a similar way, as well as the prominence of the OSCE as a whole, not least owing to the outstanding position of Chairman-in-Office.<sup>13</sup> It is interesting to observe, in connection with Hungary, that a participating State which holds the OSCE Chairmanship is forced to adapt the definition of its interests and its foreign policy to OSCE needs, if not to subordinate it to them.<sup>14</sup> Apart from the Czech Republic, Poland and Hungary, the relationship to the OSCE of all other states which emerged from the Soviet Union or belonged to the Warsaw Pact has been determined in particular by the fact that *nolens volens* they are the object of an operational interest on the part of the OSCE, whether through the presence of missions, visits by the High Commissioner on National Minorities, or intensive monitoring and assessment of their elections by the ODIHR or the Parliamentary Assembly. The role of an "object" is by nature ambivalent. On the one hand, the OSCE's involvement makes it easier to limit the costs of conflicts, whether already existent, latent or incipient - especially those that have

<sup>9</sup> Regarding this proposal, which is called the "Kinkel-Kooijmans Initiative", see: Herbert Honsowitz, "OSZE zuerst" ["OSCE First"], in: Vereinte Nationen [United Nations] 2/1995, pp. 49-54.

<sup>10</sup> Cf. Régis de Belenet, France and the OSCE, in this volume, pp. 87-92.

<sup>11</sup> Cf. Jan Pechacek, The Czech Republic and the OSCE, in this volume, pp. 105-110.

<sup>12</sup> A detailed discussion of this is in: Jerzy M. Nowak, Poland and the OSCE: In Search of More Effective Security in Europe, in this volume, pp. 111-128.

<sup>13</sup> On this, see: Pál Dunay, Zusammenarbeit in Konflikten: Der Amtierende Vorsitzende und der Generalsekretär [Cooperation in Conflicts: The Chairman-in-Office and the Secretary General], in: OSZE-Jahrbuch 1995, cited above (Note 3), pp. 399-410; István Gyarmati, The Hungarian Chairmanship and the Chechnya Conflict, in this volume, pp. 175-184.

<sup>14</sup> Cf. László Kovács, The Future Role of the OSCE in European Security Architecture, in this volume, pp. 57-67.

an international dimension resulting, for example, from the complaints of minorities, particularly when they are of Russian origin. On the other hand, the presence of the OSCE demonstrates that these countries have not been able to come adequately to terms with the problems themselves - whatever that may mean in the individual case - and may even be forced into a compromise which they would have preferred to avoid if left to their own devices. Thus it can happen that the political elite in these countries may initially regard the presence of OSCE representatives as useful and later come to see them as burdensome. Latvia and the Ukraine offer examples for this kind of development; only under pressure and with many reservations were they willing to agree to an extension of the OSCE Missions in their countries.<sup>15</sup>

The trans-Caucasian and, in particular, the Central Asian states have a special affinity for the OSCE because it, in addition to being a place where they can go to get help with their problems, provides the only institutional tie they have to the core countries of Europe.<sup>16</sup>

The attitude of some OSCE participating States - e.g. on its continued institutionalization, harmonization of arms control and disarmament, the initiation of round tables, etc. - is quite frequently determined not by their resistance against external intervention (by the OSCE) in their internal affairs but by rivalries between them or mistrust of other participating States.<sup>17</sup> This can be seen, for example, in the three-cornered relationship between Armenia, Azerbaijan and the Russian Federation or in the relationship between Turkey and the Russian Federation insofar as it involves matters concerning the Central Asian countries, or in the relationship between Hungary and Slovakia with respect to the personnel policy of the OSCE. In this way uncooperative forms of behavior are introduced into the OSCE's efforts to achieve cooperative security.

Now, six years after the end of East-West antagonism, there is growing annoyance amongst the Eastern and Central European participating States over the fact that the OSCE continues to look stubbornly toward the East while turning its back on conflicts and violations of human rights in the West. To cite two examples, it is striking that the OSCE has taken no preventive measures in the obvious conflict between Turkey and Greece and that it disregards the Turkish measures against its Kurdish population. After all, a Canadian politician has already announced his intention to ask the OSCE to take on the question of Indians' rights in his country.

---

<sup>15</sup> Cf. 76th Session of the Permanent Council, 27 June 1996, Agenda items 8 and 9 and Annex Decisions Nos. 131 and 132.

<sup>16</sup> This is eloquently expressed in: Alois Reznik, *Uzbekistan and the OSCE*; Omar A. Sultanov, *Kyrgyzstan and the OSCE*, both in this volume, pp. 139-145 and 129-138.

<sup>17</sup> Rüdiger Hartmann gives examples, cited above (Note 7).

The interests of the OSCE participating States are not only determined by their social problems or external threats, or by their alliances and rivalries with others, but also by the relationships they have with other international organizations. This has already become clear in connection with the Russian Federation and its privileged position in the United Nations, in the case of the United States and NATO, and in the relations of the Western European countries to the EU. The often cited "comparative advantage" of the OSCE is seen differently by the various participating States. Nor is it consistent; it can, even within the same "dimension", look different from one case to another, e.g. human rights when viewed in the light of the Council of Europe or UNHCR. Depending on accidental factors or tactical considerations, the governments may in one instance show a preference for the OSCE and a moment later turn to another international organization. This depends on decisions which are neither made nor heard in the halls of the OSCE but in distant capitals and often enough are purely arbitrary or rest on finely worked out calculations which soon become impenetrable even for the participants.

## France and the OSCE: The OSCE in Today's Europe

The political and strategic situation, which has changed since the Berlin Wall fell, must inevitably lead to the working out of a new security order for Europe. This order is not just a simple matter of construction. It is, first and foremost, a question of behavior. This was the thought underlying the "Charter of Paris for a New Europe" in November 1990. That document laid the cornerstone for a new era of democracy, peace and unity. At the same time, it recommended the transformation of the CSCE into an organization in order to stress the new orientation emerging from the changed international context.

France, which had promoted the pan-European dialogue from the beginning, viewed the CSCE before 1989 as an extraordinary political instrument for promoting a dialogue between the blocs. We participated actively - and continue to do so - in its further development through the provisions of the Charter of Paris and of the Helsinki Document of 1992 (mainly related to the maintenance of peace) as well as the Budapest Document (1994), which hastened and ultimately completed the transformation of the Conference into an Organization.

### *Mobilizing All Capabilities and Possibilities of the OSCE*

We expressly favor developing all of the instruments available to the OSCE for contributing to the security and stability of the European continent: the (traditional) instrument of *disarmament and arms control*, that of *preventive diplomacy*, which is of growing importance and, finally, that of *post-conflict rehabilitation*, as is currently being tried out for the first time in Bosnia.

Negotiations on disarmament and arms control accompanied the CSCE dialogue from the beginning and made its forward movement possible. As a result, a number of Confidence- and Security-Building Measures (CSBM) were agreed upon in past years. The negotiations led, moreover, to the conclusion of the Treaty on Conventional Armed Forces in Europe (CFE) between the member states of the Atlantic Alliance and the Warsaw Pact, which entered into force in June 1992. The Forum for Security Cooperation (FSC) is, in a sense, taking over the inheritance of the "Vienna Negotiations" which made these accomplishments possible. Anyway, the CFE Treaty, which was negotiated according the logic of blocs, requires certain modifications to adapt it to the new strategic realities. We should recall, in this connection, the

necessary harmonization process through which the provisions of the Treaty are to be extended to all CSCE participating States. France took an active part in those negotiations and is one of the countries which strongly favor substantial progress in the work of the Forum for Security Cooperation. In addition, we, together with Germany, introduced the "Code of Conduct on Politico-Military Aspects of Security" which was adopted at the Budapest Summit in 1994 and, among other things, regulates the employment of armed forces in peacetime.

The advent of new states in Europe and the democratization of their political systems, along with the occurrence of crises and even open conflicts, have resulted in significant further development of the OSCE's *preventive diplomacy*. Preventive diplomacy aims at the future permanent dialogue between the participating States in Vienna. That dialogue will be given its political thrust by the reactions of capitals to information and reports they receive, especially those from the High Commissioner on National Minorities (HCNM), the Office for Democratic Institutions and Human Rights (ODIHR), and the missions in the field. The interest of individual states, direct or indirect, in certain situations and events will likewise determine this dialogue.

Although the political dialogue in Vienna is of fundamental importance it by no means constitutes the whole of the OSCE's field of activity. Indeed, with the assistance of the instruments mentioned above, the OSCE operates directly in certain countries. It does so through recommendations from the HCNM to affected governments, through expert advice from the ODIHR on drafting laws and regulations, especially those dealing with elections, and frequently also through the good offices and mediation of the missions in the field, etc.

We regard preventive diplomacy as one of the most important of the OSCE's activities: the organization's structure and methods of operation, the means at its disposal, but also the results already achieved argue in our view for expanding its capabilities in this field. Such expansion could begin by making more frequent use of the early warning function as it can be seen in the work of the HCNM, and by strengthening the role of the Chairman-in-Office and the Secretary General.

Along these lines, our country worked out an initial draft of the Convention which led to the establishment of the OSCE Court of Conciliation and Arbitration. Today we note with satisfaction that 21 states have adhered to this Convention and we call on the other participating States quickly to join this instrument for the peaceful settlement of disputes, the importance of which will undoubtedly grow as it acquires more members.

In the question of *post-conflict rehabilitation* the OSCE is entering a field which for the most part still needs to be plowed. Some view the responsibili-

ties assigned to the OSCE by the Paris Peace Agreement for Bosnia and Herzegovina as a kind of acid test, a test of its credibility. We prefer to speak of a threefold challenge: with regard to methods, organization and cooperation with other international organizations or offices concerned (the High Representative, the United Nations, IFOR and NATO). Apart from the heavy political responsibility given to the OSCE or more precisely, to the Chairman-in-Office - to decide whether the social conditions in the country will permit elections within the time period foreseen in the Peace Accords - and apart from what the OSCE can contribute to rehabilitation in general, Bosnia and Herzegovina represents for the Organization a critical test case under real conditions and on a large scale. It is, to be sure, too early to draw any conclusions. That will be the task of the Lisbon Summit.

In any event, the OSCE is likely to play a central role in Bosnia and Herzegovina after the elections, through its Mission in Sarajevo and also as the initiator of concerted action, especially with the Council of Europe in the areas of human rights and the establishment of democratic institutions.

Despite those activities either of widely non-mediating nature because they are too technical (as in the case of arms control) or those which are in essence unquantifiable (like preventive diplomacy) the OSCE has taken its place as an indispensable provider of security and stability on the European continent.

#### *For a Major OSCE Role among European Security Institutions*

The following principle guides the French approach: the OSCE is the only European security institution offering a multilateral framework in which Russia can carry on a direct dialogue with all other European countries, the United States and Canada. Indeed, the OSCE plays a substantial role in the European integration of Russia - without acknowledging special privileges (such as the right of control over the so-called near abroad) but also without insuperable obstacles.

Our view of the OSCE's place in the European security architecture is of course not only determined by considerations about Russia. Rather, one must look at all of the special characteristics of this Organization:

- It is the largest pan-European and trans-Atlantic forum for cooperation and dialogue on common security interests and hence embodies the concept of comprehensiveness.
- It is an important organization for defining norms and principles in the realm of security. These are the basis for a collective and continuous contribution to the creation of a common security space and are at the same

time consistent with the principle of the indivisibility of security and the idea of cooperative security.

- It has flexible voting arrangements in which every participant is represented equally and within which the consensus principle in decision-making (the decisions of the OSCE are not legally binding, by the way) represents for the Organization a far-reaching resource for the exercise of power.

In the debate on the various concepts of European security which have been presented we favor a middle way. Far from wanting to marginalize the OSCE or pare down its role but at the same time not wishing to put it above the other security organizations in Europe, we are in favor of making the OSCE the foundation of European security architecture.

From this standpoint we regard the OSCE not only as a normative authority for democratic stability, politico-military confidence-building measures (FSC) and disarmament but also as an instrument for conflict prevention, crisis management and post-conflict rehabilitation - an instrument which in close consultation with the other multilateral bodies concerned (e.g. the UN, the ECE of the UN, UNHCR, the Council of Europe, NATO, Partnership for Peace, and the North Atlantic Cooperation Council) and depending on which institution is best suited to the case at hand, attempts to provide something extra - a specific and effective contribution to the joint effort. To be more precise, this should lead to

- an enhancement of the OSCE's human dimension by making more systematic use than has been done in the past of the expertise and the programs of the Council of Europe and by entrusting the Permanent Council in Vienna with the task of monitoring the observance of commitments;
- the OSCE's giving somewhat less prominence to the economic dimension and concentrating its activities on early warning and political guidance in situations where a threat to regional and sub-regional stability and security stems primarily from economic causes;
- the strengthening of the OSCE's instruments.

#### *A Logical Conclusion: the Strengthening of the OSCE*

The role and the place we assign to the OSCE within the new configuration of Europe impel us quite naturally to call for a strengthening of the Institution in Vienna. Its transformation into an organization has barely begun. The missions it will have to carry out require a very high level of effectiveness. We must think of new mechanisms to contend with the newly developing



risks which can be observed and to meet the challenges to European security. The rather theoretical and, so to speak, academic thinking about a new model for the European security architecture must be accompanied by concrete and practical measures for strengthening the OSCE. However, the lessons which must be drawn from the OSCE Mission to Bosnia and Herzegovina argue for doing that right now.

Our thinking about this objective has so far taken account of various aspects - political, legal, functional/institutional, and operational. There is no attempt to set up rigid schemes but, rather, to develop alternative combinations and working hypotheses. The same procedure is also being followed in the very controversial discussion of a legally binding statute for the Organization. Our approach is deliberately pragmatic. It is not absolutely necessary to base the OSCE on a fundamental document, a Charter. A statute would not change the (political) nature of the OSCE's decisions. Giving these decisions a legally binding character is not the issue. The issue is to provide a legal basis for the Organization which will permit it to carry out its activities, in particular its missions in the field, without being hampered by legal shackles.

Various measures can be combined to achieve the political and institutional strengthening of the OSCE:

- weakening the consensus rule (e.g. in accordance with the proposal of Kinkel/Kooijmans that the OSCE, in the event of a conflict, be empowered to call on the United Nations on consensus basis but without the agreement of the parties to that conflict) - an arrangement which would better serve the needs of an OSCE acting as a regional arrangement under the terms of Chapter VIII of the UN Charter;
- using variable groupings to carry out certain activities, along the lines of the Minsk Group or following the model of the regional round tables under the Stability Pact. This would help to avoid the cumbersomeness of discussions involving 55 participants and would give certain groups of states broad leeway to find solutions within the framework of a collective decision;
- strengthening the role and the resources of the Secretary General, especially for ensuring the continuity of actions that have been undertaken, and supporting the Chairman-in-Office with greater determination;
- strengthening the OSCE's ability to act in the field through its missions, in view of the experiences garnered from its operations in Bosnia and Herzegovina as well as the approximately ten other Missions currently being conducted at various sensitive places in the OSCE area.

This list is not complete but it points out certain directions in which our thinking has taken us and through which France is pursuing the goal of a-

dapting the OSCE to its new responsibilities within the European security architecture.

### *Conclusions*

The OSCE continues to be an institution in constant development. With respect to its future shape a great variety of parameters must be kept in mind. A flexible approach is advisable and we should avoid insisting on established patterns. The OSCE is itself one of the parameters of the great equation which will define the security order in Europe for the coming years. With its principles and its commitment it has made possible the creation of a common security space in Europe.

## Britain and the OSCE<sup>1</sup>

Since the late 1940s, the dominant feature of British security policy has been Atlanticism. Britain played a central role in the establishment of the North Atlantic Treaty Organization (NATO) and sought to retain a "special relationship" with the United States. During the Cold War, successive British governments viewed NATO and a continued US commitment to European security as vital to countering Soviet power. British governments tended to be sceptical about proposals for closer West European security and defence cooperation and for new pan-European security structures - fearing that such developments might undermine NATO and the US role in Europe.

British support for containment and NATO was, however, balanced by a pragmatic pursuit of *détente* with the Soviet Union. In the 1970s, despite fears that it might become a vehicle for underwriting Soviet hegemony in Eastern Europe or be a Soviet attempt to divide the Western Alliance, Britain was willing to support the development of the Conference on Security and Cooperation in Europe (CSCE - now the OSCE). Despite scepticism about how much progress could be made within the CSCE framework, British governments viewed it as a useful body for raising human rights issues and negotiating military confidence-building measures.<sup>2</sup>

### *Britain and the New European Security Architecture*

The collapse of communism in Eastern Europe, the end of the Cold War and the break-up of the Soviet Union clearly called for a re-assessment of British security policy and the CSCE's/OSCE's role within that broader policy. The process of German unification in 1990 played a central role in shaping British policy. British leaders rapidly came to the conclusion that continued membership of NATO and the European Community (EC) were the best ways to ensure that a united Germany would remain integrated in European and trans-Atlantic security structures. A reformed NATO, in particular, would remain vital to British security:

---

<sup>1</sup> The author is grateful to Foreign and Commonwealth Office staff and members of the United Kingdom delegation to the OSCE for discussions on British policy towards the OSCE. The views expressed in this chapter, however, are the author's own.

<sup>2</sup> Cf. Brian White, *Britain, Détente and Changing East-West Relations*, London 1992, pp. 120-143.

NATO is the only security organization with the military means to back up its security guarantees. It secures the vital link between Europe and North America (...) the Alliance remains the best vehicle through which to ensure that, were a strategic threat to the United Kingdom to re-emerge, our interests could be effectively defended.<sup>3</sup>

At the same time, other institutions - the EC, the Western European Union (WEU), the United Nations (UN) and the CSCE - also had important roles to play in the new multi-institutional European security framework. Since 1990, these basic ideas have underpinned British government thinking about European security.

At least initially, British leaders were wary of strengthening the CSCE in case this should undermine NATO. Early in 1990, then Prime Minister Margaret Thatcher outlined her views on what role the CSCE should play in the new Europe:

Alongside NATO - but *not* as an alternative to it - we need to find a way to reinforce democracy and human rights throughout Europe, while at the same time involving the Soviet Union and the Eastern European countries fully in the debate on Europe's future.

(...) I do *not* believe that the CSCE can in any way take on a defence role. That must remain the task of NATO and WEU. What it *can* and *should* do is strengthen democracy, the rule of law and human rights. If we can get to a stage when they are practised and observed throughout Europe, that in itself will be an enormous contribution to Europe's security.<sup>4</sup>

Towards this goal, the CSCE should establish agreed standards for democracy, human rights, market economics and international behaviour. It should also extend political consultations among its members and establish procedures for emergency meetings and conciliation in cases of conflict. These proposals helped to shape the November 1990 CSCE Charter of Paris.

From the British perspective, the OSCE has a number of advantages which make it suited for particular roles. The OSCE's central advantage is that it "remains the European security structure with the broadest membership" providing it with a "unique perspective for promoting peace and stability in Europe".<sup>5</sup> In this context, and especially against the background of likely NATO enlargement, the OSCE is a key body for integrating East European countries and the successor states of the former Soviet Union into European security structures, "providing reassurance for nations who are not, or are not

---

<sup>3</sup> Statement on the Defence Estimates 1994, Cm 2550, London: Her Majesty's Stationery Office, April 1994, p. 9.

<sup>4</sup> Prime Minister's speech to the Anglo-German Königswinter conference, Cambridge, 29 March 1990, in: Arms Control and Disarmament Quarterly Review 17/1990, pp. 28-30.

<sup>5</sup> Statement on the Defence Estimates 1994, cited above (Note 3), p. 17.

yet, members of regional or other security organizations".<sup>6</sup> The OSCE's history and broad membership also make it the key framework for agreements of pan-European norms and standards for states' domestic and international behaviour and for conventional arms control negotiations. The OSCE's pan-European membership and agreed norms also give it a legitimacy and authority which other institutions, such as NATO and the European Union (EU), lack - allowing it to discuss the internal affairs of states and legitimise actions. The OSCE's legitimacy, further, makes it "the instrument of choice in early warning, conflict prevention and resolution".<sup>7</sup> In short, for the British government, the OSCE "has a special contribution to make to the construction of a wider Europe. It defines the standards and values and norms of behaviour for a broad community. It embodies an equal right and opportunity for each member (...) to participate in building security (...) it is in a unique position to promote peace and stability in Europe".<sup>8</sup>

While supporting the OSCE's role in norm-setting, arms control and conflict prevention and management, however, Britain has been cautious about how much can be expected of the OSCE and in which directions it should develop. While arguing that the OSCE's broad membership is one of its main strengths, British officials also note that, combined with largely consensus decision-making, this inevitably limits the OSCE's ability to take decisive action in a crisis. Thus, British policy-makers emphasize that the OSCE cannot be seen as an alternative to NATO. Further, British policy-makers argue that steps in the direction of collective security would only undermine the OSCE's achievements to date, without making the Organization more effective. An OSCE Security Council would duplicate the work of the UN Security Council, would not in itself guarantee effective action and would likely be rejected by those small and medium powers excluded from membership. The provision of hard security guarantees to all OSCE States is seen as unrealistic. The OSCE, it is also argued, should not take on roles, such as peacekeeping, which other organizations (such as NATO and the WEU) are better suited for. British policy-makers have also been wary of introducing new OSCE institutions or structures which they argue might be costly and bureaucratic and undermine the Organization's ability to act effectively. According to Prime Minister John Major, the OSCE "does not require a large new level of officialdom. The CSCE's administrative corps needs to remain small and the CSCE should not take on tasks tackled satisfactorily elsewhere".<sup>9</sup>

---

<sup>6</sup> Stable Forces in a Strong Britain: Statement on the Defence Estimates 1995, Cm 2800, London: Her Majesty's Stationery Office, May 1995, p. 23.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Speech given by the Prime Minister, Mr. John Major, at the CSCE on "CSCE - An Effective Response to Conflict", Helsinki, 10 July 1992, in: Arms Control and Disarmament Quarterly Review 27/1992, p. 16.

For the British government, the OSCE plays a central role in setting the norms and standards for European states' behaviour, both internationally and domestically. Strong British support for the OSCE's role in setting European norms can be traced back to the 1970s and 1980s. British governments at the time accepted that the CSCE should confirm the inviolability of existing international borders. In particular, however, they pressed for binding commitments on human rights and strongly criticised the Soviet Union and the countries of Eastern Europe when they failed to live up to those commitments.<sup>10</sup>

With the collapse of the communist regimes in 1989, the British government viewed the consolidation of democracy, respect for human rights and the development of market economies in Eastern Europe as a central objective. In this context, the CSCE should play a key role. Prime Minister Thatcher argued that the forthcoming Paris CSCE Summit should agree a "European Magna Carta" entrenching the basic rights of individuals, democracy and market economics. This should include specific commitments to free elections, the rule of law, respect for human rights (including freedom of speech, worship and national identity), the right to own private property and the inviolability of international borders.<sup>11</sup> These ideas helped to shape the commitments contained in the Charter of Paris and the agreement to create the Office for Free Elections, which later became the Office for Democratic Institutions and Human Rights (ODIHR).

In significant part, the British approach reflected the government's (in particular Prime Minister Thatcher's) commitment to individual freedom and market economics. British support for CSCE norms, however, was also underpinned by the belief that common political values and democratic standards would contribute to European peace. At the Paris Summit, Prime Minister Thatcher argued that the CSCE should become "a great alliance for democracy (...) that would be the best guarantee of all our security. Democracies do not go to war with each other. They have too high a regard for freedom and justice, not only for those in their own country but in each other's countries as well".<sup>12</sup>

---

<sup>10</sup> Cf. White, cited above (Note 2), pp. 123-141.

<sup>11</sup> Mrs. Thatcher on "Shaping a New Global Community", Colorado, 5 August 1990, in: Arms Control and Disarmament Quarterly Review 19/1990, pp. 12-13; and, Prime Minister's speech to the Anglo-German Königswinter conference, cited above (Note 4), p. 29.

<sup>12</sup> Mrs. Thatcher at the CSCE Summit in Paris, 19 November 1990, in: Arms Control and Disarmament Quarterly Review 20/1991, p. 16.

Since the signing of the Charter of Paris, the British government has largely taken the view that the basic norms of European behaviour have been agreed. The challenge now is to ensure full implementation of those norms. In this context, Britain has been a strong supporter of the activities of the ODIHR. While supporting new norms (such as the 1994 Code of Conduct on Politico-Military Aspects of Security), Britain has been cautious about how much they can really contribute to European security, given that they are largely refinements of existing norms and the key issue is the implementation of OSCE norms not their further refinement.

#### *Arms Control: The Centrality of the CFE Treaty*

Britain views the OSCE as an important framework for arms control negotiations. Britain supported the negotiation of Confidence- and Security-Building Measures (CSBM) in the 1970s, tabling the original paper on the issue.<sup>13</sup> When Soviet President Mikhail Gorbachev announced unilateral Warsaw Pact force reductions and began to press for negotiations on conventional force reductions in the late 1980s, however, Britain responded very cautiously. Prime Minister Thatcher feared that the Soviet moves were simply an attempt to undermine NATO's unity, the US commitment to European security and NATO's nuclear strategy of flexible response.<sup>14</sup> The British government argued that "the Warsaw Pact can afford to promise unilateral cuts because it has weapons to spare (...) The West's forces, by contrast, are kept at the lowest level we need for our defence".<sup>15</sup>

Once it became clear that the negotiations would result in very substantial cuts in Soviet forces, however, Britain became a strong supporter of a Conventional Armed Forces in Europe (CFE) Treaty. By early 1990, the British government was recognizing that (once implemented) a CFE Treaty would "remove for all practical purposes the threat of a Soviet surprise attack on Western Europe. The Soviet Union (...) would no longer have (and could not without breaching the Treaty recreate) the option (...) of mounting large-scale offensive action against Western Europe along several axes at the same time". As such, it would be a "dramatic contribution" to improving East-West relations.<sup>16</sup>

---

<sup>13</sup> Cf. White, cited above (Note 2), p. 124.

<sup>14</sup> Cf. Mark Hoffman, *From Conformity to Confrontation: Arms Control*, in: Stuart Croft, *British Security Policy: The Thatcher Years and the End of the Cold War*, London 1991, pp. 82-84.

<sup>15</sup> Statement on the Defence Estimates 1989, Vol. 1, Cm 675-I, London: Her Majesty's Stationery Office, May 1989, p. 1.

<sup>16</sup> Statement on the Defence Estimates 1990, Vol. 1, Cm 1022-I, London: Her Majesty's Stationery Office, April 1990, pp. 9-10 and p. 18.

Despite the subsequent break-up of the Soviet Union, Britain continues to regard the CFE Treaty as central to European security. From the British perspective, the CFE Treaty constrains Russia's capability to mount large-scale offensive military operations or expand its forces, provides significant military transparency and imposes a degree of military order in Eastern Europe and the former Soviet Union. As a result, the focus of British arms control policy within the OSCE has been to ensure "effective implementation of the CFE Treaty".<sup>17</sup> The British government recognizes that the likely enlargement of NATO will require changes to the CFE Treaty, but argues that the priority is to ensure that the central elements of the Treaty remain intact. By early 1996, no clear British position on exactly how the CFE Treaty should be adapted to reflect NATO enlargement had yet emerged.

While supporting the various additional confidence-building measures agreed since 1990, Britain has been less enthusiastic about the value of further post-CFE conventional arms control agreements. British officials argue that the priority should be to implement existing agreements, particularly the CFE Treaty. Whilst supporting the work of the Forum for Security Cooperation and the possibility of sub-regional arms control tables, British officials are sceptical about how much can be achieved in this area given the limited political support for such agreements in Eastern Europe and the former Soviet Union. Britain has also shown little interest in any further conventional force *reduction* agreement. The British government argues that Britain's armed forces have already been significantly reduced in response to the end of the Cold War and further reductions would only undermine Britain's ability to contribute to peacekeeping and other "out-of-area" operations in the future.

#### *Conflict Prevention and Management*

The British government argues that "the field of conflict prevention and management is where the OSCE makes its most distinctive contribution to European security". The High Commissioner on National Minorities, the ODIHR and the various OSCE missions to areas of potential and actual conflict are regarded as some of the OSCE's main "successes" to date.<sup>18</sup> The OSCE's combination of relative political neutrality, comprehensiveness and the right of intrusion into the internal affairs of states make it particularly suited to conflict prevention and management efforts which require a broad

---

<sup>17</sup> Defending Our Future: Statement on the Defence Estimates 1993, Cm 2270, London: Her Majesty's Stationery Office, July 1993, p. 56.

<sup>18</sup> OSCE: A Security Model for the Twenty-First Century, Intervention by Sir N. Bonsor, Minister of State, FCO, at the OSCE Ministerial meeting on 7 December 1995, p. 4 and p. 2.



approach and involve engagement with the domestic affairs of participating States. The OSCE also has the potential to provide an over-arching framework, legitimizing action by other international organizations, such as the EU and NATO.<sup>19</sup>

Since 1990, Britain has actively supported the development of the OSCE's conflict prevention and management role. In the run up to the 1990 Paris Summit, Britain proposed that the OSCE develop conciliation mechanisms to address ethnic conflicts.<sup>20</sup> At the July 1992 Helsinki Summit, Prime Minister Major argued that "the CSCE should not be a watching by-stander, a hand-wringing on-looker to Europe's quarrels. The CSCE must develop the means and the will to act before the fighting begins." He also suggested that EU governments might press for action within the CSCE against participating States violating their commitments to respect human and minority rights and democratic standards, that EU governments could link economic aid to respect for CSCE commitments and that there was a need for better monitoring of respect for such commitments.<sup>21</sup>

In terms of future developments in this area, the British government appears to have two priorities. First, enhancing the OSCE's operational capabilities in terms of support for democratization and conflict prevention and management. Second, improving cooperation with other international organizations, particularly the EU and NATO, so that the OSCE can utilize their resources. The OSCE's role in implementing the Dayton Peace Agreement in the former Yugoslavia - where it is providing a forum for arms control discussions, will supervise elections and promote human rights, in cooperation with the EU and NATO - is seen as a potential model for the Organization's future development. British officials, however, acknowledge that the OSCE's greatest need in this area is for more resources (particularly well qualified personnel) to support its work. Existing demands on resources are likely to limit future British support for the OSCE. Officials suggest that the EU may be best placed to provide further financial, material and personnel support for OSCE conflict prevention and management activities.

The British government also argues that the OSCE has a potentially important role to play in peacekeeping. The OSCE might play a role in mandating peacekeeping operations undertaken by NATO or the WEU.<sup>22</sup> The OSCE may also be a forum for developing guidelines for peacekeeping operations

---

<sup>19</sup> Cf. Alyson J.K. Bailes, *European Defence and Security: The Role of NATO, WEU and EU*, in: *Security Dialogue* 1/1996, p. 62.

<sup>20</sup> Mr. Hurd at the Open Skies Conference, Ottawa, 12 February 1990, in: *Arms Control and Disarmament Quarterly Review* 17/1990, pp. 6-7.

<sup>21</sup> Speech given by the Prime Minister, Mr. John Major, at the CSCE, cited above (Note 9), pp. 14-16.

<sup>22</sup> Cf. Bailes, cited above (Note 19), p. 57; and, *Defending Our Future*, cited above (Note 17) p. 10, para 115.

by other organizations and states, particularly Russian actions in the former Soviet Union.<sup>23</sup> Further, although the OSCE "lacks the resources to deploy large-scale peacekeeping forces itself, it can enhance transparency and monitor peace processes (... and) should elaborate provisions under which the OSCE could consider on a case-by-case basis co-operative arrangements to monitor military operations by third parties in areas of regional conflict".<sup>24</sup> Britain is, however, reluctant to support larger-scale OSCE peacekeeping operations, arguing that NATO and WEU are militarily better suited to undertake such operations. To the extent that the OSCE may engage in peacekeeping in the future, the British government appears to believe that these should be limited to more traditional (and by implication relatively small) "blue helmet" type operations: "Operations will be impartial, and will be conducted with the consent of the parties directly concerned, under an effective and durable ceasefire, and in support of a political and diplomatic process to establish a lasting settlement of the dispute. They will not however entail enforcement action".<sup>25</sup>

### *The Security Model*

While opposing Russian suggestions that the Security Model could assert OSCE authority over NATO or give Russia a veto over NATO enlargement (fearing that any steps in this direction would undermine NATO's independence and ability to act), Britain has become a relatively active supporter of the concept. The British government sees the Security Model as a potentially useful way of defining the OSCE's specific contribution to European security, developing its role in conflict prevention and management, strengthening implementation of OSCE commitments, improving the OSCE's cooperation with other international organizations and helping to address Russian concerns over NATO enlargement. The aim of the Security Model should "not be to create a *hierarchy* of institutions, but to develop efficient *cooperation* between them". This should be achieved by increased openness and transparency, exploration of the ways in which organizations may cooperate and enhanced contacts between them.<sup>26</sup>

Britain has proposed a politically binding "Platform for Cooperative Security" as part of the Security Model. This would involve: commitments by each

<sup>23</sup> Cf. Text of a Speech by the Foreign Secretary, Mr. Douglas Hurd, to Annual Diplomatic Banquet, Durbar Court, Whitehall, London, 15 June 1994, in: Arms Control and Disarmament Quarterly Review 34/1994, p. 46.

<sup>24</sup> Statement on the Defence Estimates 1994, cited above (Note 3), p. 17.

<sup>25</sup> Defending Our Future, cited above (Note 17), p. 17.

<sup>26</sup> OSCE: A Security Model for the Twenty-First Century, Intervention by Sir N. Bonsor, cited above (Note 18), pp. 1-2 and pp. 5-6.

State not only to respect but to enhance the security of other States; provisions confirming responsibility of all security organizations as well as States to respect OSCE principles; commitments by members of organizations to transparency in any changes in those organizations affecting European security; and a commitment in principle by those organizations to offer support for peacekeeping, humanitarian relief and conflict prevention/management missions within the OSCE area.<sup>27</sup> These proposals are designed, in part, to try to reassure Russia that NATO/WEU/EU enlargement will not undermine Russian security, that the enlargement processes will be transparent and open, and that NATO will not use its strength to threaten Russia.

The British government also argues that the Security Model can play a useful role in clarifying "the proper role of peacekeeping operations". In this context, all States should reaffirm that when undertaking peacekeeping in the OSCE area they will respect all relevant provisions of the UN Charter and OSCE provisions, that they will act in pursuit of a clear mandate directed at conflict resolution and the early withdrawal of peacekeeping forces and that they will support parallel efforts for political solutions.<sup>28</sup> These proposals appear to have two aims. First, to reduce the risk that future peacekeeping operations will result in prolonged and open-ended commitments of forces which only police cease-fires rather than facilitating the resolution of conflicts. Second, to establish principles for peacekeeping which may help to shape Russian peacekeeping activities in the former Soviet Union.

The British government, therefore, sees the Security Model as a useful way of defining the OSCE's role in European security, strengthening cooperation with other international organizations, defining principles for peacekeeping in the OSCE area and helping to address Russian concerns over NATO enlargement. From this perspective, the Security Model should be a flexible, politically binding agreement, progress on which might be reviewed annually. At the same time, Britain is clearly cautious about how much the Security Model can really achieve and wary of any proposals which might give the OSCE a veto over NATO decision-making or attempt to turn the OSCE into a collective security organization.

### *Conclusion*

Since the end of the Cold War, Britain has supported the development of a multi-institutional European security framework in which NATO remains central, but other institutions, including the OSCE, have significant roles. In the immediate post-Cold War period, the British government was somewhat

---

<sup>27</sup> Ibid., pp. 3-4.

<sup>28</sup> Ibid., pp. 4-5.

wary of strengthening the OSCE, fearing that this might undermine NATO. As it has become clear that there is little prospect that the OSCE will replace NATO and as the OSCE's particular strengths have become more apparent, Britain has become more supportive of the OSCE. The British government sees the OSCE as the primary body for setting pan-European norms and standards, as the main framework for conventional arms control agreements, as a central focus for conflict prevention and management activities and as a way of helping to address the security concerns of those countries (particularly Russia) not likely to be included in an enlarged NATO. Britain has, however, opposed proposals to turn the OSCE into a collective security organization involving formal security guarantees, a Security Council or OSCE armed forces. British officials argue that such ideas are unrealistic, would threaten the OSCE's character as an inclusive, cooperative security organization and could undermine NATO.

Within the United Kingdom, there is little political debate over European security or the OSCE. Since the deep divisions over nuclear weapons in the 1980s, a relative consensus on security policy has re-emerged. Despite differences over the future of the EU, the current Conservative government and the opposition Labour and Liberal Democrat parties all support a continuing role for NATO, the development of the EU's Common Foreign and Security Policy and the gradual strengthening of the OSCE. Although some researchers and peace movement activists argue for a more central role for the OSCE and see it as an alternative to NATO, such ideas have had relatively little impact on mainstream thinking. British policy towards European security in general and the OSCE in particular, therefore, appears unlikely to change fundamentally in the near future.

British foreign and security policy is sometimes criticised for lacking long term strategic vision. To some extent, this criticism holds true for British policy towards European security and the OSCE. The British government has been implicitly criticised by the House of Commons Foreign Affairs Committee for taking a "minimalist view" of the OSCE.<sup>29</sup> The arguments against attempting to turn the OSCE into a collective security organization or seeing it as an alternative to NATO, however, are powerful. The reluctance of the major powers to intervene militarily in the Yugoslav conflict certainly suggests that hopes for the provision of mutual security guarantees to all OSCE States or widespread use of OSCE peacekeeping or enforcement forces are unrealistic. There is similarly little reason to believe that an OSCE Security Council would be any more effective than the UN Security Council, while moving in such a direction could risk undermining the comprehensive

---

<sup>29</sup> House of Commons Foreign Affairs Committee, *Central and Eastern Europe: Problems of the Post-Communist Era*, Volume I, First Report, Session 1991-92, London: Her Majesty's Stationery Office, 1992, p. xxviii.

and cooperative character of the OSCE. The challenge for Britain and the other participating States of the OSCE lies in strengthening and supporting the implementation of OSCE norms and standards, adapting and developing arms control frameworks appropriate to the new European security situation and developing the Organization's capability to play a proactive role in conflict prevention and management.



## The Czech Republic and the OSCE

The two decades after the first Helsinki Conference brought several considerable changes for Czechs: a revolutionary change of socio-political order in 1989, and in 1993 a change of their state as such. Czechoslovakia, as an original signatory of the CSCE Final Act under the name of Czechoslovak Socialist Republic, became as the Czech and Slovak Federal Republic an active participant in the process of putting an end to the two blocs system. On 1 January 1993, the Czech Republic was admitted to the Conference on Security and Cooperation in Europe as a new participating State.

There would be little sense in recounting the history of Czech foreign policy after 1 January 1993. In any case, regardless of the inherent elements of continuity and discontinuity, this policy grew out of the foreign policy of former Czechoslovakia. In order to better understand present attitudes and approaches, it is therefore reasonable to trace the relations of Czechs and the OSCE back to the outset of the Helsinki process.

### *From the Helsinki Final Act to "Velvet Revolution"*

A search for individual Czech or, more precisely, Czechoslovak contributions to the early developments of the CSCE process might be frustrating as collective approaches were preferred by the Warsaw Pact countries. Nevertheless, an indirect Czechoslovak influence in the very beginning of the Helsinki process cannot be overlooked: the Soviet-led invasion of Czechoslovakia and the crushing of the Prague Spring in August 1968 poisoned the atmosphere in Europe and among the great powers in such a way that it caused a noticeable delay in the actual start of the Helsinki process.

Local hardliners who were allowed to run Czechoslovakia as a result of the August 1968 invasion could certainly not be expected to contribute to the CSCE process in a positively creative way. The course on "normalization" in domestic policy, meaning a movement back to the strictest "socialist" orthodoxy imaginable, ran contrary to the CSCE stress on human rights and fundamental freedoms, rule of law, etc. A state of tension was rather typical for the relationship between "normalized" Czechoslovakia and the CSCE on the issue of implementing human rights commitments.

### *From Euphoria to Disillusionment*

An unequivocally positive attitude toward the Helsinki process was one of the most conspicuous elements of post-November 1989 Czechoslovak foreign policy. This might have been partly explained by the influence of former dissident intellectuals who held the CSCE in great esteem for its record in human rights and in eroding totalitarian systems on an international scale. But in essence, it was a genuine belief in the CSCE's potential to assume a leading role in building a new European security order.

The resulting approach was not limited to mere identification with and admiration for the CSCE. Czechoslovak foreign policy 1989 - 1992 was very active in trying to make these beliefs bear fruit. Two initiatives (documents) should be cited in this connection: in April 1990, a Memorandum on a European Security Commission was presented, identifying the CSCE process as an optimal basis for creating a unified pan-European security system and proposing "second generation Helsinki arrangements" with "effective mechanisms of a new type".

The Memorandum of the Czech and Slovak Federal Republic on European Security a year later summarized the developments, among others the utilization of some ideas from the European Security Commission concept in the CSCE mechanisms created by the Charter of Paris. The uniqueness of the process, offering at the same time a pan-European platform and the trans-Atlantic bond of solidarity, was again underlined. The necessity of making proper use of existing organizations as well as further institutionalization of the Helsinki process were stressed.

It is well known that the Czechoslovak foreign policy of that time did not limit itself to theoretical proposals. Among the practical results of our energetic efforts was the establishment of the CSCE Secretariat in Prague, servicing the meetings of the Committee of Senior Officials (now: Senior Council) and holding the historic Prague Ministerial Council in 1992 enlarging the Organization dramatically, as well as the Czechoslovak Chairmanship in the same year.

Paradoxically, the year 1992 which doubtlessly entailed considerable expectations of Czechoslovak foreign policy, ended by the quiet disbandment of the Czechoslovak Federation.

### *The Czech Republic: Disenchantment and Scepticism*

Czech foreign policy, although logically trying to maintain continuity with the policy of the larger state, had to adjust its ambitions to its smaller geo-



political weight and to other facts of life. Some different philosophical approaches were also taken into account.

One of the more pragmatic traits of Czech foreign policy is a conviction that the Czech way into the Western structures of its choice (an ambition shared with the previous Czechoslovak Federation) should be as direct and speedy as possible. Ensuring security to cope with any contingency is a high priority. Consequently, the interest in security-related structures is profound but differences in effectiveness among the structures are felt. Among organizations relevant to security NATO is rated highest. The Czech Republic is a member of the OSCE like all the others. OSCE is relevant to security but its impact on it is considered to be limited. In short, there is a visible difference between past Czechoslovak and present Czech policies and policymakers with regard to their assessment of OSCE potential.

A vast potential of the OSCE process and OSCE as an organization is recognized, but it is no longer regarded as unlimited.

### *Perspectives and Expectations*

The key difference between the former Czechoslovak and present Czech policymakers in viewing the OSCE centers around the problem of how to guarantee security. Alliance mechanisms providing for collective self-defense are considered to be the safest way to solve this problem. Therefore, NATO and, after it, WEU are seen as the proper structures.

This does not necessarily mean underestimating the OSCE in security-related matters. The results that can be ascribed to the Helsinki process in defusing accumulated tensions, including through disarmament measures such as the CFE Treaty, or the Confidence-Building Measures, are known and recognized. But, in contrast to the previous set of politicians, the present Czech policymakers would not think of giving the OSCE the role of an umbrella organization overseeing the European security architecture and its functioning. The security environment created by the OSCE's existence and efforts is considered a sort of general standard available to all. The self-defense structures offer a more "customized" level of security for those who can qualify for the club and are prepared to share the relevant burdens. Czech policymakers - with the population's support according to repeated opinion polls - choose to seek membership in the defense organizations. This is, of course, only a simplified picture omitting the more subtle parts such as the importance of the trans-Atlantic bond in balancing the gravitational forces in Central Europe, etc.

From the above perspective, a considerable part of the OSCE's role is to be a forum for communication. For the Czech Republic practically all the vital contacts are located there. The participation of countries which emerged from the former USSR, Russia above all, is considered in the Czech Republic as a particular asset of the OSCE which must be utilized accordingly by carrying on a meaningful dialogue on all vital issues in the framework of the Organization.

If we focus our view on OSCE activities, the comprehensive approach is a principle the Czech Republic respects and would like to see applied fully, especially through a commensurate functioning of all three OSCE dimensions. Although Czech policymakers do not expect too much from the OSCE security dimension, serious interest in it is nevertheless a logical consequence of their overall security preoccupations. The Treaty on Conventional Armed Forces in Europe is valued very highly, because its real impact can be described not only in impressive words, but also in precise figures (for instance 58,000 pieces of Treaty Limited Equipment destroyed, personnel strength limited by 1.2 million persons, 2,500 international inspections effected, etc.). Despite some initial hesitation, official Czech policy accepted the intrinsic value of the conceptual discussion on a Common and Comprehensive Security Model for Europe for the 21st Century, welcomed the general principles of the Model as formulated by the 1995 Budapest OSCE Ministerial Council and joined the widely-shared view that the work on the Model will develop into a strategic OSCE activity for some years to come.

The Czech Republic has supported wholeheartedly the tendency, which is gaining momentum, to revive the OSCE economic dimension, endorsed also by the 3rd and the 4th OSCE Economic Forum in Prague. It is a long professed Czech view that to put the economic dimension on the same footing as the security and human dimensions requires using consistently the same modus operandi as with the other two, namely formulating rules of behavior subject to review of their implementation.

Especially the conclusions of the 4th Economic Forum dealing with "Economic Aspects of Security and the OSCE Role" contributed considerably to the view that the OSCE economic dimension is finally finding its most relevant point of focus. These conclusions support the prevailing conviction that within the comprehensive approach to security the enhancement of the OSCE economic dimension will foster the other dimensions as well, particularly the security dimension.

Czech ambitions in the Organization are deliberately kept in proportion with the importance and possible influence of a state of our size. Among the long-term goals there is no ambition to create and play a role in special coalitions of, for instance, the Visegrád type in the times of the Federation, when the participants tried to unify their political stands on every possible issue. On

the other hand, it is quite normal to see the Czech delegations take part in spontaneous ad hoc groups of like-minded delegations united by an interest in solving a specific issue. The economic dimension, as discussed above, and the relevant conceptual discussions might be a good example for this approach.

Finally, what can the OSCE expect from the Czech Republic? It is safe to predict that the Organization can rely on us as a participating State interested in all agendas and in fulfilling its duties.

The recent parliamentary election, the first in the independent Czech Republic in fact, poses an obvious question: will it add some new elements to the already discernible Czech attitudes towards the OSCE?

Dramatic changes in the overall Czech approach to the OSCE are hardly imminent. This assessment has been confirmed by the Program Declaration of the newly formed Czech government, accepted by the parliament on 25 July 1996, where no change in goals and hence continuity in foreign policy is stressed. On the other hand, the wording does not exclude the possibility of Czech foreign policy becoming more comprehensive, a trend already suggested by some attentive observers. For the OSCE it could well amount to - depending on the OSCE's own performances - a more optimistic assessment of OSCE's potential and importance.

The present order of priorities with regard to international structures, as reflected in the Government Program Declaration, is as follows: European Union and NATO; in the second tier the UN, OECD, OSCE and Council of Europe. So much for the present concept of the coalition which will continue to run the Czech foreign policy.

The rise to importance of the opposition, more specifically the Czech Social Democrats, is the conspicuous element of this election. In contrast to the rest of the parliamentary opposition, the Social Democrats have shown little ambition to promote some conceptual line of their own concerning foreign policy which would be visibly different from that of the coalition. On the other hand, their proclaimed intention to exercise as much control over government policy as possible through the parliament might influence even the OSCE issue indirectly by enlarging the scope of themes under debate. What should be expected in such a case?

To be identified with the traditional Western European Social Democratic and Labour parties is a strong motivation for the Czech Social Democrats who, admittedly, do not share their line of descent with other similarly named parties in Central and Eastern Europe. Adopting the standard attitudes of Western European Social Democrats, including those to the OSCE, is therefore the logical choice for them.

Conjectures based on internal political factors only would be, of course, of limited value. Czech attitudes to the OSCE will be definitely moulded, re-

gardless of partisan inclinations, mostly by the performance of the Organization itself. With many important tasks to be accomplished on the road to Lisbon and with expectations for the Lisbon Summit, we find ourselves at an important juncture in this respect.

## Poland and the OSCE: In Search of more Effective European Security

Poland's attitude towards the CSCE/OSCE<sup>2</sup> throughout its entire history has reflected the Polish search for more effective national and European security as well as the meandering course of its policy and options in this respect. It has also mirrored different expectations of the leading Polish political forces vis-a-vis the West and Russia.

The CSCE/OSCE has never been accorded the highest priority in Polish security policy, but our attitude towards it and involvement in its activities have provided a litmus test, showing the degree of Poland's pan-European vocation, its abandonment of narrow or parochial approaches to European problems. In other words, participation in the CSCE/OSCE has been helpful in developing in Warsaw a more universal approach to the new challenges facing the continent.

### *A Glance at the Past*

Before 1989, under conditions of limited sovereignty, the Polish People's Republic was a more active participant in the Helsinki process than the other satellites of the Soviet Union. However, the attitude of the regime and of the opposition towards the CSCE was ambivalent.

More liberal groups within the ruling communist establishment in Warsaw hoped that the CSCE could help in loosening the grip of the concept of "socialist camp unity" (read: control by Moscow) in foreign policy, in opening new channels of multilateral dialogue with the West, in legitimizing a certain degree of internal liberalization, and in promoting a greater opening of Poland to the outside world. The CSCE's emphasis on human rights and the "third basket" was to provide an instrument for toning down the persistent criticism levelled by Moscow and hardliners in other communist capitals against the Polish "specificities", e.g. as regards private agriculture, the position of the Catholic Church, and Poland's greater freedom in the areas of culture and personal contacts with the West than that enjoyed in the other

---

<sup>1</sup> The views expressed in this paper are those of the author and do not necessarily reflect the opinions of his Government.

<sup>2</sup> Here called the CSCE for the period up to the end of 1994, OSCE after 1 January 1995, and CSCE/OSCE for time periods overlapping 1994/95. Occasionally, the term "Helsinki process" is also used.

"people's democracies". For obvious reasons these views were not presented in public but were pragmatically introduced internally in the implementation of the Helsinki Final Act decisions. The Ministry of Foreign Affairs in Warsaw and the diplomats involved in the Helsinki process tried their best, amidst uneasy conditions, to activate Polish participation in the CSCE, albeit in a way that would not provoke the Kremlin or affect the foundations of the system. These efforts were particularly evident in cultural and educational cooperation, increased personal contacts and intensified dialogue with the West.

On the other hand, conservative elements within the Polish United Workers' Party (Communist), feared that the CSCE's human dimension, and in particular the idea of the individual freedoms and of the free flow of people and information, could undermine communist dogmas, including Edward Gierek's concept of the "ideological and moral unity of the nation", and lead to the creation of more favourable conditions for the development of various forms of opposition activities. These fears were often expressed in public but were not decisive in the government's final attitude towards the CSCE, which was in turn a mixture of the two approaches.<sup>3</sup>

The expectations and apprehensions of both groups within the elites of the *ancien régime* were in some sense realized. CSCE ideas promoted links with the West, contributed to the decline of the authoritarian system by encouraging democratic change through peaceful means, and helped to ease the Soviet grip over the Central European nations.

No picture of Poland's attitude towards the CSCE before 1989 would be complete without describing the position of the democratic opposition, which emerged prominently after 1976.<sup>4</sup> Here too the approach was ambivalent. On the one hand, the CSCE was associated with the danger of strengthening the status quo since Yalta, de facto approval of the concept of limited sovereignty, full legitimization of communist rule, and the risk that the Helsinki process might be treated as a substitute for developed contacts with Western structures, organizations and institutions. These fears were not fully justified, since the opposition underestimated the dynamic elements of the Helsinki process. They were, however, not surprising when one recalls that the CSCE decisions were in fact products of far-reaching compromises expressed sometimes in blurred language. It is enough to remember that, at

---

<sup>3</sup> It is interesting to recall that the Polish negotiators of the Helsinki Final Act were later often objects of internal Communist Party criticism for "selling out the interests of socialism", in particular regarding provisions on national minorities (German context), passport policies, free flow of information ("Free Europe" context) etc.

<sup>4</sup> The Polish opposition developed from large groups of dissidents and formed itself following food riots of June 1976. The protests against proposed changes to the constitution, the same year, legitimizing the "leading role" of the Communist Party and raising the alliance with the Soviet Union to a constitutional principle impelled large sectors of the "intelligentsia" to go into opposition too.

Soviet insistence, the Helsinki Final Act nowhere mentioned the word "democracy" except in the name of the "German Democratic Republic".

On the other hand, many opposition activists, in particular lawyers, quickly understood that the Helsinki norms and decisions could well be used for the moral and political legitimization of opposition activities and for the enhanced protection of human rights. The establishment of the Polish Helsinki Committee after 1976 was a practical manifestation of this line of thinking.

The course of political developments strengthened the second tendency within the opposition. Fears regarding possible negative implications of the understanding reached between the USSR and the West paving the way to the CSCE (approval of the territorial status quo in return for more dynamic relations and interaction in "human dimension" issues and in arms control) proved to be exaggerated. Post-Yalta frontiers had indeed been strengthened and the severities of the East-West division had been slightly reduced, but the communist regimes did not gain legitimacy. What is more, the Polish case demonstrated that, thanks to the CSCE, a "new spectre was haunting Europe", this time not the spectre of communism but of human rights, in particular individual political liberties and the free flow of people and ideas, "thus revealing to the world the true nature of Communist regimes".<sup>5</sup> Communism's restrictive character and economic ineffectiveness became even more apparent to the public at large.

The way in which the CSCE operated, based as it was on the rule of consensus, made it impossible to respond to and condemn the "state of war" in Poland declared on 13 December 1981. This was evident at the CSCE Follow-up Meeting in Madrid, which opened on 9 February 1982. The NATO states sharply criticized the introduction of martial law in Poland, but left the Jaruzelski regime a way out by presenting conditions for a return to normal relations, which included the repeal of martial law and the resumption of reforms. The Polish delegation at that meeting, under internal Soviet threats to wreck the Helsinki process, tried to limit the time devoted to criticizing the "state of war" by resorting to procedural tricks aimed at preventing open and prolonged criticism by the Foreign Ministers.<sup>6</sup> This provoked sharp reactions all over Europe, further increasing the isolation of the martial law regime in Warsaw.

---

<sup>5</sup> Victor-Yves Ghebali, *European Security in the 1990s: Challenges and Perspectives*, New York/Geneva 1995, p. 144. The use of the "human rights" term in this context may be somewhat misleading. The then communist states accepted verbally this notion, but were trying to give within it a priority to economic, social and cultural rights, as opposed to individual freedoms.

<sup>6</sup> For a detailed description of this incident see: Jan Sizoo and Rudolf Th. Jurrjens, *CSCE Decision Making: The Madrid Experience*, The Hague/Boston/Lancaster 1984, pp. 197-203.

At the same time, the democratic opposition was engaged in a behind-the-scenes lobbying effort in Madrid, presenting factual reports on the repressions in Poland and urging Western states to raise this issue under all possible items of the agenda, such as human rights protection, freedom of contacts, flow of information, trade union liberties etc.<sup>7</sup> It is difficult to evaluate the effectiveness of this action, but it contributed to more concrete criticism of the martial law situation and led to a number of decisions, including a call for greater freedom for trade unions.

Altogether, the Madrid Meeting did play a part in widening international criticism of the curtailment of human rights in Poland without severing contacts and dialogue at a time of a dramatic deterioration in East-West relations as a result of the Polish crisis. This fact made it possible to exert greater pressure on the martial law regime and to extract certain concessions from it in form of new CSCE commitments.

In summary, the following elements should be pointed out when considering the CSCE's impact on Polish national interests before 1989:

- (a) The norms laid down in the Decalogue of Principles contained in the Helsinki Final Act buttressed the validity in international law of Poland's Oder-Neisse frontier and facilitated its subsequent ultimate recognition in 1990.
- (b) Even if in only a limited way, the CSCE restrained the employment of repressive measures against the Polish opposition and the imposition of restrictions on contacts with the outside world (something particularly evident during the last years of the Gierek regime).<sup>8</sup>
- (c) The CSCE dented the communist bloc's dogma of continuing ideological struggle, which in fact was a Soviet-prescribed instrument of self-isolation from the West.
- (d) The Helsinki process hindered the imposed Sovietization of culture and facilitated the de facto legitimization of an opposition.
- (e) The CSCE gave Poland, like the other Soviet satellites, wider insights along with opportunities to contribute to military and arms control agreements between the USSR and the West.

---

<sup>7</sup> This action was organized and coordinated by the "Solidarity" Office in Brussels, mainly by two activists: the Head of the Office, Jerzy Milewski, and a young academician, Jan Zielonka.

<sup>8</sup> For instance, an amnesty in July 1977 which released more than 20,000 prisoners, in order to release with them a dozen members of the nascent opposition, gave the Head of the Polish delegation to the Belgrade CSCE Follow-up Meeting an opportunity to show this event as a striking evident of his government's attitude towards human rights (verbatim: CSCE/BM/VR.6, p. 22). For more on this subject see Adam D. Rotfeld, *A Polish View*, in: R. Davy (Ed.), *European Détente: A Reappraisal*, London 1992, p. 178.



These are contributions that are difficult to quantify but which, all in all, helped to advance Poland's objective interests in a difficult period of lost or limited independence. They broadened the scope of sovereignty enjoyed by the Polish people and helped preserve the identity of its culture. Finally they contributed to the process of Poland's recovery as a sovereign and democratic nation at the end of the 1980s.<sup>9</sup>

#### *Evolution of the Polish Approach to the CSCE after 1989*

With the end of the Cold War, Poland's considerable contribution to the CSCE/OSCE has been maintained and even increased, but Warsaw's perception of the process and later of the Organization has evolved. First of all, Poland became an actor rather than an object in the process of political change involving the CSCE. Remarkably soon, new and far-reaching foreign policy objectives were set, namely, recovery of full sovereignty, gradual integration into the Western world, equal security for all countries in the region, and removal of East-West divisions.

However, some of the early initiatives, hastily formulated under new conditions and in a mood of euphoria, were more like "ambitious experiments" than realistic objectives, and were sometimes "at odds with the mainstream security thinking of the West".<sup>10</sup> For example, in early 1990 Poland proposed the creation of a Council of European Cooperation within the CSCE. This was followed by a more developed Czechoslovak proposal calling for the dissolution of both NATO and the Warsaw Pact and suggesting a treaty on European security under the aegis of the CSCE.

Animated by hopes that the CSCE would help to protect their newly acquired independence and further the process of liberating the region from Soviet domination, Poland and the other Central European states actively supported the Helsinki process. As a result, in early 1991 two CSCE institutions were established in Central Europe: the Secretariat in Prague and the Office for Free Elections in Warsaw (now the Office for Democratic Institutions and Human Rights - ODIHR). The rationale behind this decision was to forge a closer tie between the fragile new democracies and the CSCE and, in this way, send the right signal to the USSR in the event of the emergence of neo-imperialist tendencies in Moscow.

This view started to change in pace with events. The dissolution of the Soviet Union and the natural demise of the Warsaw Treaty Organization, as well as the increased professionalism of the new democratic elites in the foreign

---

<sup>9</sup> See Jerzy M. Nowak, OSCE - between Expectations and Realities (on Its 20th Anniversary), in: *The Polish Quarterly of International Affairs*, No. 2/1995, p. 36-37.

<sup>10</sup> Jan Zielonka, Security in Central Europe, in: *Adelphi Paper* 272, London 1992, p. 33.

policy area quickly led to new and more mature security policy options. An early, hypothetical option to reform profoundly the Warsaw Pact and convert it into an alliance based on partnership relations lacked any realistic hope of success owing to the historic experiences of the preceding 45 years. Similarly, another option, based on a neutrality or a non-alignment concept, had no chance in a country located between major European powers. There was a consensus that both possibilities would lead to a "grey zone" or "buffer state" status, with all the related negative implications, including a high degree of destabilization in the region and on the continent. As a consequence, in 1992 a political document, approved by the President and the government, was issued under the title "Basic Assumptions of Polish Security Policy", clearly stating Poland's aim of joining Western European and trans-Atlantic structures.

This policy, which concentrated on the European Union, Western European Union and NATO, diminished proportionally the role played by the CSCE among Polish international security objectives. There was a deep belief among many politicians in Warsaw and other Central European capitals that the CSCE had already fulfilled its goals, specifically when Russian forces were withdrawn, the sovereignty of the Central and Eastern European states was formally recognized in bilateral treaties with the Soviet Union, and the Warsaw Treaty Organization was dissolved more smoothly than had been expected. Although not stated in public, there were no illusions that the CSCE had the potential to offer so-called "hard security guarantees" or to serve as a collective security structure. Its impotence (like that of other international bodies) in Yugoslavia only served to strengthen those feelings. These views were soon revised when the ethnic conflicts showed the necessity of a pan-European organization to prevent them. Furthermore, the NATO enlargement process proved to be slower than expected.

Another problem also emerged to affect the value of the OSCE to the new Polish governing establishment. Warsaw's diplomatic efforts to secure NATO membership have shown that these efforts need to be accompanied by the parallel elaboration of a new formula defining Russia's place and role in the new European security order. Assuming that there is no prospect in the mid-term for the admission of Russia, Ukraine and Belarus to NATO, the OSCE could become an instrument allowing those countries to meet their international security needs and to participate in shaping European security. For this reason, after some initial vacillation on the part of the Solidarity-dominated governments, the OSCE began to play a more independent role in Polish policy.

Understanding the complementarity of the policy towards NATO and the EU, on the one hand, and to the OSCE, on the other, in fact required the re-

jection of two extreme currents of thought regarding the Polish approach to the OSCE:

1. One view saw Polish engagement in the OSCE as a waste of energy, which needed instead to be concentrated on joining NATO. This view held that the OSCE would not use military force to defend the security of the Polish state in case of aggression and was therefore useless. The first of these arguments was gradually refuted by the facts of life: failing the proper development of the OSCE, it is unlikely that Poland will be admitted into NATO. The second view, apart from neglecting "soft security guarantees", fails to appreciate that the OSCE may be useful in strengthening security and stability in its immediate environment, in particular in the East.

2. The second line of thinking, anchored in the idea of a neutral Poland, advocated making the OSCE the priority in Polish security policy. This, too, was a none-too-prudent counsel since it sent the wrong signals to the West and Russia about Poland's commitment to joining Euro-Atlantic and European structures, as well as not making it any easier to find a lasting, democratic solution to Moscow's aspirations regarding Russia's role in Europe.

While the objective importance of the CSCE had somewhat modified and even diminished in the beginning of the 1990s, Polish activity in Vienna did not decrease. Priorities within the CSCE, however, shifted towards arms control, confidence- and security-building measures and human rights in general. The OSCE was treated more modestly, but still as an instrument for developing a more stable military order in Europe that might also be helpful in stabilizing the areas east of Poland, including the Kaliningrad district. The role of the CSCE in tackling new security challenges in Europe also became an object of interest and study in Warsaw.

New interests came to light both in Vienna and at the Helsinki Summit in 1992. In Vienna, Polish diplomacy played a leading role in drafting the Vienna Document 1992 on Confidence- and Security-Building Measures (Polish initiatives in the arms control area will be treated separately; see below). In Helsinki, Poland contributed to the decision setting up the CSCE Forum for Security Cooperation and to the mandate allowing the CSCE to engage in peacekeeping activities.

Poland also took an active interest in CSCE/OSCE's conflict prevention and crisis management activities, in particular on the territory of the former Soviet Union. A new instrument devised by the CSCE - long-term missions in the field - provided an opportunity for concrete involvement, giving Poland and other Central European states a unique chance to participate in stabilizing efforts east of their borders. Accordingly, Poland was for a long time the largest single contributor to the staffing of CSCE/OSCE long-term missions. A group of specialists, civilian and military, has been assembled, who have participated, often in a prominent capacity, in OSCE missions, particularly in

countries where at the time Poland had no diplomatic or consular representations - for example, in Georgia, Tajikistan or Macedonia. A Pole has also served with the OSCE Assistance Group in Chechnya.<sup>11</sup> Twice, high-ranking Polish diplomats have been entrusted with important missions: in 1992/93 Dr. Adam Daniel Rotfeld (Director of the Stockholm International Peace Research Institute, SIPRI) acted as Personal Representative of the CSCE Chairman-in-Office in the conflict over the Trans-Dniester region<sup>12</sup>, and Ambassador Stanislaw Przygodzki was active in the same capacity in the conflict in and around Nagorno-Karabakh (he also organized the CSCE office for that mission in Tbilisi).

Poland was also actively involved in the protracted negotiations over Moscow's request for the endorsement of its "peacekeeping operations", sometimes conducted under the aegis of the CIS, but with limited participation by CIS members, near Russian borders.<sup>13</sup> Poland's primary concern in this extremely delicate case - like the concern of Ukraine, the three Baltic states and Turkey in particular - was to find a proper balance between the requirements of stability and the strengthening of the independence and sovereignty of the newly independent states born on the territories of the former USSR. Poland was not against the Russian offer to use its peacekeeping forces but wanted clear guarantees of OSCE control over such CIS-sponsored "peacekeeping operations" and the establishment of a strong linkage to the development of the political process in the country receiving these operations as well as arrangements for winding them up and withdrawal of Russian troops. The protracted Russian involvement in the Chechen war and certain ambiguities in Moscow's position regarding the extent of possible CSCE control over such operations caused the de facto suspension of the negotiations.

Nor were other areas of OSCE activity neglected by Poland. As host country to the Office for Democratic Institutions and Human Rights (ODIHR), Poland has consistently endeavoured to strengthen the position and mandate of that Office. Establishment of ODIHR in Warsaw has made the Polish capital one of the centres - alongside Vienna, Prague and The Hague - of OSCE activities. Warsaw has become a hub of multilateral initiatives in the field of

---

<sup>11</sup> Out of around 70 persons serving in eight OSCE missions in the field, ten were Polish nationals. See: Adam Halacinski, OSCE Long-Term Missions, in: *The Polish Quarterly of International Affairs* 2/1995, pp. 165-190.

<sup>12</sup> See his reflections on his Mission: Adam Daniel Rotfeld, *In Search for a Political Settlement - the Case of Conflict in Moldova*, in: *The Challenge of Preventive Diplomacy. The Experience of the OSCE*, Stockholm 1994.

<sup>13</sup> This idea is known in the OSCE under the title: *Further Development of the Capabilities of the CSCE in Conflict Prevention and Crisis Management*, cf. CSCE Budapest Document 1994, *Towards a Genuine Partnership in a New Era*, in: *Helsinki Monitor* 1/1995, pp. 79-106, here: p. 87. See also: J.M. Nowak, *The OSCE*, in: T. Findlay (Ed.), *Challenges for the New Peacekeepers*, SIPRI Research Report No. 12, Oxford 1995.

human dimension issues, in particular concerning free elections and building of democratic institutions in the newly emerged states.

Polish diplomacy has also sought to use the possibilities of the OSCE to mitigate the negative implications of the Schengen agreement for human contacts in Europe. This agreement, eliminating border controls between a number of European Union member States, has produced new hardships for neighbouring countries, which in turn believe that new inequalities and lines of division are in fact being re-created in Europe. A Polish proposal on this question, tabled at the Budapest Review Conference in autumn 1994, was aimed at eliminating obstacles to travel between States, improving human contacts, combating negative stereotypes regarding foreigners and doing away with instances of degrading treatment at border crossings.<sup>14</sup> The Polish proposal was supported by a broad coalition of former communist states. It is an irony of history that former totalitarian and authoritarian states, now new democracies, had to use a language almost identical to that of the West in the 1970s, directed at that time against restrictive communist practices, and to ask Western states for greater understanding and more help in the realm of human contacts and free travel. The negotiations in Budapest were difficult. Apart from general promises to "further encourage and facilitate human contacts" and to "refrain from degrading treatment and other outrages against personal dignity" in the case of travelling citizens of other States, this effort has not produced much in the way of concrete results, owing to Western reluctance.<sup>15</sup>

Poland's role and importance in the OSCE have been enhanced by its tradition of involvement, its authorship of a number of initiatives, notably in the military and cultural dimensions, its participation in a consultation system (specifically the Visegrád Group), its contacts with European Union, NATO and CIS nations, and the presence of Polish nationals in influential posts in a number of OSCE institutions. Thanks to its active role, Poland has won itself a place in an informal group consisting of ten or twelve of the most active and influential states in the Organization. Not being a power, Poland has to persist in an almost daily effort in every field to maintain and strengthen its position.

---

<sup>14</sup> Cf. Improvement of cultural, educational and human contacts, CSCE/BC.10, Budapest, 22 November 1994. It was also sponsored by: Albania, Bulgaria, Croatia, The Czech Republic, Estonia, Georgia, Hungary, Kyrgyzstan, Latvia, Lithuania, Moldova, Romania, Russian Federation, The Slovak Republic and Turkey.

<sup>15</sup> CSCE Budapest Document 1994, cited above (Note 13), p. 101.

Arms control has become a Polish "speciality" in the OSCE and, as such, merits somewhat greater attention.

The rapid emancipation of Hungary and Poland in terms of national security shortly before and just after the wave of democratic revolutions of 1989, and later more gradually of Czechoslovakia, Bulgaria and Romania, increased these countries' general level of activity in the arms control area as a new means of military stabilization and as an instrument for overcoming the division of the continent. The main focal point of this activity was the CSCE through the arms control negotiations conducted within its framework.

The new and independent strategic thinking on the part of Poland and Hungary was reflected in a number of cases, particularly in separating Central Europe from a strategic military union with the USSR in the future CFE Treaty regime and in establishing a link between the CFE negotiations and the CSCE.<sup>16</sup> The objective was clear: to emphasize that the CFE negotiations, regardless of initial intentions and in spite of their composition (NATO and WTO states only) were not bloc-to-bloc talks but an undertaking by a number of individual, militarily significant states in Europe. Thanks to Polish and Hungarian efforts, the CFE negotiations, which started out as a bloc-to-bloc exercise, ended almost as a trilateral one: NATO - USSR - other WTO members. The link with the multilateral Helsinki process was reflected in the Preamble of the Treaty, which clearly states that its signatories are "guided by the objectives and the purposes of the Conference on Security and Co-operation in Europe, within the framework of which the negotiation of this Treaty was conducted".<sup>17</sup>

Some similarities between the CFE and the Open Skies regimes are also worth mentioning. The principles of individual participation and of linkage with the CSCE were also secured thanks to the efforts of the new democracies. For Poland, the Open Skies regime has a fourfold significance: by helping to improve confidence, it strengthens regional security; it facilitates effective monitoring of the military situation in the vicinity of Poland's borders, in particular those to the East; it promotes access to sophisticated surveillance techniques; and it opens up prospects of using the Treaty's potential for the protection of the environment.

New challenges and dilemmas in the politico-military sphere have called for a search for new military stability criteria and disarmament formulas as well as for a conceptual debate leading to the formulation of a new arms control

---

<sup>16</sup> For more on Polish thinking on this subject see: Jerzy M. Nowak: The CFE Treaty in the Post-Yalta System, in: *The Polish Quarterly of International Affairs* 2/1994, pp. 85-106.

<sup>17</sup> For the text see: Treaty on Conventional Armed Forces in Europe, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 1223-1253, here: p. 1223.

agenda. Poland has been active in this intellectual effort too.<sup>18</sup> The development of the concept of the structural inability to launch a surprise attack has been particularly important to Poland because of the country's strategic location and the geo-strategic uncertainties to the east of its borders. When it joins NATO, Poland - in its own and Europe's interests - must not become a front line state. This requires participation, together with all its neighbours regardless of their alliance allegiances, in a common regional regime, based on security- and confidence-building, that rules out the possibility of using offensive capabilities. The hope in Warsaw has been that such a regional undertaking, closely integrated within the CSCE/OSCE framework, would result in a more positive perception of NATO enlargement by states that cannot count on admission to the Alliance.

The proper place for identifying this problem and pursuing a conceptual discussion of how to tackle it has been the CSCE/OSCE, which is a kind of political guardian of existing arms control agreements, a venue for the negotiation of new ones, and an instrument for monitoring implementation.<sup>19</sup>

Polish involvement in OSCE arms control endeavours has developed along two major lines: in the current activities of the Forum for Security Cooperation, aimed at reinforcing stability and security through arms control and disarmament, and in the search for a new arms control agenda.

The following illustrative list of Polish initiatives and activities within the Forum shows not only the country's imaginative contributions but also its priorities and the importance it attaches to this field:

- (a) The negotiations on the development of the Vienna Document on Confidence- and Security-Building Measures (CSBM) in 1992 and 1994 were directed by Polish coordinators. In 1993 a comprehensive proposal of the Visegrád Group and Ukraine was drawn up on the initiative of Poland.<sup>20</sup> This was the most comprehensive and forward-looking proposal, as it tackled *inter alia* the question of improving the implementation of existing CSBM provisions and of enhancing their effectiveness in crisis situations;
- (b) Poland was the first country to submit one of the four proposals that were to become the basis of negotiations on a Code of Conduct on Politico-Military Aspects of Security.<sup>21</sup> Many Polish ideas were incorporated in the Code approved in December 1994 in Budapest. For example, article 5 of the

---

<sup>18</sup> For more on this subject see: Jerzy .M. Nowak, The Challenges and Future of Conventional Arms Control in Europe: A Polish Viewpoint, in: The Polish Quarterly of International Affairs 4/1994, pp. 7-32.

<sup>19</sup> See the presentation by OSCE Secretary General Wilhelm Höynck at the Royal Institute of International Affairs: The CSCE in the New Europe, 18 May, 1994, London.

<sup>20</sup> Cf. CSCE/FSC/SC. 13, 31 March 1993.

<sup>21</sup> Proposal by the Delegation of Poland: CSCE Code of Conduct in the Field of Security, CSCE/FSC/SC.5/Rev. 1, 18 November 1992. Other proposals were later submitted by the European Community, Turkey, Austria and Hungary.

Code reflected the Polish concept of solidarity with States whose security may be under threat. In addition, the sovereign right of every State to belong or not to belong to an alliance and to change its status in this respect was also reaffirmed, thus strengthening the European security concept, which is rooted in a system of mutually supporting institutions. It is an example of Poland's developing a network of so-called "soft security guarantees", which cannot be neglected by States staying outside viable alliances;

(c) Although problems of cooperation in "force planning" (defence policy, structure of personnel, system for the mutual clarification of doubts and problems) represented uncharted territory for the new democracies, Poland and Hungary submitted joint proposals of their own aimed at increasing transparency in military matters and encouraging cooperation in the establishment of civilian control over armed forces.<sup>22</sup> Many of these ideas were later reflected in common decisions of the Forum for Security Cooperation at the end of 1993;

(d) Poland also took an interest in negotiations on stabilization measures for local crisis management in an awareness of their potential usefulness in future conflict prevention and crisis management efforts. The Polish negotiator, Adam Kobieracki, was elected negotiations coordinator and, despite difficulties, brought matters to a successful conclusion in December 1993;

(e) Poland also contributed to the OSCE arms control philosophy by presenting the first paper on a possible *regional* CSBM agreement.<sup>23</sup> This proposal, generally referred to in the corridors of the Vienna Hofburg as the "*Kaliningrad Model*", covered several areas of possible regional cooperation: information exchange (the novelty here being the inclusion of naval forces - hence the association with Kaliningrad), military contacts, verification, inspections etc. The Polish proposal was a starting point for efforts to organize a Baltic table within the Forum for Security Cooperation dealing with Security- and Confidence-Building Measures (CSBM) in the area; this idea took concrete form in spring 1996, also in response to a specific Polish initiative. Before that, in recognition of its active role, Poland was offered the chairmanship of the Seminar on Regional Arms Control in the OSCE area, which gave an intellectual boost to the concept of regional undertakings.<sup>24</sup>

Finally, Poland also played an innovative role in developing a future OSCE arms control agenda that would encourage shaping a joint responsibility for military security, the improved implementation of existing agreements, and

---

<sup>22</sup> Polish and Hungarian working document, dated 17 December 1992 (mimeographed).

<sup>23</sup> Illustrative Regional Confidence- and Security-Building Measures Complementary to the Vienna Document 1992. Contribution by Poland to Possible Regional Arms Control Negotiations, FSC/CSCE Doc. 385, Vienna, 22 June 1994.

<sup>24</sup> See the Chairman's Summary: FSC Seminar on Regional Arms Control in the OSCE Area, REF.FSC/185/95, 18 July 1995.



limitations on military capabilities and activities. These were the basic premises of the comprehensive Polish proposal presented by the Polish Foreign Minister, Andrzej Olechowski, in September 1994 in Vienna.<sup>25</sup> It expressly stated that future negotiations should be "based on the concept of national, not bloc military capabilities" and suggested a number of common endeavours in dealing with destabilization on a regional scale, modernization of weapons and equipment, violations of existing agreements etc. Emphasis put on excessive and destabilizing local concentrations of armed forces and armaments reflected Polish interest in a gradual lessening of the military role played by the Russian Kaliningrad district.

The Polish document represented a starting point for discussions on the future arms control agenda. It was a major factor in the emphasis placed on the topic of disarmament at the so-called "Weimar Triangle" talks between the Foreign Ministers of France, Germany and Poland in Bamberg and in the drafting of a special declaration on this question.<sup>26</sup> This document, following the necessary modifications, was later reworked into a proposal submitted by the three aforementioned states at the CSCE Review Meeting in Budapest.<sup>27</sup> It was also helpful in the further work on this subject that was carried out in Vienna in 1995 as part of the preparation of a decision to be adopted at the OSCE Lisbon Summit in December 1996.

Polish involvement in all conceivable arms control areas within the OSCE framework demonstrates that Warsaw regards confidence-building in the military realm as a significant instrument for strengthening stability during the volatile period of change following the end of the Cold War. Arms control in its wider sense (encompassing CSBMs and military conflict-prevention measures as well) is treated in Polish conceptual thinking as one of the major pillars of a new post-Yalta order.

### *Building a New European Order*

The OSCE has lately become a forum for discussions on the need to shape a new security order in Europe, either through a time-limited process of common understandings or a single comprehensive act similar to the Vienna Congress of 1815 or the Treaty of Versailles after the First World War. These discussions are known in Vienna under the somewhat clumsy code

---

<sup>25</sup> Suggestions for a New Agenda for CSCE Arms Control After the Budapest Summit, submitted by the delegation of Poland, CSCE/FSC/SC.29, Vienna, 7 September 1994.

<sup>26</sup> Known as "Bamberg Declaration": A New Impetus to Arms Control in Europe. Joint Declaration of Foreign Ministers of Germany, France and Poland, Bamberg, 15 September 1994 (distributed in the CSCE as No. 822/94).

<sup>27</sup> Proposal of France, Germany and Poland: Future Arms Control Agenda, CSCE/BC.15, 24 November 1994.

name of "A Common and Comprehensive *Security Model* for Europe for the Twenty-First Century". This invention of Moscow was seen from the outset in Warsaw and other Central and Eastern European capitals, on the one hand, as an instrument to guarantee and legitimize Russia's influence on efforts to reshape the new European order or "new deal" and, on the other, as an opportunity to settle comprehensively the problems of a post-Cold War Europe on a new, possibly democratic, basis. Therefore, while approving the Russian initiative in general, Polish diplomacy took care to ensure that the decision to formulate such a model (adopted by the OSCE Budapest Summit Meeting in December 1994) contained a clause clearly stating that it "will not affect the inherent right of each and every participating State to be free to choose or change its security arrangements, including treaties of alliance, as they evolve".<sup>28</sup>

For Poland the idea of a Security Model posed a particular dilemma since Poland has had rather negative experiences with rigid systems or models, whether after the Vienna Congress (no place for an independent Poland), the Versailles Treaty (no firm security guarantees) or the Yalta agreements (purely satellite status). For this reason, Warsaw believed that work on the *Model* should rather be directed at adapting structures and ideas to changing realities. The *Model* itself should - according to Polish thinking - reflect the dynamic and evolving nature of international developments since the end of the Cold War, including eastern enlargement of trans-Atlantic structures.

Seen from the Polish perspective, what has been mainly at stake in the efforts to work out a Security *Model* is the future place of Russia and Central Europe in the new order. After the 1989 "Autumn of Peoples", the countries of Central Europe have reappeared on the international stage - this time not as *subordinate* but as *coordinate* components of international relations, in search of an appropriate and stable place in Europe. Their basic concerns and dilemmas may be described as follows:

- how to remove the remnants of the former division of Europe and the vestiges of subordination to the Soviet Union;
- how to respond to the ambitions of the nations of the region to join Western European and trans-Atlantic structures and to escape from a "grey zone";
- how to avoid the trap of turning Central Europe into a "front line" area when NATO enlarges eastwards;
- how to mould their new relations with Russia on a basis of sovereign equality and mutual respect and how to involve positively Russia and Ukraine in a new political order, assist their evolution along democratic lines, and prevent their possible self-imposed isolation;

---

<sup>28</sup> CSCE Budapest Document 1994, cited above (Note 13), Chapter VII, p. 95.

- how to accommodate the USA as an active participant in European affairs and prevent a return to traditions of isolationism in Washington.

One of the common concerns shared by Poland and other countries of the region was to take into account Russia's legitimate interests while preventing them from becoming the sole focus of attention, as in fact they were in the eyes of the Western powers. Another concern was to avoid a situation in which the debate on the *Model* might be transferred to the more intimate, powerful triangle of the three major players in the OSCE: the United States, the European Union and Russia; were that to happen, one could not rule out the possibility that discussions on the *Model* might be used to legitimize internationally decisions agreed in advance among the three. Preventing this kind of development depends on the active involvement and imagination of all the partners. Therefore, from the very beginning Poland has taken active positions in the discussions on the *Model*, trying to contribute ideas of its own and prevent the affirmation of others that might be detrimental to the interests of Central Europe and the democratic nature of the entire enterprise.

This approach was manifested in an initial, comprehensive and official Polish statement on this issue at the OSCE Senior Council Meeting in March 1995 in Prague.<sup>29</sup> While calling for a pragmatic and "evolutionary process", Poland emphasized that a new *Model* should be based on existing institutions and organizations, which "should determine for themselves their functions, operations and direction of evolution". It was re-emphasized that the *Model* should not "constrain the free development of such organizations' policies, activities and membership" or lead to a hierarchy of security institutions in Europe. The Polish statement also listed the *Model's* objectives: to face up to new challenges to common security, to enhance stability in the OSCE area, to prevent ethnic conflicts, to avert the possible renationalization of national security policies, to improve international norms and standards of behaviour and ensure their respect, to strengthen the existing military order in Europe and arms control regimes, and to assist in the process of economic and political transformation of the new democracies. In this context, the Code of Conduct on Politico-Military Aspects of Security was referred to as a possible starting point for "the establishment of the entire pattern of genuine solidarity and partnership among all OSCE States".

It was not so intended, but - as some academicians have hinted - the Polish vision of a new security model actually became a counterpart to Russian proposals.<sup>30</sup> The Polish position on the *Model* was further elaborated during the

<sup>29</sup> Statement by Ambassador Dr. Andrzej Towpik, Political Director and Under-Secretary of State in the Ministry of Foreign Affairs of Poland on the Common and Comprehensive Security Model for Europe for the Twenty-First Century (OSCE Senior Council, Prague, 31 March 1995; mimeographed).

<sup>30</sup> Michael Michalka, *Restructuring European Security*, in: *Transition* 11/1995, p. 9.

discussions and work at the Hofburg in Vienna. This position contained three major points as the "foundations" of Polish thinking on this subject:

1. the erection of a new democratic order in Europe based on the rule of law, fundamental moral values and solidarity;
2. the development of a flexible European architecture based on four pillars:
  - (a) an enlarged Atlantic Alliance;
  - (b) strategic agreements between NATO and Russia and Ukraine (possibly containing mutual security guarantees);
  - (c) a system of mutually supporting institutions, with the OSCE as a complementary and not an alternative partner vis-a-vis an enlarged NATO;
  - (d) an arms control regime embracing the CFE, CSBMs, the Open Skies regime and regional measures;
3. The development of a system of partnership and comprehensive cooperation in all domains.<sup>31</sup>

Apart from the Russian vision, this has been the only other comprehensive concept of the *Model* presented in the OSCE. At the beginning of 1996, Poland felt it necessary to warn again that commitment to the *Model* should not be allowed to prevent the natural and desirable evolution of existing security arrangements, and that work on the *Model* should be conducted in parallel with "other developments towards genuine and profound partnership" (read: enlargement of trans-Atlantic structures).<sup>32</sup> In the same statement, Poland unequivocally rejected the idea of so-called "dovetailing" or "crossed" guarantees for Central and Eastern Europe, from Russia or from Russia and NATO together, as an element to be included in the future *Model*. The reason was clear: such an arrangement would de facto legitimize the unequal status of the region and keep it within a "grey zone", a cause of many past military conflicts in Europe.

In order to guide the work into a more concrete phase, Poland, together with Hungary and Slovakia, presented an initial negotiating paper suggesting working out principles of cooperation among mutually reinforcing institutions in the field of conflict prevention in the OSCE area, drawing on the ex-

---

<sup>31</sup> Polish Concept of the Security Model (talking points by Ambassador Jerzy M. Nowak at the Seminar on a Common and Comprehensive Security Model for Europe for the 21st Century, Vienna, 18-19 September 1995), REF.PC/58/95, 19 September 1995.

<sup>32</sup> Talking points raised by Ambassador Jerzy M. Nowak at the 2nd Meeting of the Security Model Committee on general conditions for formulating the Model, PC/82/96, 26 January 1996.

periences of Bosnia and Herzegovina<sup>33</sup>, as a part of a future paper or decision on the *Model*.

The Polish position on the *Security Model* idea and its evolution provide an interesting example of the efforts to build a Central European identity and to find a proper place for the region within the new, post-Yalta order taking shape on the continent.

### *Conclusions*

To sum up, Polish interests in the OSCE, in the second half of the 1990s, may be described as follows:

1. to use the OSCE as a political instrument for the stabilization of the post-Soviet region, the strengthening of the independence of the newly emerged states, and thus the enhancement of the security of Central Europe and Poland;
2. to take full advantage of the OSCE's capabilities in conflict prevention and crisis management in order to develop a common system for dealing with new challenges facing Europe;
3. to exploit fully the OSCE's arms control possibilities so as to strengthen a new military order in Europe and, as a consequence, strategic stability throughout the continent;
4. to take advantage of the discussions on the *Security Model* with a view to strengthening the independent role of the Central European region and lessening Russian concerns over eastward enlargement of trans-Atlantic structures;
5. to have available the OSCE as one of the instruments regulating multilateral relationships in Europe and protecting smaller states against larger ones.

It was, therefore, fully understandable that the Polish President, Lech Walesa, could declare in December 1994, that Poland wants "a strong CSCE, capable of efficient and prompt action".<sup>34</sup>

The successive architects of Poland's independent foreign policy since 1989 - Krzysztof Skubiszewski, Andrzej Olechowski, Wladyslaw Bartoszewski and Dariusz Rosati - have assigned to the OSCE a fitting, even if perhaps modest, place in the country's overall vision. It is worth mentioning that changes in

---

<sup>33</sup> The OSCE Role in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation. Non-paper by the delegations of Hungary, Poland and the Slovak Republic. OSCE Security Model Committee, Ref.PC/169/96, 1 March 1996.

<sup>34</sup> Statement by the President of the Republic of Poland at the CSCE Summit Meeting in Budapest, 5 December 1994.

political orientations of the successive governments did not change the Polish position towards the OSCE. A logical consequence of this consistent attention would be Poland's assumption of the OSCE Chairmanship in 1998 or 1999. If that happens, Poland will be given yet another opportunity to consolidate its position on the European scene and to display the universal character of its policy.

## Kyrgyzstan and the OSCE<sup>1</sup>

By opening its Permanent Representation in Vienna in May of 1993 Kyrgyzstan became the first of the Central Asian and trans-Caucasian successor states of the former Soviet Union to take up a dialogue with the OSCE.

In a sense, the desire of the Kirghiz Republic for active participation in the CSCE can be traced back to the highly favorable and stimulating evaluation of Kyrgyzstan's progress toward democracy given by the CSCE's then Chairwoman-in-Office, the Foreign Minister of Sweden, Baroness Margaretha af Ugglas, in April of 1993.

At the same time, it must be understood that the positive opinion of the person holding the highest political office in the CSCE and the recognition of Kyrgyzstan's undoubted accomplishments in democratizing its society were a result of Kyrgyzstan's own rapprochement with the CSCE over a period of years.

### *Paths of Cooperation*

To the extent that the majority of scholarly concepts and categories are focused on only one part of the field to be researched or put emphasis on that part, the sub-heading above (like the title of the whole article) is in a sense tautological, as Kyrgyzstan has already become an inseparable part of the OSCE community.

The integration of Kyrgyzstan into the world community is a necessity; indeed, there is no alternative. There are objective reasons for this foreign policy strategy.

For a country like Kyrgyzstan, two and a half times as big as Austria and with a population of 4.5 million, which has no access to the sea and is surrounded by such countries as Russia, China, India, Pakistan and Iran, multilateral institutions and agreements offer in my view a highly effective way of developing a suitable security paradigm. Bilateral security arrangements offer little promise for Kyrgyzstan, if only because of the obvious asymmetries of potential in comparison with the neighboring countries. Kyrgyzstan would

---

<sup>1</sup> I would like to take this occasion to express to the publishers of this yearbook my profound thanks for this rare opportunity to reach such a large circle of educated and influential readers and to communicate to them the conclusions I came to during my more than three years as the Permanent Representative of Kyrgyzstan to the CSCE/OSCE.

be condemned to the role of the "little brother", a role which anyone who has had a "taste of freedom" surely could not agree to.

Moreover, as a forum for ongoing multilateral political consultations and negotiations the CSCE/OSCE offers Kyrgyzstan a number of indisputably useful options. Membership in the "club" of the most mature democracies provides for Kyrgyzstan a unique chance to profit from their experience and accomplishments.

In view of our lack of adequately trained diplomatic personnel and, in particular, insufficient financial resources, this membership also makes it possible for Kyrgyzstan not only to understand Europe better but to strengthen that understanding in a technical sense.<sup>2</sup>

Establishing close ties with Europe, one of the strongest and most highly developed and organized parts of the world, is one of the priorities of Kyrgyzstan's foreign policy.

The question "What about the UN?" suggests itself. It is an understandable and legitimate question but there are many factors to be considered in replying. In the UN, where nearly all countries of the world are represented, a small country like Kyrgyzstan runs the risk of being quickly submerged. The variety of civilizations, values, peoples, cultures and traditions leads inevitably to compromises which are acceptable to the majority of participants in this most global of organizations. And even if a common language (a kind of "UN English") is used, it remains for the time being impossible to speak of a consensus, based on a common world view in the UN, on such complicated subjects as democracy, human rights and the rights of citizens, and the rights and duties of states.

Not only is the OSCE smaller, it is also more homogeneous in its values. European democratic values provide the basis of its world view, values which go back to the Renaissance and the period of the Enlightenment.

Beyond that, while the UN has a comprehensive mandate the OSCE has been able to devote itself exclusively to the issues of security and cooperation, thereby ensuring a sharp concentration of its resources and efforts.

In this way, the OSCE makes it possible for Kyrgyzstan, objectively speaking, to avoid being pushed off onto the periphery of international affairs.

These are important matters because it is easier, in my view, to speak the language of force with small countries that have been pushed to the side in world affairs and are not tied into the world community through a network of manifold guarantees.

---

<sup>2</sup>

It is interesting in this connection to recall the last decision of the Permanent Council of the OSCE on the OSCE-membership of Andorra. For the time being Kyrgyzstan has no Embassy in Paris or Madrid, but in Vienna we can meet with the official representative of Andorra, just as with the representatives of many other European countries in which Kyrgyzstan will be unable to open Embassies in the near future.



Apart from the connection to an international system of multilateral cooperation, the "added value" of Kyrgyzstan's participation in the OSCE consists in the opportunity to find answers to current challenges in the politico-military field.

The OSCE's experience may not be ideal but it is adequate; it already has an elaborate set of instruments for early forestalling and prevention of conflicts, for crisis management and for cooperation in the field of security (principles governing the non-proliferation of weapons of mass destruction and missile technology, the Code of Conduct on Politico-Military Aspects of Security).<sup>3</sup>

It appears that the OSCE's unique experience and its mechanisms in the fields of arms control and disarmament may soon be regarded as models, both on the Eurasian continent<sup>4</sup> and in the Near East. It is no coincidence that the partner countries of the OSCE from these regions have a special interest in this side of the Organization's activities.

All of the above-mentioned aspects of Kyrgyzstan's interaction with the OSCE can be helpful in the search for answers to *external* threats.

In many countries, however, the threats frequently come from *within*. Few can deny that a government which ignores the interests of a majority of its population, pseudo-parties that represent only themselves, corrupt trade unions, disregard for the rights and the dignity of persons belonging to national minorities, sex discrimination, a view of democracy as anarchy and the "law of the jungle", the lack of generally recognized and established "rules of public life and civilized behavior" - few can deny that all of these things represent a danger for the security of a country no less than a threat from outside.

It is in this sense that the OSCE's efforts within the framework of the program adopted at the Helsinki Summit to coordinate support for the newly independent countries (assistance in building democratic institutions, seminars for journalists and judges, election monitoring, cooperation between the High Commissioner on National Minorities and the President, the government and the parliament of Kyrgyzstan) could not be successful without those states' own substantial contribution to the strengthening of democracy.

In strengthening Kyrgyzstan from within and promoting the consolidation of society and the state on the basis of a classic "social contract" the OSCE has

---

<sup>3</sup> Although it is not a legally binding document it nevertheless creates a political commitment. Its significance lies in the fact that it not only confirms the main principles of security in the OSCE area (renunciation of the use or threat of force, inseparability of the security of each individual State from that of all OSCE countries, the right of individual and collective self-defense) but has also elevated the concept of democratic control of armed forces and other instruments of power to a qualitatively new level.

<sup>4</sup> The importance of this dimension of activity was even more strongly highlighted by the border agreement on confidence-building measures in the military field, signed on 26 April 1996 in Shanghai between China, Kazakhstan, Kyrgyzstan, Russia and Tajikistan.

provided clear support for the development of a sovereign, independent and democratic Kyrgyzstan and will continue to do so.

### *Current Problems*

It is impossible to understand Kyrgyzstan's significance and status with respect to the OSCE without taking a look at the role and position of Central Asia in Europe's contemporary security and cooperation infrastructure.

The Central Asian region could become an important pillar in a triangular constellation of states along with Russia and the Ukraine and thus exert a potentially stabilizing influence on the territory of the former USSR. It is obvious that security in Europe depends on stability on the territory of the former USSR.

The Central Asian countries are, moreover, a "shield" in the "front line of defense" of the OSCE countries against the spread of religious intolerance, fundamentalism and the illegal drugs and weapons trafficking.

Finally, the Central Asian states can also have an important and advantageous influence on the industrialized countries' position in world markets for energy and metals.

Once it is agreed that Kyrgyzstan's irreversible course of democratization and its reforms aimed at a market economy contribute to the security of all Central Asia, the significance of this contribution cannot be appraised highly enough.

In this sense, independent Kyrgyzstan has since the founding of the newly independent states played the role of a trailblazer for this sub-region with respect to democratic reforms and the move to market economies.

After Askar Akaev took over as our first President, following a bitter struggle with the communist *nomenclatura*, Kyrgyzstan, in the fall of 1990, was the first of the former republics of the USSR to remove the words "soviet" and "socialist" from its name. In parallel with the communist political structures, which followed the instructions of the all-Union center in their entirety, a state administration was built up which was subject to the President elected in Kyrgyzstan and not the one elected by the *staraya ploshchad* in Moscow.

President Akaev's comrade-in-arms, Leonid Levitin, adviser to the President at that time and author of the well-known biography of Uzbekistan's President, Islam Karimov, analyzes that period in the following way: "With no support from either the top or middle levels of the state and party apparatus and before he had set up a staff of his own, Akaev took the only possible correct step in that situation. Insofar as it was in his power to do so he eliminated all obstacles to the strengthening of *glasnost* in Kyrgyzstan and made a

series of unusual statements which were extraordinarily courageous for that time in which he condemned totalitarianism, the criminal alliance between the party leadership and the KGB, and both official and customary anti-semitism. In doing this, he was crowned with success. It was after the putsch of August 1991, however, that Akaev finally received recognition in the West. He was the first of the leaders of the Union Republics to declare the actions of the putschists unconstitutional. In a word, it was thanks to Akaev that Kyrgyzstan, hitherto unknown to the world, appeared in a completely new and democratic form which was fascinating to the West."<sup>5</sup>

These steps undertaken by President Akaev were secured thanks to substantial financial and technical assistance from the United States, Germany, Japan, Switzerland and other leading Western countries.

"The remarkable personality of A. Akaev remains today the main factor which with international assistance has held in check the growth of social and economic problems in Kyrgyzstan."<sup>6</sup>

At the heart of the changes was resolute economic reform aimed at an irreversible reorganization of the market. Thus, in May 1993, with substantial help from the International Monetary Fund, a new national currency, the first in the CIS countries, was introduced which continues today to be regarded as the most stable in Central Asia. In terms of "hardness" only the currencies of Armenia and Moldova are comparable to it.

In this connection it is hard not to agree with the American philosopher, Emerson, who said that there is no such thing as history but only the biographies of leaders; i.e. the political leaders move history forward. They are, to paraphrase Goethe, the apprentices in God's workshop.

The post-communist development of Kyrgyzstan provides convincing proof of this thesis. When Akaev came to power there was probably no other former Soviet Republic that was in as difficult a situation as Kyrgyzstan. That was true not only of the socio-economic situation but of inter-ethnic relations. Thanks to the honest and determined policies of Akaev we were able to avoid serious consequences from the ethnic conflict which took place in the south of Kyrgyzstan, in the Osh region, in the summer of 1990. Just five months after Akaev took over power, in March 1991, the Treaty on Friendship and Cooperation with Uzbekistan was signed. With Akaev's accession, the course of *inter-ethnic understanding* became one of the pillars of official policy and ideology. This course was based on the conviction that in

---

<sup>5</sup> Leonid Lewitin, Die politische Entwicklung Usbekistans und Kirgisistans [The Political Development of Uzbekistan and Kyrgyzstan], in: Die Gemeinschaft Unabhängiger Staaten (GUS) und die nichtrussischen GUS-Staaten im Wandel [The Commonwealth of Independent States (CIS) and the non-Russian CIS States in a Process of Change], Wissenschaftliche Jahrestagung des Göttinger Arbeitskreises [annual meeting of the Göttingen Working Group], Frankfurt a.M. (no year given).

<sup>6</sup> Ibid.

an ethnically heterogeneous country democracy offers the only possibility of maintaining stability. Not only the Uzbek minority but all other minorities living in Kyrgyzstan received substantial support from the state. National cultural centers were set up for them, for example. This was the first initiative of its kind in the former USSR.

President Akaev's political credo is based on the motto: "Policy on the basis of ethics and power based on morality". This was clear in 1994 (when, on his own initiative and long before his full powers expired, he made confidence in the President the subject of a referendum) and in 1995.

As is known, the EU made some critical statements in April 1995 on the occasion of referenda held in several Central Asian countries about the extension of full powers for heads of state and issued an opinion on "the undesirable drift of the entire region". But the prognosis of the end of democracy in Central Asia was somewhat exaggerated. Even though citizens' initiatives and social associations had gathered more than one million signatures supporting an extension of Akaev's presidential full powers until the year 2000, the President of Kyrgyzstan declared that he would take part in the elections of December 1995. And he emerged with a convincing victory over the former First Secretary of the Communist Party of Kyrgyzstan and the former Secretary for Ideology, who until recently was chairman of the parliament. The importance of this victory can hardly be overstated because it meant that, the seemingly unstoppable procession of victories marking the communist renaissance in the countries of the former "socialist camp" had, at least in Kyrgyzstan, been brought to a standstill.

In light of the efforts of Kyrgyzstan and other Central Asian countries, which were forced to find solutions for problems that were unprecedented in their magnitude and their unique character while at the same time building their political systems, it would appear that not all of the possibilities of the CSCE/OSCE were made use of in settling the conflict in Tajikistan.

The CSCE ought to have become involved much earlier in lessening the tensions in that most painful situation in Central Asia, the conflict within Tajikistan. It is characteristic of the positions of certain OSCE participating States, however, that they view the Tajik problems primarily from a constitutional and political standpoint while overlooking their military and economic aspects. A comprehensive democratization of the country is being presented as almost the *only* solution for the situation that has arisen. Hardly anyone will deny the necessity and utility of democratization, of creating and broadening its social and regional foundations, for stabilizing the situation in Tajikistan. But the question is whether this view is sufficient and, if it is, whether democratization can even succeed fully under present conditions, when the risk of destabilization in the entire Central Asian region is greater than ever before. The time factor is of equal importance in this context.

One does not want to believe that the position of a number of OSCE countries, opposed to going beyond these proposals, is based on their unwillingness to assume any responsibilities. But it is impossible to ignore the facts. The generous and timely initiative of the CSCE/OSCE Secretary General, Wilhelm Höynck, proposing the establishment of a *voluntary fund* of the OSCE for Central Asia (March 1994), followed by a political decision of the Committee of Senior Officials (CSO, now the Senior Council) in June 1994, had as of March 1995 still not been adopted by the Permanent Committee - now Permanent Council - even in abbreviated form. This led among astute observers to the witticism that it was "a rather weak child for a nine-month pregnancy". The decision on creating an ombudsman for Tajikistan was handled with equal "alacrity". The first decision of the Permanent Council is dated 9 March 1995<sup>7</sup> but they needed almost an additional year before a second decision was taken, on 29 February 1996, providing for financial support for this institution. That financing was obviously the bone of contention was made clear by the frequent comments in the course of discussions that this should not be allowed to become a precedent which would oblige the OSCE to pay the costs if ombudsmen were to be established in other Central Asian countries.

To repeat, I would prefer not to believe that the reservations of a number of countries over such modest sums as these provide a litmus test of their attitudes on security questions affecting Central Asia. In this connection, the viewpoint formulated by France back in 1994 still remains valid:

- it is not only the security of Tajikistan which is at issue here, because we cannot rule out a chain reaction;
- the situation on Tajikistan's border must definitely be regarded as a situation on the border of the CSCE.<sup>8</sup>

It is hard not to agree with this analysis, which must be taken very seriously. It was probably the recognition of the extraordinary danger of a "perpetuation" of the crisis in Tajikistan which ultimately led the majority of OSCE countries to search more actively for a solution to the conflict. Among other things, the OSCE Long-Term Mission to Tajikistan was strengthened by the addition of three field offices. Kyrgyzstan welcomes the change of mood in the OSCE in favor of a genuine effort to overcome the conflict in Tajikistan. Nor can Kyrgyzstan be accused of trying to throw the problem into the laps of others. Since Tajikistan acquired independence, Kyrgyzstan's President Akaev has invariably supported the democratic elements in Tajikistan; more-

---

<sup>7</sup> Permanent Council, 60th Plenary Meeting, PC Journal No. 60, Decision No. 109. An additional week was required, following this political decision, to clarify financial issues.

<sup>8</sup> CSCE Permanent Committee, 8 September 1994.

over, Kyrgyzstan has, despite substantial problems of its own, taken in more than 20,000 Tajik refugees.

In recognition of these services the important Tajik poet, Gulrukhsor Sofieva, dedicated the following lines to the President of Kyrgyzstan: "There are presidents who kill, but also those who smile. I am for the latter."

Among the most serious consequences of the conflict in Tajikistan was the development of new problems in the OSCE area whose effective solution depends on joint action by all participating States of the OSCE. The illegal drugs and weapons trafficking from Afghanistan, through Tajikistan, and into the countries of Central Asia and beyond to Europe will draw us all into a vicious circle if no adequate and timely answers are found to these challenges.

The situation in Tajikistan makes clear that among the factors promoting instability there are the immense difficulties associated with rebuilding the national economy - a factor to which too little attention has been given. Here, strengthening the economic dimension of the OSCE could serve preventive as well as regulatory purposes, could contribute both to the prevention and the resolution of conflicts.

Leonid Levitin analyzes the relationships cogently: "In Uzbekistan and Kyrgyzstan democratic ideas have been anchored in law without there being any private property. Since the people in these countries have no property, they are aware of their rights but feel no responsibility; they have freedom, but without subjecting themselves to discipline and order. Can one speak of the realization of democratic values in countries where the basis for such a (citizen-based) society, the middle class, is deformed?"<sup>9</sup>

It is perhaps appropriate, in the year which brings the 50th anniversary of the famous speech of George Marshall at Harvard University, to quote the words of that great statesman: "Wars come about as a result of poverty and suppression. Lasting peace is only possible in a relatively free and prosperous world."

Despite the unexceptionable nature of these two statements the economic dimension of the OSCE has remained primarily a rhetorical exercise right up until the present time - a Cinderella along side of two beautiful sisters.

There are at least two arguments favoring equality for the economic dimension within the OSCE. If it is ignored, this can be interpreted as ignorance of the interests of certain countries which are concerned over their development. They, in turn, could draw the following conclusion: "If my views are ignored, why should I listen to their proposals?" Beyond that, disregard for political obligations which have been assumed at the highest level is dangerous in principle: not only could it result in the application of double stand-

---

<sup>9</sup> Levitin, *Die politische Entwicklung Usbekistans und Kirgisistans*, cited above (Note 5).

ards but it could also lead to this kind of attitude being adopted in other areas of the OSCE's work.

What is more, the argument about "duplication" is totally without merit. References to the international organizations for technical cooperation in the UN family are hardly convincing because they do not concern themselves with the reciprocal relationship between economic and security issues.

A comparative advantage of the OSCE which is widely acknowledged is that the economic dimension can deal with problems of an economic nature that have a direct bearing on security. The strength of the OSCE lies precisely in the interdisciplinary access it provides.

Under the Swiss Chairmanship special attention has been given to these issues. The Chairman has provided a survey of the commitments assumed by the OSCE States in the Bonn Document<sup>10</sup> and, in addition, has in principle tied security issues to the economic dimension. The fourth meeting of the Economic Forum (March 1996) brought a turning point with regard to recognition of the economic dimension as an area of OSCE responsibility with equal status.<sup>11</sup> We want to stress that our urgent desire to develop this dimension of the OSCE implies no ulterior motives. We are under no illusion that we can get financial assistance from the OSCE. With all due respect to Don Quixote as a literary hero, we cannot afford the luxury of tilting at windmills. We lack the resources for such useless endeavors.

All we want to do is make use of the OSCE's comparative advantages. We need a system of objective criteria, a kind of "economic early-warning system" which would enable us to recognize the worsening of the economic situation in one country or another as a threat to stability and security.

The *political* impulse this would provide is in our view the goal to which development of the economic dimension of the OSCE should lead. It will have been achieved, we think, when we succeed in avoiding duplicate effort and making the best possible use of assistance, without overburdening tax-payers in the donor countries.

---

<sup>10</sup> At the OSCE Geneva Economic Dimension Implementation Review Meeting (22-23 January 1996) the Kirghiz delegation proposed a concrete eight-point development program.

<sup>11</sup> The previous meeting of the Economic Forum in 1995 had clearly shown that the economic dimension had come to a dead end. Debates in the working groups had done no more than repeat facts known to everyone, leading to a few banal recommendations. (One result, for example, was the conclusion that regional, sub-regional and trans-national cooperation can contribute to the development of trade and investment as well as to improvements in infrastructure. Another equally "new" conclusion had it that countries in an economic transition phase can learn a lot of new and useful things from the experience of highly developed countries.)

## *Conclusions*

In his programmatic speech, the Chairman-in-Office of the OSCE in 1996, Swiss Foreign Minister Flavio Cotti, named Central Asia for the first time as one of the priorities of his term of office.

The close attention that the world community is giving to Central Asia is, among other things, a result of the efforts of numerous friends of Kyrgyzstan. In this connection it is a pleasant duty for me to point to the most noteworthy contribution to the "rediscovery" of Central Asia, which the first OSCE Secretary General, Wilhelm Höynck, and Germany have together provided. We are thankful to Germany that during his term of office Kyrgyzstan became a member of the pan-European process.

It was thanks to the OSCE that Kyrgyzstan got its first real opportunity to join the pan-European political process. That is why our accession to the OSCE and the unique character of this institution are so important to us.

It is no secret that Europe's contemporary security architecture is far from perfect.

It remains one of the weaknesses of the OSCE that there is often a wide gap between its activities on the rhetorical and on the practical level. If the area between Vancouver and Vladivostok has, rhetorically speaking, attained a consolidated view of democratic ideas and values, much work of consolidation remains to be done on the practical level to overcome the fragmentation of our security architecture.<sup>12</sup> Much depends on the political will of the participating States, as was clearly stated by Germany at the Budapest Summit of the OSCE in 1994: "There is no point in blaming international organizations because they are only as strong and successful as the member countries permit them to be."

In a variation of Ernest Hemingway's words, one would like to believe that the "islands in the ocean" which embody the security of today's Europe might move closer to one another and one day unify themselves into a continent.

---

<sup>12</sup> The OSCE is meant to become an important instrument for conflict prevention at an early stage and for crisis management. As a basis for this the Organization could adopt the German-Dutch principle "OSCE first": i.e. the OSCE could be involved in the resolution of conflicts from the very beginning and, when necessary, take the lead in a joint appeal to the UN for the use of coercive measures.



## Uzbekistan and the OSCE

The membership of the Central Asian countries in the OSCE is moving ahead step by step. At the present time all of them are displaying a lively interest in cooperation within the OSCE framework, an interest which should be seen as part of their active striving for cooperation and exchange with the countries of Europe.

The OSCE also offers good opportunities for the development of relations with other organizations such as the European Union which, for its part, is currently broadening its own relations with the Central Asian states. In addition, there is the NATO program, "Partnership for Peace", and of course the cooperation within the Commonwealth of Independent States (CIS) as well.

The existence of a number of platforms for cooperation promotes the development of one's own "ego" and thus offers the best opportunity for self-realization. This corresponds perfectly to the OSCE concept of developing relations through a network of organizations and communities rather than focusing on a single one, so as to achieve greater independence.

Uzbekistan is especially concerned to build a society based on the principles of democracy, respect for human rights and fundamental freedoms. The President of the Republic of Uzbekistan, Islam Karimov, signed the CSCE Final Act of 1975 on 26 February 1992 in the Finnish capital city. As a result of this act Uzbekistan became a participant of the OSCE. By joining the OSCE in 1992, shortly after achieving national independence, Uzbekistan committed itself to observing the accepted norms of international law and to participating in collective measures to strengthen security.

The Uzbek delegation took part in the meeting of the OSCE Ministerial Council on 7 and 8 December 1995 in Budapest. Two main issues were discussed in the course of negotiations: solutions for the conflict in Bosnia and Herzegovina and the Common and Comprehensive Security Model for Europe for the 21st Century - a model which calls for strict observance of the principles and commitments undertaken within the OSCE and for finding solutions to the problems and risks in the realm of security.

In addition, a close cooperative relationship is developing between the parliament of the Republic of Uzbekistan and the Parliamentary Assembly of the OSCE. The parliamentary delegation of the Republic, under the leadership of the Chairman of the parliament, participated in the Fourth Annual Meeting of the OSCE's Parliamentary Assembly, which took place in Ottawa from 4-8 July 1995. Elections were held in the course of this meeting and the Chairman of the Uzbek parliament, Erkin Khalilov, was elected Vice-Presi-

dent of the Assembly. In January 1996 there was a meeting in Vienna of the Standing Committee of the Parliamentary Assembly in which the Uzbek delegation under the leadership of Erkin Khalilov again took part.

The OSCE Liaison Office for Central Asia was opened in July 1995 in Tashkent, the capital of Uzbekistan, providing evidence of the importance which the OSCE attaches to maintaining peace and stability and to the economic and human dimensions in the Central Asian region. This gives Uzbekistan an opportunity to exchange information with other OSCE institutions and to carry on a dialogue on the problems that confront the Central Asian countries, particularly Uzbekistan.

The Uzbek government has supported the work of the OSCE Office from the very beginning. At a meeting with representatives of the diplomatic missions and foreign organizations on 29 December 1995, the President of the Republic of Uzbekistan, Islam Karimov, once again emphasized that the Uzbek government will continue to cooperate with the OSCE in all areas of its activity.

It can be assumed with confidence that the words of Islam Karimov will be put into practice. After all, ensuring regional security is one of the most important concerns of the day for Uzbekistan. Based on the concept of comprehensive security and in the conviction that the observance of human rights and the protection of fundamental freedoms as well as the rule of law and the development of democratic institutions serve the cause of preventing conflicts and building the foundations of peace and security, Uzbekistan takes an active part in this process.

### *Regional Security*

Recent years have confirmed that stability and comprehensive security are the most important prerequisites for the attainment of Uzbekistan's strategic goal, namely, full integration into the international community on the basis of equality. For that reason, Uzbekistan also participates actively in the NATO program, "Partnership for Peace".

Uzbekistan's representatives share the view which is supported in many international fora that the path to global security depends on the establishment of durable regional security. Only through mutual understanding and cooperation between the countries in the individual regions, particularly in the smouldering "hot spots", can we achieve peace and stability in the entire world.

Uzbekistan is trying to play its appropriate role in the maintenance of peace and stability in the region and is taking an active part in working out the new Security Model for the 21st Century. One example of this is the consultative

seminar on questions of security and cooperation in Central Asia which was held in Tashkent in September 1994 on the initiative of President Karimov and with the support of the Secretary General of the United Nations, Boutros-Ghali.

The problems discussed at the seminar in Tashkent reflected the main lines of activity of the Organization for Security and Cooperation in Europe.

Central Asia is confronted with a number of urgent problems at the present time. They call for closer cooperation with those international organizations in which certain mechanisms for ensuring regional security have been worked out. The possibilities which the OSCE offers for establishing the foundations of confidence-building and cooperation are of great value for the countries of this region.

Central Asia has enormous reserves of strategic natural resources and raw materials. In recent years they have become the focal point of geo-political and economic interest and ambition for many different countries. It is thus extraordinarily important that the requirements of national security in the Central Asian countries and the threats to it be jointly and adequately evaluated by all states in the region and that common approaches to the prevention and elimination of these threats be found. And it is no less important that the level of a threat which could trigger global instability be realistically understood throughout the world, including the developed countries.

President Karimov has on a number of occasions called the attention of the international community to the threat represented by the conflict in Afghanistan, which has been going on for many years. The destabilizing potential of that conflict has recently become particularly obvious in Tajikistan. Despite all efforts to maintain peace and stability in Central Asia the situation in Tajikistan represents a real threat to tranquility and harmony in the region.

Uzbekistan proposes forming a conciliation council which, along with others, would include representatives of the UN and the OSCE. The establishment of a Congress of the Peoples of Tajikistan in which not only the government and the opposition but the regions of the country would be represented is without doubt an urgent requirement and might offer a way out of the present situation. These issues were thoroughly discussed at the OSCE Seminar on Confidence Building which was held in the Tajik capital of Dushanbe from 24-26 April 1996.

Holding various symposia and seminars is a very important part of the OSCE's work. In April 1996 the OSCE, together with the government of Uzbekistan, held an important symposium in Tashkent on the subject of "Central Asia: OSCE Comprehensive Security and Regional Challenges" at which issues of regional security were discussed in connection with the OSCE's work on the new Security Model. This forum helped to clarify views on the

creation of a dependable system of regional security in Central Asia and to bring various standpoints closer together.

### *The Economic Dimension*

The OSCE's economic component has attracted more and more attention in recent years. There is a widespread and growing realization that economic factors have real consequences for security and stability in the entire OSCE area.

Working together with the OSCE in the economic dimension could be of great significance for the economic development of Uzbekistan. Uzbekistan takes an active part in many economic forums of the OSCE. At the third meeting of the OSCE Economic Forum in Prague in 1995 the Uzbek delegation took an initiative, which received strong support, to improve the work of the OSCE in the economic dimension. Under the leadership of the Uzbek Ambassador to the OSCE, Mr. A. Shaikhov, the Uzbek delegation also took an active part in the fourth Economic Forum of the OSCE, which was held from 27-29 March 1996, once again in Prague. In the course of the Forum the participants agreed that the OSCE, as an organization that concerns itself with a wide range of problems, can play the role of a coordinating body for the maintenance of security on the basis of a social system that enjoys broad support.

The Uzbek representatives believe it is necessary to develop closer cooperation between the OSCE and the international economic and financial organizations in the OSCE region. They are interested in expanding economic relations with other OSCE participating States on a bilateral basis. Relations between Uzbekistan and the European Union are undergoing a dynamic development which helps to strengthen integrative relations with the European countries. At the present time Uzbekistan is one of the European Union's largest trade and economic partners in Central Asia. On 29 April 1996 there was a second round of negotiations in Tashkent between the European Union and Uzbekistan as a result of which both sides initialed an Agreement on Cooperation and Partnership.

Integration processes in the Central Asian region have also picked up speed recently. The Uzbek position on the future of this process is that integration should not put limits on freedom of action and contacts with potential partners, regardless of their ideology and their geographic location. A prerequisite is that states act voluntarily and on a basis of equality and that the reforms undertaken in the individual countries have the same tendency and a comparable character, in accordance with their own potential.

Ecological security is today an important issue for the world public. Ecology has become a priority field for Uzbekistan in its cooperation with the OSCE. The danger that the Aral Sea might disappear entirely occasions special concern in the Central Asian region. The Aral Sea catastrophe could lead to a global ecological crisis whose consequences would affect all who live on the continent.

The international Seminar on Rehabilitating the Environment which the OSCE held in Uzbekistan in October 1995 demonstrated the Organization's interest in solving the ecological problems that confront the Central Asian states.

Uzbekistan welcomes and values the OSCE's efforts aimed at solving the ecological problems of the region and is prepared this year to continue the work of the seminar on restoring the environment, whose efforts should be focused on the economic and legal issues involved.

### *The Human Dimension*

To create a firmer foundation for the constitutional rights and fundamental freedoms of Uzbekistan's citizens, the position of Plenipotentiary for Human Rights was created in the Uzbek parliament in February 1995 and later supplemented by a Commission for the Observance of Constitutional Rights and Fundamental Freedoms of Citizens.

It should be stressed that Uzbekistan is cooperating actively in this area with the OSCE and other international organizations. In February 1996 a human rights delegation from the United Nations Development Program (UNDP), led by Ambassador I. Popescu, visited Uzbekistan. In the course of three weeks the UNDP experts, along with experts from the OSCE, had more than 50 meetings and discussions with representatives of various state and social organizations, offices, political parties, international institutions and foreign embassies. As a result, the conclusions and recommendations of the delegation reflected various views and estimates of the present situation in Uzbekistan. The UNDP mission's final report concluded that the basic democratic institutions needed to realize the rights and freedoms of the citizens had been created in Uzbekistan within a short time, that the most important international agreements had been ratified and that the structures of a civil society were beginning to develop. The effective functioning of the democratic institutions remains an important question as does the task of further perfecting the legal system in Uzbekistan.

The most urgent problems, in the view of the mission, are a lack of information on legal issues and of relevant documentation, along with an inadequate knowledge of international practice and of the activities of comparable insti-

tutions in foreign countries. The program proposed for dealing with these problems is to be implemented in two stages. The first is to run from summer of this year until June 1997 and will be directed first and foremost toward technical assistance to the state organs for administration and justice: courts, public prosecutors, ministries and parliamentary commissions. The employees of these institutions need both specialized training and retraining and their technical equipment needs to be improved.

The second phase is to run until the year 2000 and foresees the establishment of a number of new offices; of particular importance is a Special Center for Human Rights which in time is to serve the whole Central Asian region. Another office will be called the "Center for Democratic Administration"; its purpose will be to give all state institutions and entities a publicly responsible and accountable character in order to ensure the realization and observance of the rights of citizens. This center will also have an advisory function vis-à-vis state and non-governmental organizations. It can be said that the value of this program, in keeping with its concrete and goal-oriented character, is of a long-term kind.

At the end of February a delegation of the Office for Democratic Institutions and Human Rights (ODIHR) led by Ambassador Audry Glover visited Uzbekistan. In his meeting with Ambassador Glover, the President of the Republic of Uzbekistan emphasized the continuity in relations between Uzbekistan and the OSCE. He stressed Uzbekistan's desire to continue working with the ODIHR because extensive political and social reforms are already being carried out in Uzbekistan and the experience of the OSCE is very useful in this connection.

The delegation of the ODIHR used the occasion of their stay in Uzbekistan to familiarize themselves with the activities of the organizations and institutions which deal with human rights there and came to the conclusion that Uzbekistan needs assistance in the area of the human dimension. They expressed their willingness to develop further the cooperation in this field. The OSCE Seminar on National Human Rights Institutions, which is to take place in Tashkent in September 1996, can play an important role in this connection.

### *Conclusion*

The multilateral dialogue within the OSCE framework provides the new states, among them Uzbekistan, with great opportunities to share the experience which has been gathered by the OSCE and will pave the way for progress through building a democratic society and economic reforms.

The path Uzbekistan has chosen to build an independent, stable and democratic society is the right one, but it is a difficult path which will take a lot of time to traverse. Uzbekistan is at the start of this path; but thanks to active cooperation with the OSCE and other international organizations it can achieve the goals that have been set and make its contribution to strengthening regional security, developing economic cooperation, and ensuring human rights and fundamental freedoms.





## II.

### Instruments, Responsibilities, Mechanisms and Procedures



## Conflict Prevention and Settlement of Disputes



## The OSCE Court of Conciliation and Arbitration\*

### *Peaceful Settlement of Disputes as a Correlative of Force Prohibition*

Force as a means of international politics, especially warfare, is prohibited since the foundation of the United Nations in 1945 at the latest. In the Final Act of Helsinki of 1 August 1975, the CSCE expressively repeats and reconfirms the prohibition of using force in conformity with international law. Under the subtitle of "Refraining from the threat or use of force", point II of the principles catalogue reads as follows:

*"The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle (...)*

*No such threat or use of force will be employed as a means of settling disputes, or questions likely to give rise to disputes, between them."*<sup>1</sup>

Who is condemning the "threat or use of force as a means of settling disputes" - as reads the last mentioned paragraph -, has to offer or order an alternative. The Final Act of Helsinki complies with this request in point V of the principles catalogue. Under the subtitle of "Peaceful settlement of disputes" it reads as follows among others:

*"The participating States will settle disputes among them by peaceful means in such a manner as not to endanger international peace and security, and justice.*

*They will endeavour in good faith and a spirit of co-operation to reach a rapid and equitable solution on the basis of international law.*

---

\* First published in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg], OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 241-253 (in German).

<sup>1</sup> Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (Ed.), The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993, Dordrecht/Boston/London 1993, pp. 141-217, here: p. 144.

*For this purpose they will use such means as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice including any settlement procedure agreed to in advance of disputes to which they are parties."*<sup>2</sup>

Thus, the Helsinki Final Act - as well as the Charter of the United Nations by the way, in its preamble and in article 2, paragraph 4 UNCh on the one hand and in article 33, paragraph 1 UNCh on the other - recognize, that the prohibition of applying force unalterably has a correlative being (mandatory) regulations on peaceful settlement of disputes. These regulations comprise among others: conciliation, arbitration and judicial settlement. Following inner society practice, the latter procedure obtains a prominent meaning for the coordination of (arbitration) jurisdiction. All the same it took more than 20 years since the signing of the Helsinki Final Act in 1975 that the OSCE Court was inaugurated in Geneva on 29 May 1995.

#### *Brief Outline of the Genesis of the OSCE Conciliation and Arbitration Court*

Among the most important roots for the development of OSCE arbitration is the "Draft Convention on a European System for the Peaceful Settlement of Disputes",<sup>3</sup> submitted by the Swiss delegation already at the beginning of the second stage of the Conference phase in Geneva on 18 September 1973. Later on this draft named after the Head of the Swiss delegation, Rudolf L. Bindschedler, was not adopted comprehensively by the Helsinki Final Act, but can be considered as a directive and basis for individual questions of the subsequent discussion. Examples are for instance the questions of compulsory procedures, the (rather traditional) differentiation between justifiable and non-justifiable disputes or the concurrency of the European system to other procedures of dispute settlement.

Bindschedler himself indicated the aim of the Swiss proposition: "to overcome the present anarchy of the States community".<sup>4</sup>

The rather modest formulation of principle V in the Helsinki Final Act was quite remote from this high demand, however. During the Follow-up Meeting of Belgrade in 1978 a Meeting of Experts on Peaceful Settlement of

---

<sup>2</sup> Ibid., p. 145.

<sup>3</sup> Printed in: Europa-Archiv 2/1976, p. D38-D52 (in German).

<sup>4</sup> Rudolf L. Bindschedler, Der schweizerische Entwurf eines Vertrages über ein europäisches System der friedlichen Streiterledigung und seine politischen Aspekte [The Swiss Draft Convention on a European System for the Peaceful Settlement of Disputes and its Political Aspects], in: Europa-Archiv 2/1976, p. 57-66, here: p. 60; cf. Bruno Simma/Dieter Schenk, Friedliche Streiterledigung in Europa. Überlegungen zum schweizerischen KSZE-Vorschlag [Peaceful Settlement of Disputes in Europe. Considerations on the Swiss CSCE Proposal], in: Europa-Archiv 14/1978, p. 419-430.

Disputes was convened that took place in Montreux (Switzerland) from 31 October to 11 December 1978. According to the Final Document of the Belgrade Follow-up Meeting of 8 March 1978, the Meeting of Experts in Montreux was held with the intention of "pursuing the examination and elaboration of a generally acceptable method for peaceful settlement of disputes aimed at complementing existing methods".<sup>5</sup> But the hopes set on Montreux were disappointed. Three working documents were discussed indeed - among them the Bindschedler draft -, but no results were found. In the sober language of the CSCE Meeting of Experts of Montreux it reads:

*"Divergent views were expressed and no consensus was reached on specific methods."*<sup>6</sup>

The participants of the Meeting of Experts therefore recommended to the governments of the CSCE participating States to "consider, at the Madrid Meeting, the possibility of convening another Meeting of Experts".<sup>7</sup>

This second Meeting of Experts took place in Athens from 21 March to 30 April 1984, on decision of the Madrid Follow-up Meeting of 6 September 1983.<sup>8</sup> Compared with the meeting in Montreux the results of Athens were even more disappointing.<sup>9</sup> Although the Swiss delegation submitted a very moderate working paper, no agreement was obtained. Especially the Soviet Union and some other Eastern European countries simply refused any involvement of third parties in dispute settlements. Obviously they feared their partiality. They argued, however, with the prohibition of intervening into the internal affairs of a state. The official Final Report of the CSCE Meeting of Experts only states:

*"Particular emphasis was put on ways and means of including a third party element in such a method (for peaceful settlement of disputes - DSL). Divergent views were expressed and no consensus was reached on a method. It was recognized that further discussions should be pursued in an appropriate framework within the CSCE process".*<sup>10</sup>

---

<sup>5</sup> Concluding Document of Belgrade, Belgrade, 8 March 1978, in: Bloed (Ed.), cited above (Note 1), pp. 219-224, here: p. 220.

<sup>6</sup> Report of Montreux, Montreux, 11 December 1978, in: Bloed (Ed.), cited above (Note 1), pp. 225-227, here: p. 225.

<sup>7</sup> Ibid., p. 227.

<sup>8</sup> Cf. Concluding Document of Madrid, Madrid, 6 September 1983, in: Bloed (Ed.), cited above (Note 1), pp. 257-287, here: p. 263.

<sup>9</sup> Cf. Gerard J. Tanja, Peaceful Settlement of Disputes within the Framework of the CSCE, in: Helsinki-Monitor 3/1994, p. 42-54, here: p. 45.

<sup>10</sup> Report of Athens, Athens, 30 April 1984, in: Bloed (Ed.), cited above (Note 1), p. 289.

This situation of stagnation and lack of results only changed when the revolutionary upheavals in Europe began in the second half of the eighties.<sup>11</sup> A transbordering East-West common interest in mechanisms of peaceful dispute settlement developed. It started with the third Follow-up Meeting of the CSCE in Vienna from 4 November 1988 to 15 January 1989. In the Concluding Document the participating States not only basically accepted the mandatory consultation of a third party as a possible procedure for the peaceful settlement of disputes, but they requested a further Meeting of Experts in order to examine the possibility of establishing mechanisms for arriving at binding third-party decisions. In the Concluding Document this reads as follows:

*"The participating States confirm their commitment to the principle of peaceful settlement of disputes, convinced that it is an essential complement to the duty of States to refrain from the threat or use of force, both being essential factors for the maintenance and consolidation of peace and security (...) In this context they accept, in principle, the mandatory involvement of a third party when a dispute cannot be settled by other peaceful means.*

*In order to ensure the progressive implementation of this commitment, including, as a first step, the mandatory involvement of a third party in the settlement of certain categories of disputes, they decide to convene a Meeting of Experts in Valletta from 15 January to 8 February 1991 to establish a list of such categories and the related procedures and mechanisms. This list would be subject to subsequent gradual extension. The Meeting will also consider the possibility of establishing mechanisms for arriving at binding third-party decisions."*<sup>12</sup>

But the results of the Valletta Meeting of Experts from 15 January to 8 February 1991 did not fulfil the expectations and hopes called in the frame of the Vienna Follow-up Meeting of 1989 - and by the way repeated with emphasis in the Paris Charter of 1990.<sup>13</sup> On the contrary they stayed far behind the mandate to consider or propose a compulsory procedure and binding decision-taking structures including third parties. National interests, arguments concerning costs and above all the fear to open up the door to an institutionalization of the CSCE, prevented far reaching thoughts.<sup>14</sup> That is why

<sup>11</sup> Cf. Arie Bloed, Two Decades of the CSCE Process: From Confrontation to Co-operation, in: Bloed (Ed.), cited above (Note 1), pp. 1-118, here: p. 33.

<sup>12</sup> Concluding Document of Vienna, Vienna, 15 January 1989, in: Bloed (Ed.), cited above (Note 1), pp. 327-411, here: pp. 331-332.

<sup>13</sup> Cf. Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (Ed.), cited above (Note 1), pp. 538-566, here: p. 544.

<sup>14</sup> To the divergent positions of the participating States, see Tanja, cited above (Note 9), pp. 46f; Peter Schlotter/Norbert Ropers/Berthold Meyer, Die neue KSZE. Zukunftsperspektiven einer regionalen Friedensstrategie [The New CSCE. Future Perspectives of a Regional



the Report of the Meeting of Experts in La Valletta does not (yet) provide for an own CSCE jurisdiction or arbitration - let alone a compulsory and binding one. Under point 9.d of their Report the participants of the Meeting rather propose just to "*consider* accepting the compulsory jurisdiction of the International Court of Justice, either by treaty or by unilateral declaration under Article 36, paragraph 2, of the Statute of the Court, and minimizing, where possible, any reservations attached to such a declaration"<sup>15</sup> (emphasis - DSL).

The mechanism for dispute settlement finally decided upon during the Meeting in La Valletta and named after the location of the meeting (Valletta Mechanism), is in the last analysis nothing more than the informal consulting of the conflicting parties by third persons, whose names are listed in the CSCE Conflict Prevention Centre in Vienna - a mechanism that "will not be established or continued, as the case may be, if another party to the dispute considers that because the dispute raises issues concerning its territorial integrity, or national defence, title to sovereignty over land territory, or competing claims with regard to the jurisdiction over other areas, the Mechanism should not be established or continued".<sup>16</sup>

On the other hand it must not be underestimated that the CSCE States in La Valletta were able for the first time to agree upon a common document on peaceful settlement of disputes. Moreover, by the presented document they made a first step to disengage themselves from the principle of consensus: the mechanism can also be called upon unilaterally. Insofar the Meeting of Experts of La Valletta can be considered as a positive start including or - according to the perspective - claiming the chance to continue. This chance presented itself in 1992 during the second Helsinki Summit, when France and Germany submitted their common project of establishing a court of conciliation and arbitration. The Helsinki Summit of July 1992 was preceded by the meeting of an informal working group discussing the indicated French-German project between 11 and 22 May 1992. There were fundamental objections by the United States, Great Britain and Turkey. The Central and East European states generally agreed with the explanations of the project. Among the objections - also expressed during the Helsinki Summit - was *inter alia* the fear that a regional system of peaceful dispute settlement might handicap the unity and development of international law, furthermore that the work of already existing mechanisms could be duplicated (problem of complementarity resp. subsidiarity), finally, by the introduction of a legally

---

<sup>15</sup> Peace Strategy], Opladen 1994, p. 39.

<sup>16</sup> Report of the CSCE Meeting of Experts on Peaceful Settlement of Disputes, Valletta, 8 February 1991, in: Bloed (Ed.), cited above (Note 1), pp. 567-581, here: p. 572.

Ibid., p. 576.

binding instrument the character of the CSCE would be altered towards a legalistic, possibly even institutionalized "approach", and last not least the unity of the CSCE would be broken up as not all of the CSCE participating States would enter new conventions.<sup>17</sup>

In spite of these objections and criticisms the participating States of the Helsinki Summit valued their own discussion as altogether positive. The Helsinki Decisions state *inter alia*:

*"The participating States consider their commitment to settle disputes among themselves by peaceful means to form a cornerstone of the CSCE process (...)*

*The participating States welcome the work done to this end by the Helsinki Follow-up Meeting. In particular they were encouraged by significant progress made on issues relating to creating a conciliation and arbitration court within the CSCE, enhancing the Valletta mechanism and establishing a CSCE procedure for conciliation, including directed conciliation, for which proposals were submitted.*

*In the light of the important subject matter and of the discussions held here in Helsinki, they have decided to continue to develop a comprehensive set of measures to expand the options available within the CSCE to assist States to resolve their disputes peacefully (...)*

*Accordingly, intending to reach early results, they have decided to convene a CSCE meeting in Geneva, with a first round from 12 to 23 October 1992, to negotiate a comprehensive and coherent set of measures as mentioned above. They will take into account the ideas expressed regarding procedures for a compulsory element in conciliation, setting up of a court of conciliation and arbitration within the CSCE, and other means.*

*The results of the meeting will be submitted to the Council of Ministers at the Stockholm Meeting on 14 and 15 December 1992 for approval and, as appropriate, opening for signature."*<sup>18</sup>

In contrast to the previous meetings of experts and working groups the meeting of experts decided in Helsinki and executed in Geneva from 12 to 23 October 1992 fulfilled all expectations and hopes. Anyhow, the CSCE Council, on 14 and 15 December 1992 in Stockholm, accepted the recommendations concerning the peaceful settlement of disputes worked out in Geneva. Correspondingly, the decisions of the Stockholm Council Meeting include four elements: beside measures aiming at enhancing the Valletta Provisions

---

<sup>17</sup> Cf. Tanja, cited above (Note 9), pp. 48f.

<sup>18</sup> CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Bloed (Ed.), cited above (Note 1), pp. 701-777, here: pp. 729-730.

through modification of the procedure for selecting Dispute Settlement Mechanisms, these are: "Provisions for a CSCE-Conciliation Commission", furthermore "Provisions for Directed Conciliation" as well as the "Convention on Conciliation and Arbitration within the CSCE", containing the establishment of a Court of Conciliation and Arbitration.<sup>19</sup>

#### *Structure and Functioning of the OSCE Court*

In the "Convention on Conciliation and Arbitration within the CSCE" of 1992 the States parties to this Convention, "being States participating in the Conference on Security and Co-operation in Europe" agree to establish a "Court of Conciliation and Arbitration" as a permanent institution, located in Geneva and consisting of conciliators and arbitrators. According to this the procedures are conciliation and arbitration procedures.

Together, the conciliators and arbitrators shall constitute the Court of Conciliation and Arbitration within the CSCE (in the Convention also referred to as "the Court"). Conciliators, arbitrators and the Registrar of the Court shall perform their functions in full independence. They shall enjoy, while performing their functions in the territory of the States parties to the Convention, the privileges and immunities accorded to persons connected with the International Court of Justice.

Arbitrators and conciliators are recruited by the States parties to the Convention which appoint respectively two conciliators, one arbitrator, and one alternate. The conciliators shall be appointed for a renewable period of six years. They must be persons holding or having held senior national or international positions and possessing recognized qualifications in international law, international relations, or the settlement of disputes. The arbitrators and their alternates are appointed for a period of six years, too, which may be renewed once. They must possess the qualifications required in their respective countries for appointment to the highest judicial offices or must be jurisconsult of recognized competence in international law. The Registrar - different from the conciliators and the arbitrators - shall not be appointed by the States parties, but by the Court.

The decisions of the Court shall be taken by a majority of the members participating in the vote. The same rule shall apply to decisions of the Bureau, to the decisions of the Conciliation Commissions and the Arbitral Tribunals.

---

<sup>19</sup> Stockholm Meeting of the CSCE Council, Stockholm, 15 December 1992, in: Bloed (Ed.), cited above (Note 1), pp. 845-899; Annex 1: Modification to Section V of the Valletta Provisions for a CSCE Procedure for Peaceful Settlement of Disputes, *ibid.*, p. 869; Annex 3: Provisions for a CSCE Conciliation Commission, *ibid.*, pp. 889-892; Annex 4: Provisions for Directed Conciliation, *ibid.*, pp. 893-894; Annex 2: Convention on Conciliation and Arbitration within the CSCE, *ibid.*, pp. 870-888.

That means that the consensus principle, otherwise typical for the OSCE, is replaced by majority decision.

The work of the Court shall further and strengthen existing possibilities and means of peaceful settlement of disputes, but not replace them. Therefore the Court shall take no further action in the case if the dispute prior has been submitted to another court or tribunal or if the parties to the dispute have accepted in advance the exclusive jurisdiction of a jurisdictional body other than the Court. In the event of disagreement between the parties to the dispute with regard to the competence of the Commission or the Tribunal, the decision in the matter shall rest with the Commission or the Tribunal.

OSCE participating States which have not signed the Convention may subsequently accede thereto. In turn, any State party to this Convention may, at any time, denounce the Convention by means of a notification addressed to the Depositary, which is the government of Sweden. The denunciation will become effective one year after the notification. However, proceedings which are under way at the time the denunciation enters into force shall be pursued to their conclusion.

In detail the conciliation and arbitration procedures work as follows: any State party to the Convention may lodge an application with the Registrar requesting the constitution of a *Conciliation Commission* for dispute between it and one or more other States parties. The constitution of a Conciliation Commission may also be requested by agreement between States parties, notified to the Registrar. The Conciliation Commission will be built by the parties to the dispute (partially). To do so each party to the dispute shall appoint from the existing list of conciliators one conciliator to sit on the Commission. After the President of the Court has consulted the parties to the dispute as to the composition of the rest of the Commission, the Bureau shall appoint three further conciliators to sit on the Commission. When more than two States are parties to the same dispute, the States asserting the same interest may agree to appoint one single conciliator. If they do not so agree, each of the two sides to the dispute shall appoint the same number of conciliators up to a maximum decided by the Bureau.

The conciliation proceedings shall be confidential. However, if the parties to the dispute agree thereon, the Conciliation Commission may invite any State party to the Convention which has an interest in the settlement of the dispute to participate in the proceedings.

If, during the proceedings, the parties to the dispute reach a mutually acceptable settlement, they shall record the terms of the settlement in a summary of conclusions signed by their representatives and by the members of the Commission. The signing of the document shall conclude the proceedings.

When the Conciliation Commission considers that all the aspects of the dispute and all the possibilities of finding a solution have been explored, it shall

draw up a final report. The report shall contain the proposals of the Commission for the peaceful settlement of the dispute. Then, the parties to the dispute shall have a period of 30 days in which to examine the report of the Conciliation Commission and inform the Chairman of the Commission whether they are willing to accept the proposed settlement. That means, the report of the Conciliation Commission and its proposals are not compulsory automatically. If a party to the dispute does not accept the proposed settlement, the other party or parties are no longer bound by their own acceptance thereof.

The objective of conciliation is to assist the parties to the dispute by the way of the Conciliation Commission in finding a settlement in accordance with international law and their CSCE commitments. The progressive character of the procedure is obvious: the State parties to the Convention may lodge an application with the Registrar requesting the constitution of the Conciliation Commission for *any kind of disputes*. However, the competence of the conciliators is limited. The constitution of a Conciliation Commission needs an application. The work of the conciliators remains in the area of advising functions. Proposals of the Commission are not automatically compulsory. In the case the parties of the dispute refuse to accept the proposed solution, that means the implementation of the proposals, then the Court has no further competence to settle the conflict beside the possibility to forward the subject to the CSCE Council (now: OSCE Ministerial Council).

Different from conciliation, in the course of the *arbitration procedure* the function of the Arbitral Tribunal is to decide the disputes as submitted to it in accordance with international law. If the parties to the dispute agree so, the Tribunal has also the power to decide a case *ex aequo et bono*. In any case, however, the arbitral procedure comes to a final award with a legally binding character.

Similar to the Conciliation Commission the Arbitral Tribunal shall be constituted ad hoc upon request. The arbitrators appointed by the parties to the dispute are *ex officio* members of the Tribunal. When more than two States are parties to the same dispute, the States asserting the same interest may agree to appoint one single arbitrator. In addition, the Bureau shall appoint, from among the arbitrators a number of members to sit on the Tribunal so that the members appointed by the Bureau total at least one more than the *ex officio* members. Any State which is a party to a dispute submitted to an Arbitral Tribunal and which is not party to the Convention, may appoint a person of its choice to sit on the Tribunal, either from the existing list of arbitrators or from among other persons who are nationals of an OSCE participating State. The arbitration proceedings, which shall be held *in camera*, consist of an oral and a written part. The proceedings shall conform to "the principles of a fair trial". The award shall be final and not subject to appeal. However, the

parties to the dispute or one of them may request that the Tribunal interprets its award as to the meaning or scope. An application for revision of the award may be made only when it is based upon the discovery of some fact which is of such a nature as to be a decisive factor and which, when the award was rendered, was unknown to the Tribunal and to the party or parties to the dispute claiming revision.

The OSCE arbitration, however, is *not compulsory*, which means that one party to a dispute is not entitled to appeal to the OSCE Court unilaterally. It is true, that an appeal for arbitration may be made at any time. However, precondition is an agreement between two or more States parties to the Convention or between one or more States parties to the Convention and one or more other OSCE participating States. This agreement will be made by a notice addressed to the Depositary (Sweden) in which they declare that they recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of an Arbitral Tribunal, subject to *reciprocity*. Such a declaration may be made for an unlimited period or for a specified time.

Finally, the compulsory competence of the Arbitral Tribunal has another substantial restriction insofar as the States parties to the Convention may cover by their declaration "all disputes" or exclude disputes "concerning a State's territorial integrity, national defence, title to sovereignty or land territory, or competing claims with regard to jurisdiction over other areas". That means that precisely those questions touching the problems of force and war can be removed from a decision of the OSCE Court.

#### *Present Situation and Evaluation*

On 5 December 1994, after the deposit of the twelfth instrument of ratification resp. accession, the Convention on Conciliation and Arbitration within the CSCE entered into force. Finally, the OSCE Court of Conciliation and Arbitration was opened on 29 May 1995 solemnly in Geneva.

In the frame of the opening festivities the election of the President, the Vice-President and three further members, furthermore the adoption of the Rules of the Court and finally the appointment of a Registrar were performed. Robert Badinter, the former President of the French Constitutional Court, was elected President. Hans-Dietrich Genscher, the former Foreign Minister of the Federal Republic of Germany, was appointed as Vice-President. Genscher had been nominated as one of the conciliators of the Court from German side.

The Convention on Conciliation and Arbitration within the OSCE was signed by 35 of the 53 OSCE participating States by mid-1995. Out of these 35 States (only) 15 OSCE participating States have ratified the Convention.

Until now the appointment of conciliators and arbitrators has been done only by nine of the states involved. Among the States having ratified the convention and thus being part of the Court, are the following: Croatia, Cyprus, Denmark, Finland, France, Germany, Italy, Liechtenstein, Monaco, Poland, San Marino, Slovenia, Sweden, Switzerland, and Tajikistan. Among the States who so far refused signing let alone ratifying the Convention, are Great Britain and the United States, but also the Netherlands, Spain, Turkey as well as the Czech Republic and Belarus.

Who wishes to exclude the use of force as a means of international politics on principle, must not content himself just with prohibiting force and war. Institutional consequences must be drawn helping to facilitate the observance of the prohibition of force. One of the crucial points of any civilized conflict settlement - if not the most important one - is the access to compulsory jurisdiction and arbitration. Therefore, the establishment of the OSCE Court cannot be appreciated highly enough concerning the prevention of force and war. This is valid all the more as the sphere of competence of the Court extends to any type of dispute and covers all of Europe (and not only Western Europe). Both - the range of dispute settlement and the comprehensive understanding of Europe - can be considered as important components on the way towards an pan-European Peace and Security Community.

It must be criticized, however, that the competence of the OSCE Court again is not compulsory, that furthermore the provided conciliation is not binding and that the access to the arbitration can be done with reservation. Finally, it must not be underestimated that the new OSCE organ has no possibility of intervention in the case of domestic conflicts, thus excluding those cases that lead continuously to violence and war in the changed reality after the end of the East-West conflict. Last not least: the Court - contrary to its name - is located between conciliation and arbitral award, i.e. it is even situated one step below the level of Arbitral Tribunal and Court and is not even a Court in the true sense of the word.

Thus the OSCE Court still does not correspond to the "general, comprehensive, mandatory, international arbitration" as for instance article 24 paragraph 3 of the Constitution of the Federal Republic of Germany bears in mind. To dismiss the Court as mere alibi institution would be wrong, however. The new OSCE organ can rather play the important role of opening doors on the way towards an effective, comprehensive and compulsory instrument of dispute settlement. The participating States of the OSCE, among them the Germans, who have considerably pushed forward the establishment of the OSCE Court, remain challenged to continue contributing to its effective and successful use and its further development.





## The OSCE Mission to Bosnia and Herzegovina

Even before commencement of the October-November 1995 negotiation at Dayton that produced the General Framework Agreement for Peace in Bosnia and Herzegovina, an OSCE Task Force was created on the initiative of Hungarian Foreign Minister Kovács, in his capacity as OSCE Chairman-in-Office, to begin preparations for OSCE's anticipated responsibilities for consolidating the peace. The Task Force included a cross-section of officials representing OSCE Permanent Staff, the OSCE Troika and Contact Group countries. I represented the United States.

### *Task Force*

Led by then OSCE Secretary General Höynck, the Task Force held intensive consultations to prepare for OSCE's assigned roles in postwar Bosnia and Herzegovina, developed a conceptual framework for the Mission-to-be, fashioned an initial budget and prepared to consult with leaders of the Parties to the conflict - Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia - as soon as the Dayton negotiations concluded. In fact, the Task Force was ready for talks in Sarajevo on 21 November, the day the Agreement was initialed, but agreed to a Bosnian request to defer arrival in the region for 48 hours in order to give President Izetbegovic, Prime Minister Silajdzic, Foreign Minister Sacirbey and others time to return home from the exhausting negotiations at Dayton. Useful initial talks were held with the Bosnian leadership on 24 November. Task Force members consulted also in Zagreb and Belgrade, where initial contacts were made with Republika Srpska. The OSCE officers established to support Federation Ombudsmen led by then-Acting Director Roderick Bell, provided exceptionally outstanding support in helping launch the OSCE Mission.

### *Tasks Assigned to OSCE*

The General Framework Agreement for Peace, subsequently signed and put into effect at Paris on 14 December, called upon OSCE to take responsibility for three key tasks: supervision of the preparation and conduct of elections within six to nine months from the signing of the Agreement; democratisation initiatives and monitoring and reporting on human rights issues; and

extending the auspices of OSCE to negotiations on, and implementation of, Confidence- and Security-Building Measures and arms control. Of these responsibilities the pivotally important elections - generally regarded as the heart of the peace process - would represent the Mission's highest priority in the near term. The Peace Agreement called for the holding of elections to: a collective Presidency of Bosnia and Herzegovina; a House of Representatives of Bosnia and Herzegovina; a House of Representatives of the Federation of Bosnia and Herzegovina; a National Presidency of Republika Srpska; a National Assembly of Republika Srpska and, "if feasible", cantonal governing bodies in the Federation and municipal assemblies across the entire country.<sup>1</sup> Organising all seven of these elections simultaneously in the early aftermath of the horrific warfare that had devastated the country from 1992 to 1995 has posed the greatest challenge in OSCE experience since the events leading up to the Paris Summit of 1990.

### *Electoral Assessment Team*

In early December, the Task Force decided to create an Electoral Assessment Team - a group of experts from OSCE participating States with extensive experience in internationally monitored elections - to visit the region, engage in research in its traditional electoral practices, and offer recommendations on how the Mission might best prepare the electoral process.

By late January, the team led by Ron Gould of Canada, had twice visited Bosnia and Herzegovina and completed its work. It produced a comprehensive "Final Report" with several trenchant recommendations. For example, it called for the creation of an Election Appeals Tribunal to enforce compliance with electoral Rules and Regulations to be adopted by a Provisional Election Commission establishment of which the Peace Agreement mandated. The team also advocated establishment of an Electoral Advisory Group, a Mission Elections Component with a Voter Registration Division, Political Parties Division and Electoral Services Division. Those of us involved in OSCE's supervision of the elections have closely followed the team's advice.

### *Establishment of the Mission*

Meantime, a few of us arrived in Sarajevo on 29 December to begin the laborious effort of establishing a Mission capable of meeting its formidable

---

<sup>1</sup> See General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 3, Article II,2., in: The Dayton Peace Accords, <http://www.state.gov/www/current/bosna/bosagree.html>.

tasks. Upon our arrival, we held a well attended press conference, organised by Senior Adviser for Public Policy, Elizabeth Pryor, in which we emphasised that OSCE would seek to accomplish its assigned responsibilities in a manner capable of strengthening the hope of the people for a lasting peace with justice.

We began an intensive seven-day per week work schedule in the small Ombudsman facility. Infrastructure damages during the war had left the city with frequent power outages, requiring utilisation of a small generator. We had an erratic water supply and minimal central heating. Our offices included wood-burning stoves. Lodging proved generally better than any of us had anticipated, but utility problems made for a long and cold winter. Particularly difficult was the lack of running water.

Our Administrative Officer, Col. Britsch from France, brought the Mission's first good news when he located an excellent, centrally located building to serve as our Head Office. I found it fascinating that our Mission, meant to bring peace to late 20th Century Bosnia and Herzegovina, was to be located alongside the Miljacka River, only a short distance from the corner where Archduke Franz Ferdinand's assassination precipitated the outbreak of World War I in the early years of the century.

The building had suffered only limited bomb damage and was occupied by Bosnian Army personnel when we found it. A hard-working and efficient local construction crew was able to make repairs, install new windows, paint and generally bring the premises into a condition satisfactory for our utilisation within relatively short order. We acquired access to the structure on 15 January, the first seven Offices were ready for occupancy by 21 January and an OSCE Troika Ministerial session was held in a newly refurbished Conference Room on 30 January.

### *Organisational Structure*

I decided to name four Senior Deputy Heads of Mission - for Elections, Human Rights, Regional Stabilisation and Operations. The first three would lead Mission efforts to accomplish the tasks assigned to OSCE under the Peace Agreement. The Senior Deputy for Operations would have substantive responsibilities in overseeing the flow of reporting to and from field officers and management responsibilities as well. In selecting senior officers for these important posts, as well as for our staffing generally, we wanted to maintain a balance reflecting the diversity of OSCE's 54 participating States. We were fortunate to acquire the services of Sir Kenneth Scott of the United Kingdom as Senior Deputy for Elections, William Stuebner of the United States for Human Rights, General Per Skov-Christiansen of Denmark for Regional

Stabilisation and Vladimir Ivanov of the Russian Federation for Operations. As Mission infrastructure became available, we proceeded to build up our organisational capabilities. We decided to establish six Regional Centres and 25 Field Offices in a manner calculated to strike a balanced presence throughout the country. The Regional Centres were to be set up in Sarajevo-Gorazde, Tuzla, Mostar, Bihac, Banja Luka and Sokolac. These facilities were to coordinate the work of the Field Offices in their respective areas of responsibility.

The Mission was authorised an overall complement of 233 International Staff Officers. In time, we acquired an additional 75 officers from a Swiss Army logistical support team. 40 ECMM (European Community Monitor Mission) officers and over 50 IFOR liaison personnel assigned to strengthen our ability to supervise the elections. An impressive, steady build-up of communications, transportation and other logistical support was required to ensure the effectiveness of our large International Staff, supported by about 250 locally-hired personnel, located in all parts of the country.

#### *Cooperation with ECMM*

During the first visit of the Task Force to Zagreb, a useful dialogue developed with the leader of the European Community Monitor Mission, Ambassador Franchetto-Pardi. Shortly thereafter, an OSCE-ECMM Memorandum of Understanding was negotiated as a basis of ECMM support for the OSCE Mission. As early as 15 January, the Mission was able thereby to begin deploying ECMM teams to open the first ten Field Offices. In Sarajevo, close working relationships have subsequently prevailed.

#### *Budgetary Considerations*

In late 1995, an initial budget of 25 million US-Dollars was decided upon to enable the Mission to get underway. The Electoral Assessment Team advised early on, however, that OSCE's electoral expenses alone would likely amount to about 50 million Dollars. After thorough analysis of our requirements, especially by Secretary General Höynck in Vienna and our Strategic Planning Director, Pat Ewashko, in Sarajevo, decisions were taken to establish a Voluntary Fund of 47 million Dollars, mainly for meeting electoral costs. At first, contributions to this Fund were slow in coming. After 12.5 million Dollars were raised, former Danish Foreign Minister, Uffe Elleman-Jensen, was asked to drive the fund-raising effort through to a conclusion. Remarkably he did so within the space of only three weeks.

In addition to these OSCE fund-raising endeavours per se, of course numerous states involved in the electoral process were obliged to expend substantial sums. Within Bosnia and Herzegovina financing had to be found *inter alia* for hiring staff for 140 Local Election Commissions, establishing 4,400 polling stations, and fielding approximately 40,000 personnel on election day.

Also, the host countries to which Bosnia's estimated 1.4 million refugees fled would incur substantial expenses in facilitating the registration and voting of over 800,000 refugees eligible to vote.

Related expenses were involved in establishing two major media development projects aimed at levelling the playing field during the electoral campaign. These were creation of an Open Broadcast Network Television System, open to all independent stations in Bosnia and Herzegovina, and a Free Elections Network Radio System. The former involved a successful 17 million Dollars fund-raising effort, led by the High Representative, Carl Bildt. The latter radio network was conceived, funded and established by the government of Switzerland.

### *Democratisation and Human Rights*

From the beginning, it was clear that Mission efforts to strengthen respect for democratisation and human rights would be directly related to its responsibilities for supervising the electoral process. We viewed the 1996 elections as the first major step toward democratic institution-building, and our democratisation and human rights efforts have been seen as a means to that end.

In this context, I decided in February that the Mission needed a democratisation strategy to help shape internal progress toward a situation in which reasonably democratic elections could take place. The Peace Agreement calls for "free and fair and democratic elections". With so many deep-seated inter-ethnic problems in the country, I early on decided that free and fair elections, as understood in democratic societies, could not realistically be attained. But it seemed that a reasonably democratic electoral process could be achieved and this became the Mission's goal. We simply had to apply a rule of reason.

In creating a democratisation strategy, I drew upon both the substantive and administrative criteria set forth in Annex 3 of the Agreement for holding the elections. I synthesized the 14 points involved into twelve specific goals and outlined strategies for OSCE coordination with the High Representative, IFOR, IPTF (International Police Task Force), UNHCR and other relevant authorities to reach each of these goals.

I note my own efforts in this regard because it proved difficult to persuade some of the Mission's Human Rights Officers to embrace my democratisation

concept. They were focused strongly on perceived responsibilities under Annex 6 of the Peace Agreement, where OSCE, various UN agencies, international organisations, non-governmental organisations and others were called upon to monitor and report on human rights conditions. Our human rights cadre distinguished itself by developing the strongest and most respected monitoring and reporting capability in Bosnia and Herzegovina. But some appeared to distrust our democratisation strategy on grounds that participation in it might be seen as a rather direct contribution to preparations for elections which they thought might not be justified under conditions of human rights violations that they were encountering.

Gradually, the democratisation dimension of the Mission began to take shape, however, and now we have a Senior Deputy for Democratisation and Human Rights, rather than for Human Rights alone. The incumbent is Craig Jenness, a Canadian lawyer. After William Stuebner resigned in May, his two portfolios - as Senior Deputy and Chief of Staff - were divided. Tim Stanning of the UK has since been serving as Chief of Staff. The respective democratisation and human rights personnel are led by separate Directors General under the direction of Mr. Jenness.

### *Regional Stabilisation*

An important aspect of Mission activity which commands too little public attention is its far-reaching work on Confidence- and Security-Building Measures (CSBM) and arms control. OSCE initiatives in this area of regional stabilisation will prove very important over the long haul.

The German government provided an immediate stimulus to OSCE's work in this regard by hosting a meeting of experts in Bonn within days of the Paris signing ceremony. By the end of January, Ambassador Gyarmati led the way to negotiation of an excellent CSBMs Agreement, as called for in the Peace Agreement. Throughout the spring, the OSCE Mission was active in orchestrating implementation of the CSBMs, including through establishment of Military Liaison Missions bringing together officers from the Bosnian and Bosnian Croat military forces within the Federation and from Republika Srpska. The Mission also supported an intensive series of on-the-ground inspections that took place in fits and starts but generally moved the process of implementation forward rather well.

By June, the negotiations under Article IV of Annex 1-B on sub-regional arms control measures between Bosnia and Herzegovina, the Federal Republic of Yugoslavia and Croatia, under the direction of General Eide, succeeded in producing an agreement. Subsequently, General Eide has been di-

recting efforts toward a broad arms control regime for the entire South Eastern European region.

Following the elections, the two pillars of OSCE Mission activity in Bosnia and Herzegovina will be sustained democratisation and human rights work on one hand and monitoring of the military stabilisation measures on the other.

### *The Electoral Process*

The early months of the Mission, however, have required unrelenting, accelerated efforts to meet the paramount challenge of supervising the preparation and conduct of the elections. I have often stated that these are the most complex elections in history. Why is this so?

Here are but a few reasons: at the highest levels, we are orchestrating elections to five institutions of governance, the Presidency of Bosnia and Herzegovina and National Presidency of Republika Srpska with respect to executive authority; and House of Representatives of Bosnia and Herzegovina, House of Representatives of the Federation of Bosnia and Herzegovina, and National Assembly of Republika Srpska as regards legislative authority. We will be thereby simultaneously bringing into being ruling bodies for a loose central government at the overall Republic level as well as new such bodies for the two Entities, the Federation and Republika Srpska, which make up the Republic. OSCE has decided to proceed with all the cantonal elections on the Federation side (there are no cantons in Republika Srpska) and the, wherever feasible, municipal elections across the entire country. The municipal elections are exceptionally problematic because the Inter-Entity Boundary Line that resulted from the war effectively divided 49 of the 109 prewar municipalities.

Adding to the complexity is the fact that "ethnic cleansing" during the conflict resulted in the exodus of over 1.3 million refugees, 800,000 of whom are eligible to register and vote. They are scattered across many countries, each of which applies its own laws and regulations to these refugees. In some cases, as in Germany where 320,000 refugees are located - the largest number outside the former Yugoslavia - both federal and lesser level laws must be applied. There are also hundreds of thousands of displaced persons within the country.

The immediate context for organising the elections is the early aftermath of the all-out warfare that tore the country apart from April 1992 until September 1995. The inter-ethnic passions of that historic struggle will take years to subside. But OSCE has been asked to take the leading role in putting together effective elections within only a few months time.

A particularly troublesome factor is the continuing presence in the country of wartime leaders indicted for war crimes by the International Tribunal for the Former Yugoslavia who refuse to comply with orders to appear before that Tribunal at The Hague. These individuals epitomise the extreme nationalism that brought on the war and exacerbates the endeavour to restore inter-ethnic harmony to Bosnia and Herzegovina through implementation of the Dayton Agreement.

The broader historical context for the elections must take into account the national, cultural, and religious differences of the Bosnian Muslims, Roman Catholic Croats, and Orthodox Serbs now called upon to join together in a democratic electoral process. Sarajevo is where traditions of Western Europe, Eastern Europe and the Levant have met and co-mingled for over five hundred years.

For these and many other substantive and administrative reasons, this year's elections in Bosnia and Herzegovina, in my judgement, are the most complex ever.

#### *Provisional Election Commission*

The Peace Agreement called upon the OSCE Mission to establish a Provisional Election Commission to adopt Rules and Regulations for an orderly electoral process. At the superbly organised International Expert Meeting on Elections in Stockholm in mid-January 1996, I announced that the Mission would seek to create this Commission by the end of that month and to adopt initial Rules and Regulations by mid-February. In fact, the Commission was launched on 30 January and the first Rules and Regulations were adopted on 22 February.

The membership of the Commission is comprised of representatives from: each of the Parties, i.e. Dr. Begic, a Bosnian; Dr. Boskovic, a Croat; and Dr. Kovac, a Serb; the designee of the High Representative, Eugene Hutchinson of Ireland; OSCE Mission Senior Deputy Head of Mission Sir Kenneth Scott; former Canadian Minister the Honourable John Reid; and myself, as ex-officio Chairman. The members are to be commended for pulling together to produce a vast range of Rules and Regulations that are tantamount to an electoral law for the challenging and idiosyncratic elections of 1996.

On 22 April, the Commission approved key texts on Voter Registration that preserved the voting rights of citizens enshrined in the Peace Agreement. These texts repeated verbatim formulations in the Agreement stating that "as a general rule" the refugees and displaced persons "are expected" to vote either in person or by absentee ballot in the municipalities where they resided in 1991, before the start of the war. They also reiterated the right stipulated in



the Agreement that such citizens could apply to the Commission to vote elsewhere. This latter formulation provoked widespread criticism from the Muslims that it would "legalise ethnic cleansing". For my part, I have held firmly to the ruling on the premise that the individual citizen must have the right to decide where to reside and vote, taking into account the positive realities across the country.

#### *Political Parties Consultative Council*

Opposition political parties objected to inclusion of only representatives of the parties in power in the Provisional Election Commission. Many international visitors supported the objections despite being informed that the OSCE Mission was maintaining an ongoing dialogue with leaders of all the parties. At length, a decision was taken to establish a Political Parties Consultative Council to bring together Commission members with representatives of the opposition parties for discussions of virtually all aspects of the electoral process. This combined inter-ethnic effort which includes frequent meetings in both Sarajevo and Banja Luka has been a signal success and a noteworthy contribution to the Mission's democratisation programme.

#### *Media Experts Commission*

The Provisional Election Commission, taking account of the need to ensure reasonable objective media reportage during the campaign, has created a Media Experts Commission. This group is chaired by the Mission's Senior Adviser for Media Development, Mr. Dimitrov of Bulgaria. It includes OSCE Human Rights Officers, professional journalists and designated authorities from the government bodies. It has organised systematic monitoring of the media throughout the country and procedures for enforcing compliance with its decisions. Media Experts Sub-Commissions led by OSCE Human Rights Officers have also been established at the Mission's Regional Centres.

#### *Elections Appeals Sub-Commission*

Accepting the advice of the Electoral Assessment Team the Mission has established an Elections Appeals Sub-Commission to enforce compliance with Rules and Regulations adopted by the Provisional Election Commission. The Sub-Commission is chaired by Judge Lyngheim of Norway and includes

distinguished jurists from the three Parties as well as the international community. It has issued many decisions on complaints brought to its attention, and in some cases has forced the resignation of those found guilty of non-compliance. Perhaps its most celebrated case involved punishment of local political figures in Cazin, near Bihac, for the brutal attack on former Prime Minister Silajdzic at a rally of his party.

#### *Election Supervisors*

In order to ensure a hands-on, strong OSCE oversight of the voting on election day, the Mission has decided to field 1,200 OSCE Supervisors. They will be formed into 600 mobile teams with two Supervisors, an interpreter and driver in each team. Wherever possible the interpreter will serve as driver. Each team will be responsible for the balloting at approximately seven of the 4,400 polling stations. Each will arrive in the country three weeks before the elections, undergo several days training and ensure close scrutiny of the polling stations over the last fortnight up to and including election day. The Supervisors will come under the chain of command below the Provisional Election Commission and will be organised by the United Nations Volunteers under a contractual relationship negotiated with OSCE.

#### *International Monitors and Observers*

Separately, an OSCE Co-ordinator of Monitors and Observers, former Netherlands' Minister of Interior and Mayor of Amsterdam, Edward van Thijn, is organising some 1,200 to 2,000 monitors from the international community that will be scrutinising the conduct of the elections. The organisations dispatching these individuals will be required to provide for their logistical support. But Co-ordinator van Thijn will offer them briefings, accredit them to visit polling places and generally assist them in their monitoring activities.

#### *Toward the Elections*

Under the Peace Agreement, OSCE was called upon "to certify whether elections can be effective under current social conditions in both Entities". At the OSCE Ministerial Meeting in Budapest on 7-8 December 1995, a decision was made that the OSCE Head of Mission should recommend whether to

proceed with the elections and the Chairman-in-Office, Federal Councillor Flavio Cotti of Switzerland, should decide on their certification.

It was manifestly impossible to prepare for elections within the six-month period stipulated in the Peace Agreement. In June, pressures mounted to decide whether the elections should take place within the outer limits of the timeframe agreed at Dayton - i.e. by 14 September, nine months after the Paris signing ceremony at the latest.

At the Florence Mid-Term Assessment of the Peace Implementation Council on 14 June, I made a positive recommendation on the basis of three considerations: a start had been made on the substantive criteria in Annex 3, and all the administrative criteria were being met; it was essential to exploit the limited time period during which both IFOR and OSCE would be present in Bosnia and Herzegovina in maximum strength; and it was clear that virtually all political parties wished to hold the elections and participate in the institution-building involved.

On 25 June, Federal Councillor Cotti issued his certification in an eloquent statement of concern over electoral conditions, which he viewed as both half full and half empty. Minister Cotti and I agreed at this juncture that a major effort was needed to remove Dr. Karadzic, indicted for war crimes by the Hague Tribunal, from his Presidency of the ruling Bosnian Serb party, the Serb Democratic Union (SDS). Indeed, a crescendo of international appeals for action to remove Karadzic from public office arose in late June.

When the SDS defiantly re-elected him President on 29 June and we learned the next day that the High Representative had succeeded in emasculating Karadzic's powers as President of Republika Srpska, but Pale insisted that he was still occupying the office of the Presidency, I decided to assert my prerogatives as Chairman of the Provisional Election Commission. I was determined to press for his resignation from the SDS Presidency; otherwise the Commission would effectively disbar the SDS from the campaign. Over the next fortnight, I consulted with all concerned in the Contact Group, the High Representative, COMIFOR Admiral Smith, President Milosevic and the leadership in Pale to orchestrate Karadzic's departure before commencement of the campaign. I decided to postpone the start of the campaign from 14 to 19 July to give the SDS added space and time to resolve the situation. In discussions with Acting President Plavsic, Assembly President Krajisnik, Mr. Buha and others at Pale, I called attention to the suggestion of an anonymous Russian diplomat in the press who suggested that Karadzic should take the decision himself to step aside for the good of his own people. I thought this was the wisest approach. If he failed to do so, I warned that the SDS would not be able to participate in the campaign and Republika Srpska would be unable to achieve the legitimacy that only the OSCE supervised elections could permit.

At the last minute, the principal architect of the Dayton Agreement, former Assistant Secretary Holbrooke, made a brief visit to the region, repeated the hyper-intensive diplomacy that had worked so effectively at Dayton, and late on 18 July produced the agreement that removed Karadzic from further involvement in political life in Republika Srpska. This dramatic development enabled the campaign to commence on schedule on 19 July with the integrity of the electoral process greatly enhanced.

#### *Coordination with IFOR*

From early in 1996, the Mission developed a close working relationship with IFOR. In late winter, IFOR Commanders agreed to forego the commencement of downsizing their forces from June until after the elections in September. Liaison officers were assigned to the OSCE Mission from its very beginning. Some contributed importantly to the Mission's Strategic Planning Unit. Others were assigned to the Elections Component, both in Sarajevo and the field. In the approach to elections on 14 September, in-depth coordination will be concentrated in a Joint Elections Operations Centre, which will also include officers from ECMM, the International Police Task Force, UNHCR and others. IFOR support for the OSCE Mission has been exceptionally outstanding.

\*\*\*

In sum, the OSCE Mission took shape rapidly in the early months of 1996 to meet the extraordinary challenges requested of it at Dayton. In close concert with others in both the military and civilian aspects of the peace process, the Mission has made prudent preparations for supervising the electoral process. Unprecedentedly complex substantive and administrative challenges will face the Mission through the election campaign and beyond. But OSCE is doing its best to contribute to the consolidation of peace and democracy in Bosnia and Herzegovina.

## The Hungarian Chairmanship and the Chechnya Conflict

Hungary has paid close attention to the OSCE since the seventies. This was no coincidence. It is true that Hungarian foreign policy in the seventies and the first half of the eighties was far more orthodox than were economic and domestic policy, but Hungary recognized at an early stage that the then CSCE offered a small but important opportunity for taking more or less independent political steps, thereby improving the credibility and reputation of the communist government, but also the life of the people. Thus the commitments within the CSCE, which no communist country had taken seriously, provided a welcome way of justifying a number of relatively significant measures such as the introduction of a passport with world-wide validity and the toleration of "family reunification" of Germans on Lake Balaton. The Cultural Forum of 1985 in Budapest also contributed to giving our country the reputation of being the most liberal in the communist camp, largely without political risk and without any serious confrontation with the Soviet Union. The Hungarian people, too, were given the impression that despite existing taboos their government remained the most liberal and that it was doing its best to satisfy the needs of the population. This policy not only helped to stabilize the political situation in Hungary but contributed to improving stability in Europe, within the existing structures.

The CSCE was of even greater importance for the internal democratic opposition in Hungary. It was the most important point of reference for the democratic opposition in its struggle, which at that time appeared hopeless. The CSCE was in a position to take the Hungarian government at its word and to "call it on the carpet" for failing to implement in Hungary the fine commitments of the Helsinki Document, especially those in the area of human rights. Because Hungary was in fact much more liberal than the other communist states, the party and the government were unable to ignore this.

CSCE commitments served the relatively liberal Hungarian government as a kind of "excuse" in its dealings with the much more restrictive governments and parties of the "brother countries" - GDR, Romania, Czechoslovakia, Bulgaria and, prior to Gorbachev, the USSR. It could refer to the CSCE and to

---

<sup>1</sup> The author was Hungarian Ambassador to the CSCE/OSCE 1990-96, Chairman of the Senior Council 1994/95, Executive Secretary of the CSCE Summit Meeting in 1994 and Personal Representative of the Chairman-in-Office of the CSCE/OSCE, *inter alia* in Georgia and Chechnya as well as Bosnia and Herzegovina.

international pressure in connection with a number of improvements it introduced.

The CSCE also made it possible to demonstrate to the West that Hungary was different, thus building up in the West a certain amount of good will, which the Hungarian government greatly needed. After the historic change there was also in Hungary the sense of a new beginning, and there were illusions. We too thought for a time that the end of all conflict in Europe had arrived and that all we needed was an international structure - the CSCE - to serve as a framework for cooperation. This optimism, and the illusions as well, are reflected in the Charter of Paris which, in the form in which it was presented, could not be implemented. Disappointment over this has had negative consequences for the CSCE. Europe turned away from the CSCE and seriously underestimated the significance of the Organization. It took a number of years for the European governments to understand that the limited possibilities of the CSCE were urgently needed and that the Organization, for its part, had to adapt to new requirements.

This insight found expression in the decisions of the Budapest Summit of 1994 when the CSCE was renamed OSCE and a number of steps were taken to enhance the effectiveness of the Organization. For example, the position of Chairman-in-Office, which is always held by the incumbent Foreign Minister of one of the participating States, was strengthened and its holder received new decision-making authority and new options which, to be sure, are still not enough to accomplish everything that is needed but nevertheless give him/her the possibility of taking effective steps - if the Chairman has the will and the courage to do so.

Following the Summit, the Hungarian Chairman scarcely had time to analyse the new situation that had arisen there and to prepare himself for new challenges because immediately after the Summit Meeting we were confronted by such a new challenge - the war in Chechnya.

It was nothing new in Russian history. Chechnya had always caused headaches for Russian governments. When the Tsar took that territory over in the 19th Century he had to carry on a war that lasted for more than half a century. At its height more than a third of the Russian army of that time was involved in the war against Chechnya. Even Stalin was unable to get the upper hand on the Chechens. He accused them of having collaborated with the Germans - which was of course not true - and through a surprise action he transferred the population and tried to settle Russians in Chechnya. Only after decades were the Chechens permitted to return to their homeland, which since that time they have tried even harder to defend against the Russians, whom they fear.

When the Soviet Union fell apart at the end of 1991 Chechnya, a country 16,000 square kilometers in size and with a population of about a million

(predominantly Muslim but with a Russian minority), did not join any of the successor states but declared itself independent. Dzhokhar Dudayev, a former general of the Soviet air force, took over the presidency and tried to make his country increasingly independent of Moscow. He eliminated the inherited structure of the country, regarded as a Soviet legacy, and along with it largely got rid of the state in the modern sense of the word, relying more and more on his own aggressive power structures and justifying the process by the need to strengthen traditional forms of power and to introduce Islamic law. The Russian minority, feeling that they were being discriminated, began to rebel; but resistance to Dudayev began to grow in parts of the Chechen population as well. This led in 1994 to open armed resistance which was supported by the Russians but nevertheless collapsed.

It was in this situation that the Russian army intervened. At a stroke it changed the internal political situation in Chechnya. The Chechen people and a large part of the political elite expressed solidarity, if only for a time, with Dudayev, who became a national hero. This made it possible to organize a national resistance in which Dudayev's excellently armed and trained troops were supported by the large mass of the people, in part with weapons.

Just a few days after the Budapest Summit we heard from a number of capitals that they wanted to involve the OSCE in order to offer the support of the international community of states in bringing the bloody war to an end. Hungary was likewise determined to use its new position in the interest of a peaceful settlement of the conflict. We needed a few days, however, to work out how the influence of the OSCE could best be brought to bear. In the course of consultations it was suggested to us that one of the existing OSCE mechanisms, either the so-called Moscow or the Berlin mechanism, should be used. We were opposed to this, however. We felt that these mechanisms still had a confrontational character and that Russia would regard their use as an anti-Russian provocation rather than as an attempt to help. For that reason, we sought new approaches.

It took two weeks to find a formula acceptable to both sides. What the Russian side accepted - surprisingly, to many people - was that an international organization should participate in crisis management. It did this on the basis of the OSCE principle which states that gross violations of human rights are not exclusively the internal affair of a state. It is an irony of history that Soviet diplomacy of the Gorbachev era took the lead as an advocate of this principle. In order to convince the Russian side, we asked for the broadest possible international support. We were in daily contact with the French Presidency of the European Union, the United States, and the heads of state of numerous other countries all of which, through their own channels, sent the same message to Moscow - that the role of the OSCE should be accepted.

When we arrived in Moscow we found ourselves facing a rather rigid front. It was only with great resistance and after long and heated internal debate that the role of the OSCE was accepted and tolerated in a form limited to humanitarian and human rights issues. We received support from the Russian Foreign Ministry but the ability of our colleagues there to act was extremely limited because the conflict itself was viewed as an internal affair of Russia. Help came from the place where we least expected it: the first glimmer of hope became visible when we met with the Secretary of the Russian Security Council, Oleg Lobov, who was generally viewed as a conservative - apparently a very short-sighted view. To our great surprise he asked, with unexpected frankness, why the OSCE was not taking on a political role in the crisis. Naturally we seized on this idea with great pleasure and kept our contacts to Lobov and his circle strictly secret. This approach turned out to be extraordinarily useful. Without the assistance of Oleg Lobov we would never have been able to define for the OSCE a role as broad as the one that in fact emerged when the mandate was worked out.

The following basic elements underlay our thinking:

1. We must make clear to the Russian government that the international community cannot and will not remain silent. Either it will work together with Russia, to the extent that Russia is willing, and use its influence on behalf of a peaceful settlement of the conflict; or, if Russia is not prepared to cooperate, it will find other more confrontational ways of exercising its influence.
2. Russia cannot be forced to cooperate. It is too big, powerful and important for that. In the interest of success, therefore, we must support moderate elements within the Russian leadership, taking care, *inter alia*, not to call certain taboos into question. We cannot go so far as to approve the terrible atrocities of the Russian armed forces in any way, but we must also do nothing that would endanger cooperation with Russia.
3. For that reason, our initial goals must be modest and our operations expanded step-by-step. A good starting point was the OSCE principle which stipulates that serious violations of human rights are no longer merely an internal affair and that the participation of the international community of states in solving such problems is a legitimate international concern. For this principle embodies the two fundamental elements of our approach: it confirms that the conflict as such is an internal affair of Russia but at the same time makes clear that the OSCE must play a role in settling the conflict.

On the basis of these considerations the Chairman-in-Office, Foreign Minister László Kovács, decided to send a Personal Representative to Moscow to



discuss the possibility of OSCE cooperation in a peaceful settlement of the conflict. I was named as the Personal Representative of the Chairman-in-Office. During my first visit to Moscow I sensed great resistance against any form of "interference in the internal affairs of Russia". Many people still cherished the illusion that the conflict could soon be put to an end by military force. Most had still not recognized the danger that this war represented for the situation in the country and the development of democracy in Russia. In my opinion, the hawks around the President were deliberately misleading him about the actual situation -- consistently and over a long period of time. Decisions were being made, in avoidance of legal procedures, by a few people in the President's office and in the military leadership. The President's instructions were being ignored by these "politicians" and they put the responsibility for their actions on the enemy. As a consequence the war widened greatly. There was no chance to bring about an armistice. The Russian government was wrongly informed and as a consequence drew the wrong conclusions.

There was a light at the end of the tunnel, however, in the sense that the Russian press was permitted to report freely; this meant not only that they could direct public opinion against the war but that there was hope that the political leadership could not long remain in ignorance about the true situation. A number of human rights experts, above all Sergei Kovalev, also helped to ensure that the truth could not be denied for long.

But the other side was not much better. The Chechen leadership was no less authoritarian than the Russian. On the contrary, the structure of a people still involved in nation-building made it easy for the leadership to exercise power without democratic controls. The Russian attack impelled even those forces which had been in the opposition to support General Dudayev. Moreover, the political attitude of the people and the Soviet-communist character of the training their elites had received throughout their lives were hardly calculated to promote a compromise solution. The Russian leadership was likewise not particularly inclined to go along with compromises of any kind.

Under these conditions our initial goals could only be modest but we wanted in any event to refrain from actions that might preclude a later expansion of our activity. For that reason, we avoided at the beginning setting out the concrete goals - and hence the limits - of our activities. We hoped that it might later become possible for us to take on an active role in the political negotiations, should that point ever be reached.

Thus our first step was to send a mission to Chechnya with the objective of finding out about the situation and, on the basis of this knowledge, working out proposals for OSCE policy. It was not easy to persuade the Russian leadership to allow this trip. A joint and fully coordinated action by the Hungarian Chairman together with the other members of the OSCE Troika and,

in particular, with the Presidency of the European Union as well as the government of the United States of America was needed. In the meantime, we had managed to get approval to visit Chechnya. The OSCE Mission under my direction, which included Hungarian, French, Finnish and British diplomats (one each), arrived in Grozny on 29 January 1995. There were desperate battles going on in the city on that very day. A Russian unit had succeeded just a few days before in conquering the Presidential Palace. Most of the city lay in ruins. Corpses were strewn over the streets. Shots from handguns and artillery could be heard constantly. The Russian escorts of our Mission were absolutely horrified, especially the Minister of Justice, Valentin Kovalev, who increasingly came to sympathize with the OSCE and helped us more and more (he was the third key figure in working out the OSCE's role, along with our colleagues in internal affairs and Oleg Lobov). It was clear that even the Minister of Justice was now, for the first time, getting direct information that had not been sanitized by the military leadership and the secret service. It was typical of the Russian generals in charge of the fighting that they behaved toward the government in Moscow in a way that bordered on insurrection. They accused it of corruption, criticized it for lacking factual knowledge and claimed that it concealed the truth and neglected the fighting troops.

Right here I feel compelled to mention the secret of our success as it is a lesson which all international organizations and all governments should take to heart and always bear in mind. It was only through coordinated action by the international community, through a decision to bring the OSCE's influence to bear and not to permit that influence to be weakened by competition from various international organizations, and through combining the application of pressure from several important countries (especially the European Union and the United States) with offers of cooperation from the OSCE that it became possible to convince the Russian government.

The Mission which visited Chechnya at the end of January, shortly after the conquest of the Presidential Palace, found horrible evidence of a cruel war. After a few weak attempts to move in the opposite direction the Russian leadership became extremely cooperative and gave us access to all the information we felt we needed. We were even able to visit Grozny and the Presidential Palace, where some fighting was still going on. Unfortunately, we did not succeed on that occasion in establishing contact with the leaders of the Chechen resistance. But we had extensive talks with their representatives in Moscow and abroad.

The Mission landed under extremely tight security arrangements at the municipal airport, which had just been reopened. From there delivery vans took us into the center of town amidst the constant roar of artillery fire. We "parked" a few hundred meters behind the Presidential Palace and about the

same distance from the front line. We had a terrible experience. My generation, happily, had no experience of war. I myself have been in a number of countries scourged by conflict, but Grozny was not even comparable to Sarajevo. For me, the only comparable experiences were the pictures of Dresden and Coventry from the Second World War. Downtown there was not a building left intact for miles. Not a one. The streets were full of ruins. At every step there were dead animals and corpses. The horrible odors of burning buildings, gunpowder and decomposing bodies spread through the air. Old people - they were almost the only ones, on both sides, who had survived or been unable to escape - were using miserable fires in front of their houses to cook roots, dogs, cats or crumbs given them by soldiers. The number of dead is still not known. I am convinced that tens of thousands fell victim to the fighting in Grozny alone. By an extraordinary twist of fate, most of them were of Russian nationality because the center of the city, where the most desperate battles took place, was inhabited almost exclusively by Russians.

On the spur of the moment Mr. Kovalev invited me into the Presidential Palace. Only I and two TV camera teams - one of them Hungarian - were permitted to accompany him. We donned bullet-proof vests and helmets and, surrounded by about a hundred soldiers, ran to the Palace under steady cannon and small weapons fire and exposed to the dangers of mines. One mine exploded very close to us as we ran. We had to take care to stay in the footsteps of those in front, not just to avoid stumbling over the corpses that were strewn about but also to avoid the anti-personnel mines which had been hidden in the most improbable places. In the Presidential Palace an unimaginable scene of destruction awaited us. Parts of several stories had fallen, the stair case was hanging in the air and we thought that at any moment it would collapse. The roof of the great meeting hall was full of holes; the chairs were intact but covered with debris. The giant crystal chandelier was still hanging there but later fell down. The whole place exuded the unmistakable atmosphere of war.

We returned in a depressed mood to the airport where we experienced a take off under genuine battle conditions. Four helicopters were protecting the airport. Dozens of rocket flares were fired to ward off the heat-seeking missiles and the gigantic plane, a TU-154, climbed as steeply as a fighter plane. At least that is the way it felt to us; and it was no wonder - the pilot was fighting for his own life and for ours as well.

After our return we made no attempt to conceal our condemnation of the Russian attack, even though we had never called the territorial integrity of Russia into question.

We had also acknowledged that the conflict as such was an internal affair because Chechnya had never been recognized by any of our participating States

and was regarded as a part of Russia. But we stated clearly, publicly and to the press as well as privately, that the maintenance of Russia's territorial integrity did not justify the disproportionate use of military force or the serious violations of human rights, even if comparable human rights violations could also be observed on the other side.

At this point I must allow myself another small digression to say a few words about the role of human rights in preventing, managing and settling such conflicts and how, in my view, they should be dealt with.

Human rights, as they are embodied in OSCE documents, constitute the foundation of every democratic society. When a state does not uphold them (which also signifies that the state in question is not keeping its OSCE commitments) it means that the conditions for a conflict have been created. That means, in turn, that the OSCE is a kind of "early-warning system for conflicts" as it would be unthinkable to ignore violations of human rights, i.e. the violation of commitments undertaken in the OSCE. That is the earliest point at which the international community can and should react. But in most cases it does not do so. Why? Because it is not in the interest of certain states to involve themselves quickly in such cases.

And one must admit that in the classical sense of the word it really is not directly in the interest of states to "intervene" in potential conflicts of this kind. I am convinced, however, that national or state interests have to be defined differently in today's Europe. Stability is an indispensable condition of security in Europe. If security is really indivisible - and it is - then any serious threat to stability in Europe constitutes a threat to the security of all countries on the continent. That means that potential or already evident conflicts which without doubt put stability at risk are also a threat to the security of all states in Europe and hence to their national interests.

In the final analysis it is not difficult to understand that serious violations of human rights in a participating State of the OSCE, because they can precipitate violent conflict, also threaten the national interests of all OSCE participating States. Therefore, it should be possible to mobilize the international community of states in such cases. The OSCE would be an ideal forum for this purpose as it makes it possible to "intervene" in conflicts in such a way that no individual state is particularly exposed.

And now, back to the crisis in Chechnya. It took another month, after the first conversations in Moscow, for us to reach agreement with the Russian authorities. The trip undertaken by Prime Minister Gyula Horn and Foreign Minister László Kovács at the beginning of March 1995 provided the occasion for the next step. We proposed that the OSCE set up a long-term mission in Chechnya and that it be given a mandate to participate in the political and military solution of the conflict. We had discussed these proposals previously with our partners in the West. They thought them an excellent idea but did

not believe they had much chance of success. We, to be honest, were also not convinced that they would work. Nevertheless, the Prime Minister and the Foreign Minister managed to convince Prime Minister Victor Chernomyrdin and Foreign Minister Andrei Kozyrev in a long session that lasted well into the night. When I look back on it, it seems to me that what they hoped for from cooperation with the OSCE was probably a reinforcement of their own point of view - which is what they got. Agreement was actually reached. The OSCE Mission began its work in Grozny in April. László Kovács, the Chairman-in-Office of the OSCE, appointed my deputy and friend, Sándor Mészáros, to be Head.

The Mission began its work under the most difficult circumstances. It was almost impossible to create acceptable living conditions, let alone accomplish any normal work. Despite this, we succeeded in establishing contact with Dudayev's side and starting talks on a possible armistice. We received little support in this. The Russian side was convinced that the Mission ought not to intervene in Russia's internal affairs and, despite all protestations to the contrary, many of them, especially in the military leadership, regarded our activity as such an intervention. It was also difficult to convince the Chechen side that an armistice would be a good compromise and that it would even be possible before the big issue of independence was solved. Even so, we succeeded in convincing both sides and in obtaining the agreement of both military commanders that military actions should be stopped. That occurred on the very morning when Shamil Bassaev began his terrorist attack. It is wrong to assert that Bassaev brought the armistice about by force. It happened as a result of the efforts of the OSCE Mission and the rational behavior of both sides. Terrorism has never yet led to peace - not even in Chechnya.

Difficult negotiations ensued but they were completed successfully by the end of July and capped by the signing of an agreement to end hostilities. It should also be mentioned that a political agreement was ready for signature. It was General Dudayev who failed to give approval to the work of his own delegation and prohibited and prevented them from signing the treaty. By so doing he squandered an opportunity to put a quick end to the conflict and at the same time condemned the military agreement to failure.

By fall it became clear that the Russian side too had lost its interest in implementation of the agreement. The hawks in Moscow presumably concluded that the parliamentary elections called for tougher behavior. That was a bad mistake. It not only failed to produce the desired election results but led to a resumption of the war.

Right now we are witnessing a repetition of the same events that occurred last year. Another armistice agreement has been signed, virtually the same one as in July 1995. Its success or failure will depend on whether a political

solution can be found, whether both sides will continue to have - or once again show - an interest in a peaceful solution of the conflict. It is to be hoped that they will learn from the failure of the agreement in 1995 and not repeat the same mistakes.

The OSCE, too, must learn lessons from this undertaking. In my view, they are as follows:

1. One must interfere in a conflict at the earliest possible stage. But we should also not shy away from playing an active role at a later stage.
2. Traditional principles of peacekeeping lose their validity in conflicts such as these. An armistice cannot be made a precondition for international participation in conflict management. Rather, one must act to achieve an armistice, not only through political declarations but also through mediation. It is worth the risks.
3. One should not give up too quickly. Peacemaking is a protracted business which calls for much patience.
4. If possible, international organizations should not openly confront the parties to a conflict. That does not mean that violations of human rights can be tolerated. But the stress must be on cooperation. The necessary pressure must come from the member states in coordination with the international organization involved.
5. International organizations must remain neutral. Any political or personal sympathies should be suppressed. International organizations should develop no interests of their own other than obtaining success in their mediation efforts.
6. A few diplomats and military experts can accomplish miracles. Peacemaking and peacekeeping often do not require hundreds or thousands of troops, if the political objectives and methods are the right ones.
7. The OSCE works very cost-effectively. But a certain standard has to be assured. The Secretariat must be able to provide full support for the missions. Today, it cannot. The Secretariat - read: Conflict Prevention Centre - does not have the size of staff it needs, the missions are not financed in such a way that they can work effectively and financial matters are handled much too bureaucratically.

## The Human Dimension and the Development of Democracy





## Democracy as a Creative Task - Challenging or Overburdening the OSCE?

"Human rights and fundamental freedoms, the rule of law and democratic institutions are the foundations of peace and security, representing a crucial contribution to conflict prevention, within a comprehensive concept of security."<sup>1</sup>

The greatest value of this statement in the Budapest Document undoubtedly lies in the close connection it makes between stability in international relations and the peace-bringing effects of civil society structures within the states. One of the indisputable merits of the OSCE is that it emphasized this connection early on and introduced it into European policy. The norms it established gave formerly oppressed peoples an important political and moral justification for their resistance to every kind of arbitrary behavior on the part of states, thereby contributing in significant measure to overcoming the autocratic regimes.

The end of the East-West conflict brought a substantial improvement in the conditions for applying these norms but at the same time has confronted the OSCE and its participating States with new challenges which in many ways are even more formidable. For what is at issue is no longer just the widespread political acknowledgement of the norms by governments but implementing them as a real part of daily life for the people in the whole OSCE area.

### *The OSCE Faces New Tasks*

The communist regimes of Eastern Europe left only very weakly developed civil societies in their wake. The citizens' movements of the "early hours" gave expression to a broad consensus within the population for eliminating undemocratic political conditions and helping fundamental civil freedoms to gain sway. But political parties, as a vehicle for realizing this social transformation, scarcely existed. Thus when the citizens' movements dissolved after a successful shift of power there was no reason to expect that the resulting political vacuum would necessarily be filled by democratic parties. Apart from the communists and their successor parties there were virtually no com-

---

<sup>1</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p. 96.

parable political institutions that were capable of action; indeed, there was not even a stable social structure on the basis of which a democratic competition between political values and objectives might have been carried out. The elections which in the meantime had been held in the reform states received, with the help of the OSCE, a high level of democratic legitimation but their extremely erratic results reveal the continuing predominance of underlying populist convictions in the various electorates. Even six years after the historic change, the democratic vote in most Eastern and Central European countries rests on a very weak political differentiation within the societies. To be sure, it is not only institutional shortcomings which are responsible for this.

There is no example in history for the necessity, which arose after the change of power, of setting up a democratic political system while at the same time going through the complicated transition to a market economy under conditions of tough international competition. In addition, there were the political and psychological shocks to society from the dissolution of the collective economy, the disintegration of social security structures, the formation of Mafia-like interest groups in politics and in the economy, and the loss of confidence in ideological principles and political values which had been internalized. It was only after the "second elections" in most of the reform countries, in which some of the successors to the old regimes won landslide victories, that it became clear just how deep the effects of these shocks had been. Their successes, however, were due less to the predominance of nostalgic political objectives among the population than to a widespread retrospective value conservatism which led many to hope that the reform communists would be more inclined and better able to combine the desired turn toward democracy and market economies with less severe reductions of the social benefits they had once enjoyed. The latent and, to some extent, open ethnic struggles in Central and Eastern Europe are, in their essence, also a result of these shocks. In view of the painful experiences these peoples have had, the ability of reformers to present new democratic ideals as an acceptable alternative for societies living together on a basis of equality constitutes an important test of the political stability of these countries, both internally and externally.

Western societies are also confronted with new challenges, however. The contrast between their societies and the communist states is no longer available as a political corrective to explain certain internal participatory weaknesses of their societies. Moreover, even the established structures of Western democracy are now being tested by changing economic and social conditions and by political conflicts which in essence relate to the issue of dismantling or retaining the achievements of the social state. Western expectations with regard to social transformation in the reform states of Central and

Eastern Europe should be measured by the extent to which the Western countries have themselves met the requirements they have set for the establishment of civil societies. What is more, the same thing holds true for the political demand that the democratic experience of the West now be applied in the reform states.

The participating States of the OSCE have repeatedly and formally affirmed in recent years that violations of the agreed norms for democracy and human rights have, in severe cases, contributed to extremism, regional instability and conflict and that therefore the raising of problems related to the development of democracy and the observance of human rights and fundamental freedoms "in the co-operative and result-oriented spirit" of the OSCE should be viewed as "a positive exercise".<sup>2</sup>

The most important forum for dealing with problems of this kind have been the regular Implementation Meetings, which are supposed to do a thorough survey of the situation existing in participating States and make recommendations for decisions. Their discussions are based, first, on the Reports of the High Commissioner on National Minorities (HCNM), the Director of the Office for Democratic Institutions and Human Rights (ODIHR), the Heads of the OSCE missions, and the Personal Representatives of the Chairman-in-Office; second, on written materials supplied by various non-governmental organizations. The latest Implementation Meeting, from 2-19 October 1995 in Warsaw, stressed once again the importance of the human dimension of the OSCE in general and the creative task of democratizing societies more specifically, but at the same time it made clear that these things can only be accomplished if the OSCE institutions charged with them are given greater responsibility and strengthened in their ability to operate.

The existing institutional weaknesses of the OSCE are of particular consequence in this area. What is of importance in promoting democracy, after all, is to provide those states where civil society is poorly developed with effective *long-term* assistance and support, so as to ensure the establishment and consolidation of democratic social structures which will endure and stand up to conflict. At the same time there must be a very sensitive and confidence-inspiring approach on the part of the OSCE, considering that most of the conflicts in question involve, above all, existing contradictions between interests of the society and of the state, but that it is especially the latter which lead to decisions by the OSCE, which remains in the first instance an organization designed to work on relations between states. Only when the participating States accept the competence of the OSCE for prevention or settlement of conflicts within states will we finally have the assurance that the OSCE can really go beyond non-binding recommendations and make an active contribution to the solution of internal problems.

---

<sup>2</sup> Ibid.

Thus it must be seen as progress that reports of non-governmental organizations on violations of human rights and fundamental freedoms as well as on existing weaknesses of democratic structure, with recommendations for eliminating them, are used in OSCE discussions - as expressly called for by the Budapest Summit. Approximately 100 reports were made available just to the October 1995 Implementation Meeting in Warsaw. Criticism was especially directed at perceived shortcomings in the granting of freedom of the press and speech, tendencies toward religious or ethnic intolerance, problems of migration, and the implementation of democracy on various levels of society.

But we can only achieve change with the assistance of the OSCE if the participating States do not refuse to engage themselves constructively and in a spirit of compromise, and - assuming that - if the political norms of the OSCE are consistently reflected in the legislation of the participating States. Particularly in connection with internal social problems, there is great variation in the willingness of governments to acknowledge critical interventions from outside and, beyond that, to make changes in their own relevant rules, if appropriate.

### *Problems of Democratization - Experiences and Approaches*

At the Implementation Meeting mentioned above, for example, the draft Slovak media law was the focus of a number of criticisms from other states and non-governmental organizations, particularly with a view to its obviously disadvantageous rules affecting the Hungarian minority in Slovakia.<sup>3</sup> Finally, however, this law was recently passed by the Slovakian parliament in a form which only partly conforms to the norms of the OSCE. Among other things, the law states that the media may only broadcast "truthful and authentic information" which, moreover, may not offend the Slovak state, thus providing the government - which has set up two new control boards expressly for this purpose - with a basis for proceeding legally, when it so desires, against unwelcome journalists.<sup>4</sup> And the law on the official (state) language, which has been accepted by both government and parliament and in essence aims at an assimilation of the Hungarian population, is in principle contrary

---

<sup>3</sup> See, *inter alia*, the Written Presentations to the OSCE Implementation Meeting on Human Dimension Issues, 1995, of the National Committee of Hungarians from Slovakia, the National Federation of American Hungarians, and the World Federation of Hungarians, in: OSCE, Office for Democratic Institutions and Human Rights, REF.OD/29/95, 14 September 1995, no pages given (henceforth: REF.OD/29/95).

<sup>4</sup> Cf. Anne Nivat, Media Developments from Around the Region, in: Transition 9/1996, p. 60.

to the humanitarian norms of the OSCE, which Slovakia has in fact undertaken to observe.

Violations of freedom of speech with a political and ethnic background are not unusual, however. Similar occurrences could be seen in recent years in Turkey, Romania, Tajikistan, and especially in the Federal Republic of Yugoslavia, whose rights as a participating State have in fact been suspended.

There are other manifestations deserving of criticism which exist in many countries: e.g. xenophobia, intolerance and discrimination, aggressive nationalism, racism and chauvinism, and open or latent anti-semitism. Experience has shown that even the legally based equality of all segments of a population cannot overnight eliminate prejudices that have grown up over years and decades. For example, the discriminatory laws affecting the Turkish minority in Bulgaria were abolished in the 1989-1991 period but emigration of people from the Kurdjali region, in particular, as well as apparent depopulation and growing poverty in these areas are continuing even years later. It is obvious that for those once oppressed, confidence in the dependability of political promises, frequently broken in the past, can only be gradually restored, with much persistence and over a long period of time.

Thus it was that at the Warsaw Implementation Meeting the participants unanimously called for more active promotion of forms of social integration and for the gradual development of a culture of tolerance and solidarity within societies, making use of OSCE assistance and with an enlightening and confidence-building approach. In addition to such sanctions as might be necessary - such as the prohibition of racist organizations and more severe punishment of violations of elementary human rights - a number of participating States argued for the establishment of an independent OSCE Commission on Human Rights which would be responsible for supporting the efforts of states to achieve a balance of interests within their societies. However, it only makes sense to stress universally binding legal norms if the provisions of international humanitarian law are translated into valid constitutional law in the individual states. In this area, too, there are still shortcomings in a number of countries.

In Turkey, for example, a government agency was assigned constitutional responsibility for matters of religion with the result that the state itself, standing in effect over the constitution, is in a position to take control of ethnic and religious matters. Moreover, according to this agency's charter it represents only the interests of Sunni Muslims but not, for example, those of the approximately 20 million Turkish Alevites. The 15 million Kurds who live within Turkey's borders do not even appear as an ethnic minority in national constitutional law. What is more, large parts of the territories mainly settled by Kurds have been under martial law for many years - an arrangement

which has given the state additional authority to impose individual sentences and, with the aid of coercive administrative measures, to carry out ethnically discriminatory resettlements of people. Thus, in the period from 1990 to 1995 alone, more than 2,500 Kurdish settlements in areas of Eastern Turkey under martial law were forcibly evacuated.<sup>5</sup> The problem of the Kurdish people illustrates the special difficulty for the OSCE of putting a stop to violations of the fundamental rights of national minorities when these groups do not have a representation of their own to participate in negotiations and decision-making and when the states within whose borders they live refuse to accord them equal treatment before the law.

This also affects in particular the Sinti and Roma, who live in a number of different countries. The newly drafted citizenship laws of the Czech and Slovak Republics, for example, have in their practical effect deprived thousands of Sinti and Roma of their citizenship. The OSCE High Commissioner on National Minorities entered a formal protest against this decision back in November 1994 but the corrections he called for have not materialized. Elsewhere as well - in the successor states of former Yugoslavia and in Romania, for example - discrimination against minorities, with the approval of the state, is still an everyday affair. The Framework Convention for the Protection of National Minorities passed by the Council of Europe in 1995 does offer, for the first time, a binding commitment for its members, but it expressly excludes any actionable rights for the members of the Roma minority in the countries where they live.<sup>6</sup> At the Implementation Meeting in Warsaw a proposal was made to require the relevant countries to submit regular country reports specifically on the situation of the Roma and to integrate the protection of this minority in future into the framework of the Pact on Stability. In this connection it would also make sense to have closer coordination between the ODIHR, the High Commissioner on National Minorities and the Consulting Group set up last year by the Council of Europe, but only if representatives of the Roma were directly involved and none of the affected parties refused to cooperate. The ODIHR has made a promising start with its newly created Contact Point for Roma and Sinti Issues and the "Roma Internship Programme", which gives non-governmental organizations an explicit opportunity to become involved, but their possibilities are far from having been fully exploited.

In addition to ethnic discrimination there are other forms of suppression of the personal rights of minorities for which no multi-state arrangements have so far been worked out in the OSCE. For example, the International Lesbian

---

<sup>5</sup> Cf. Insan Haklari Dernegi, Written Presentation to the OSCE Implementation Meeting on Human Dimension Issues, 1995, in: REF.OD/29/95, cited above (Note 3).

<sup>6</sup> Cf. Zentralrat Deutscher Sinti und Roma [Central Council of German Sinti and Roma], Written Presentation to the OSCE Implementation Meeting on Human Dimension Issues, 1995, in: REF.OD/29/95, cited above (Note 3).

and Gay Association noted in their report to the Implementation Meeting that despite discussions that have been carried on in the Organization since 1992 and despite progress in a number of areas during that time, there are still at least 14 OSCE States in which people are subject to criminal prosecution for their homosexual preferences, among them seven successor states of the former Soviet Union, Romania, several US states, Austria and Great Britain.<sup>7</sup> Past experience has shown that the OSCE generally gets an opportunity to exercise direct influence on the social situation in participating States, influence going beyond mere non-binding recommendations, either when it is called upon by the affected countries to act as a neutral mediator between the parties to a conflict - through an invitation extended voluntarily to the High Commissioner on National Minorities, for example - or when the confidence it wins from the affected parties in the course of a long-term mission to settle a conflict leads them to grant it expanded authority for stabilizing the situation.

An example of the first case is the successful involvement of the HCNM in mediating between the conflicting parties in Latvia and Estonia in connection with the drafting of a new citizenship law.<sup>8</sup> Moreover, the three Offices established by the OSCE in Estonia helped to improve the observance of humanitarian commitments, especially with regard to family reunification problems and freedom of travel.<sup>9</sup> The fact that since last year the Russian minority has for the first time been represented, with seats and votes, in the Estonian parliament can also be regarded as a success for the persistent confidence-building work of the OSCE Mission. An illustration of the second case is provided by Georgia where, in a second step taken on 29 March 1994, the mandate of the OSCE Mission was, with the agreement of the parties to the

---

<sup>7</sup> Cf. International Lesbian and Gay Association, Written Presentation to the OSCE Implementation Meeting on Human Dimension Issues, 1995, in: REF.OD/29/95, cited above (Note 3).

<sup>8</sup> Cf. Henn-Jüri Uibopuu, Die OSZE-Mission in Estland und ihre bisherige Tätigkeit [The OSCE Mission in Estonia and its Activity to Date], and Falk Lange, Die Beziehungen Lettlands und Litauens zur OSZE [The Relations of Latvia and Lithuania with the OSCE], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 159-170 and 171-178.

<sup>9</sup> The implementation of the agreed measures is proceeding slowly, however, and still depends greatly on the good will of the individual competent officials. The issuance of alien passports in Estonia was supposed to have been completed by summer 1996, but at the beginning of June only 1,000 of the 220,000 permanent residents of the country without Estonian citizenship had received such a passport. An additional point is that the success of the OSCE's mediation also depends of course on the unconditional acceptance of alien passports as normal travel documents by all OSCE participating States, which has not yet been forthcoming. Cf. Deutsche Welle, Monitor-Dienst Osteuropa [Monitoring Service for Eastern Europe] 110/12 June 1996, p. 2.

conflict, expanded expressly to include promotion of the respect for human rights and fundamental freedoms and contributing to the drafting of a democratic constitution and a new citizenship law as well as to the creation of an independent judiciary.<sup>10</sup> According to observers, it is highly unlikely that the Georgian parliament's adoption, in August 1995, of the first constitution since independence would have been achieved in such a short time without the support provided by OSCE advisers.<sup>11</sup> This example makes especially clear that the more concretely OSCE tasks are defined, the greater the success of its efforts are bound to be.

With regard to the general recognition of human rights, the differences between the views and interpretations of parties concerned appear to narrow the latitude for acceptance of the OSCE's role and for effective action by the Organization. By way of contrast, its chances of sharing responsibility in the establishment of democratic structures are obviously much better. What is involved here, now as in the past, is of course the assumption of monitoring functions. If the OSCE is to provide credible support for democratization, the mere collection of information on violations of rights and on weaknesses in democratic practice is not enough. There may even be a risk of the affected parties' losing confidence if its efforts do not go further.

Since it is highly probable that strong democratic institutions and mechanisms offer the best prospect for assuring the lasting observance of human rights and fundamental freedoms, this would appear to offer an increasingly important field of activity for the OSCE - one whose importance for the future of European security can hardly be exaggerated - if the OSCE receives for this purpose the appropriate mandate, the necessary resources and qualified advisers. There is a proposal, which has not yet been formally accepted owing to continuing differences between the participating States over the competences to be given to the OSCE, to give the ODIHR greater financial resources and thereby to enlarge its rights of initiative, particularly in counseling governments and starting concrete support programs.

The experience of OSCE missions, gained in crisis prevention, shows, however, that the sooner prevention efforts are initiated and the more consistently and persistently they are led and carried out, the more successful they are likely to be. Thus conflict prevention as well as crisis settlement should not

---

<sup>10</sup> Cf. Hans-Jörg Eiff, Die OSZE-Mission in Georgien [The OSCE Mission to Georgia] in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH (Ed.), OSZE-Jahrbuch 1995, cited above (Note 8) pp. 179-188; Hans-Joachim Gießmann, Europäische Sicherheit am Scheideweg - Chancen und Perspektiven der OSZE [European Security at the Crossroads - Opportunities and Prospects for the OSCE], Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik [Hamburg Papers on Peace Research and Security Policy], Vol. 97/1996, pp. 38-43.

<sup>11</sup> Cf. Human Rights Watch/Helsinki, Evaluation of the OSCE Mission to the Republic of Georgia, Written Presentation to the OSCE Implementation Meeting on Human Dimension Issues, 1995, in: REF.OD/29/95, cited above (Note 3).



be limited to forestalling or defusing armed altercations but must, if they are to have a long-term stabilizing effect, take into account the context of real or potential tensions and create conditions for a durably peaceful and democratic conflict settlement. For this purpose it is not only necessary to introduce new fields of responsibility for crisis therapy but to open up new possibilities for the use of highly flexible and, above all, conflict-specific strategies. Among these, taking into account the concrete conditions in a country or region and assuming the availability of the required financial and material resources for the missions, is the dispatch of qualified advisers who know the situation well, speak the local language whenever possible and are versed in the complexities of conflict mediation. The varied experience which non-governmental organizations and their experts have garnered over the years, especially in the specific field of conflict mediation, should prove especially useful in this connection.<sup>12</sup> Their active involvement, especially considering that the resources available for long-term missions have so far been quite limited, could give additional impetus to efforts to engage the whole international community.

The OSCE's in-the-field experience to date demonstrates that because of personnel shortages or the limited availability of OSCE advisers it is often only possible to provide isolated assistance, without establishing a stable foundation for long-term change in the way the affected parties view the conflicts or their partners. Thus the activity of the Chairman-in-Office's Assistance Group in Grozny (Chechnya) was only partially successful because the capacities of its members, of whom there were only six, were almost entirely absorbed by the difficult and, in the end, fruitless negotiations between the parties to the conflict. This left no room for future-oriented peacemaking measures by the OSCE apart from reporting on the massive violations of human rights seen in Chechnya, which was to be sure an important function.<sup>13</sup> The same can be said of other long-term missions of the OSCE, whose delegations, with the exception of the most recent one in Bosnia and Herzegovina, never had more than twenty members. The success of a mission's assistance efforts cannot, of course, be measured simply by the number of experts participating. The work of the High Commissioner on National

---

<sup>12</sup> Good examples of the initiatives undertaken by NGOs are the establishment of so-called "round tables", joint reconstruction projects by the parties to the conflict, mediation training, the promotion of cooperation in trans-ethnic organized groups, seminars with police and security forces, use of the public media for educational purposes, and networking to facilitate the spread of information.

<sup>13</sup> It would be wrong, however, to attribute the shortcomings of the mission exclusively to the OSCE. Despite all efforts, its work was from the very beginning tolerated only most reluctantly by the parties to the conflict. In June 1996, the Chechen authorities even threatened to expel the Assistance Group, or its Head, because they had tried to make contact with opposition groups in the country, contrary to the wishes of the Zavgayev government.

Minorities to date has clearly shown that successful prevention or settlement of conflicts by no means require unlimited expenditures of money or personnel if the work is done effectively, persistently and with sensitivity. Still, the challenges to the OSCE vary considerably from one country to another, depending on the mission as well as the dimensions and character of the conflict.

### *Conclusions and Recommendations*

From what we have learned so far, two particularly important conclusions can be drawn for strengthening the role of the OSCE. First, those mechanisms which have proved to be especially effective should be continued and, if possible, expanded. Second, the political and institutional capacities the OSCE already has should be used more effectively, with the goal of making the general political guidelines more binding on the states.

This concerns, *in the first instance*, the work of the High Commissioner on National Minorities. Closer coordination of his activity with the measures of the ODIHR and the Chairman-in-Office would lead to better integration of the OSCE's capacities for conflict prevention and for building the structures of civil societies. One proposal at the Implementation Meeting in Warsaw was that the HCNM and the ODIHR should *together* prepare a seminar at which constitutional problems relating to protection of national minorities in OSCE States would be discussed on the basis of practical experience and, further, that the Permanent Council should make sure that the implementation of the High Commissioner's recommendations by the governments concerned was suitably monitored. Assuming that the guidelines of the Council of Europe for the protection and observance of minority rights were reflected in the constitutional law of all participating States, we would need to consider for the future whether recommendations of the HCNM ought not to be binding, i.e. whether the parties to a conflict could not appeal to the OSCE Court of Conciliation and Arbitration. Until then, the Moscow Mechanism for the Human Dimension also gives the OSCE the option of seizing the initiative at an early stage, especially since its rules do not absolutely require a consensus of all participating States.<sup>14</sup>

*Second*, the ODIHR already has a key role in coordinating all OSCE measures directed toward promoting democratic thinking and the democratization of society in the participating States. The kinds of information exchange practiced hitherto, especially the regional seminars organized by the ODIHR, have worked well as a forum for helpful consultations and for qualifying

---

<sup>14</sup> Cf. Hans-Joachim Gießmann, *Europäische Sicherheit am Scheideweg*, cited above (Note 10), p. 29ff.

specialists for the reform states. What is now needed is to diversify the services offered by the OSCE in accordance with the variety of challenges in the individual participating States. Particular attention should be paid to the promotion of human rights, the support of democratic elections, strengthening of elected legislatures, the empowerment of local administration in the spirit of the "European Charter of Local Self-Government" of the Council of Europe, the consolidation of an independent judiciary and the unlimited participation by the population in the political process. The ODIHR's successful cooperation with the government of Tajikistan on the "Human Rights Ombudsman Project" and the activities of the regional OSCE Office in Tashkent could serve as models. Concrete projects might be guided by the UNDP's regional program called "Democracy, Governance and Participation" in Belarus, Latvia, Moldova and Russia.<sup>15</sup> As a part of the "Programme of Co-ordinated Support for Recently Admitted Participating States", special heed should be paid to the need of reform states for support in communications technology, broad social education on human rights and the rights of minorities, the creation of democratic institutions both within and outside of government, counseling in matters of constitutional and electoral law, training of police and security forces as well as immigration officials and lawyers, and the establishment and nurturing of non-governmental organizations. Enhancing the effectiveness of the program means not only giving the ODIHR additional financial resources but coordinating its work more closely with the appropriate authorities in the Council of Europe, the United Nations and other international organizations.<sup>16</sup> There is also a proposal on the table to present a yearly report to the Chairman-in-Office and the Permanent Council of the OSCE on the activities of the ODIHR and their results, along with recommendations for further measures.<sup>17</sup> The seminars organized by ODIHR, which have generally been held twice a year, could also be broadened as to their range of subject matter so as to deal with critical and, to some extent, new problems relating to democratization in the reform states - e.g. the role of the media in conflict situations, legal aspects of freedom of religion or the fight against Mafia structures - and also to deal specifically with trans-border questions, e.g. the use of alien laws or the fight against terrorism.

*Third*, since the Budapest Summit the OSCE has had, in the form of the Permanent Council, a leadership and control body capable of action at virtually

---

<sup>15</sup> United Nations Development Programme. Regional Bureau for Europe and the CIS, Regional Programme on Democracy, Governance and Participation, OSCE Implementation Meeting on Human Dimension Issues, Warsaw, October 1995.

<sup>16</sup> Cf. Office for Democratic Institutions and Human Rights, OSCE Implementation Meeting on Human Dimension Issues, Rapporteur's Reports, REF.OD/43/95, 27 October 1995, Subsidiary Working Body 2, p. 3f.

<sup>17</sup> Cf. *Ibid.*, p. 8.

any time. If problems of democracy are acknowledged to be a central issue for lasting stability and social peace in Europe, then they should be permanently on the agenda of this body. This, moreover, would be in accordance with the recommendations given in the Budapest Document. Some initial steps have been taken which ought to be expanded upon, among them the discussion of results from the so-called fact-finding missions of the Chairman-in-Office, the holding of ad hoc meetings with representatives of non-governmental organizations and the reports of the ODIHR Director to the Permanent Council. Mechanisms should be considered which provide for effective, coordinated and monitorable engagement of the OSCE and its specialized organs, beginning with an investigation of the facts and proceeding to the selection and realization of concrete measures, followed by a review of their implementation. Exchange of information and cooperation with other international institutions should be included in these mechanisms in order to maximize the combined effect of assistance measures. Finally, consideration should be given to making information, documents, recommendations and other forms of assistance available, when necessary, not only in the official OSCE languages but in the languages of all concerned parties.

The most important conclusion, however, once again relates to the necessity of developing the political will of all States in the OSCE to accept the common norms as a binding foundation for all and to give the OSCE the means of monitoring and supporting their implementation.

## Election Observation is More than just a One Day Event

### *How ODIHR is Meeting the Challenge of Long-Term Election Observation*

As the practice of sending election observer missions to assess elections has developed rapidly in recent years, it has become increasingly obvious that an informed assessment of an election process cannot be made on the basis of election day observations only. An election is a process, rather than a one day event. As a result of the Budapest Summit in December 1994, the mandate of the Office for Democratic Institutions and Human Rights (ODIHR) is now more comprehensive and aims to achieve long-term observation of the election process.

The ODIHR has therefore re-orientated its activities towards the pursuit of long-term observation of the election process, rather than being limited to short-term observation on election day. This more complete approach was successfully adopted by ODIHR in both the recent Albanian Parliamentary Election and the Presidential Election in the Russian Federation.

When making conclusions about an election process, observers must take into account the various stages of the election cycle, including: the implementation of the law and election regulations, the effectiveness and impartiality of the pre-election administration, the independence of the media, the nature of the campaign and political environment prior to election day, election day, the final vote count, announcement of the results, and the handling of grievances.

The electoral process has to be seen as a film rather than an instant photo. Long-term observers are responsible for viewing the pre-election period, and thus assisting short-term observers to place election day observations within an informed context. Long-term observers submit interim reports based on their assessments and findings, which are then used to brief short-term observers and contribute to a final report on the election process.

As a consequence, the practical field tasks of the ODIHR election observation mission can be divided into two distinct phases: the long-term observation and the short-term observation. The objective of the long-term observation is to gain an in-depth knowledge of the various phases of the election cycle. The objective of short-term observation is to meet the more "classical" duties of election observation, providing a broad presence throughout the country to assess the closing days of the campaign, election day and the vote count.

An ODIHR On-site Co-ordinator is designated to coordinate the activities of long-term and short-term observers. The Co-ordinator will always stress the impartiality of the observer mission, and the willingness of the mission to receive comments about the electoral process or other aspects of the human rights situation relating to the electoral process.

### *Election Observation in the OSCE Region*

The OSCE commitments, agreed upon in Copenhagen at the second meeting of the Conference on the Human Dimension in 1990, re-emphasise the central role of elections in securing the citizen's right to participate in the government of his or her country. In addition, the Copenhagen Document states that the presence of observers, both foreign and domestic, can enhance the integrity of the electoral process.

Election observation has thus become accepted as an effective and invaluable service that is provided among OSCE participating States in support of democratic transition and universal human rights. The objectives of ODIHR election observation activities are twofold: ODIHR assesses an election process and offers recommendations, when necessary, to improve an election process for the future. In addition, the very presence of election observers can have a confidence-building effect on an election process, and deter cases of electoral fraud or manipulation.

In order to fulfill ODIHR's commitment to long-term election observation, a core group of long-term observers are requested from the participating States for a period of approximately two months prior to the election. The need for long-term observers to be regularly seconded to ODIHR represents one of the greatest challenges associated with long-term election observation, and can only be met with the on-going support and cooperation of the participating States.

Likewise, timely notification of upcoming elections by participating States is essential for ODIHR to be able to organise effective long-term observation. Long-term observation is greatly facilitated when ODIHR is notified at least three months in advance of an election.

### *The OSCE Commitments*

The election process is in essence a celebration of those human rights fundamental to a democratic society. Elections are the mechanism through which the citizen is guaranteed the right of political participation, but also presup-

poses adherence to other basic human rights such as the right to freedom of expression, movement, peaceful assembly and association.

Election observation is therefore more than just a technical exercise, as it can contribute directly to the promotion of universal human rights. Observers are asked to assess elections for their compliance with universal human rights as reflected in the OSCE commitments.

The OSCE commitments can be summed up in seven key words central to democratic tradition: Universal, Equal, Fair, Secret, Free, Transparent, and Accountable.

The principle of *universality* is understood to secure access to an effective, impartial, and non-discriminatory registration procedure for both voters and candidates alike.

The principle of *equality* requires that voters have equal and effective access to polling stations, and that one's vote be given equivalent weight to that of other voters.

The principle of *fairness* should ideally assure a level playing field for all participants in the election process, but at a minimum it should ensure the voter's exposure to basic information about all the contestants in the election and the fundamental issues that they represent.

The principle of *secrecy* can only be assured if the voter casts the ballot alone, in the privacy of a secure voting booth, and in a manner that the marked ballot cannot be viewed before it is deposited in the ballot box.

The principle of *freedom* should ensure a citizen's ability to cast his/her ballot free from intimidation, and secure in the knowledge that his/her rights of freedom of expression, freedom of association and freedom of assembly will be upheld throughout the entire election process.

The principle of *transparency* requires that the election be carried out according to due process of the law, and according to legal ground rules that are established in an inclusive and open manner. A transparent process limits the possibility for large scale election fraud, and thus the vote count should be visible and verifiable from the level of the polling station to the national election authority.

The principle of *accountability* requires that those elected have to recognise their accountability to the electorate.

#### *Observation of an Election Process in the Pre-Election Period*

The OSCE commitments should be clearly reflected in the legal framework for the election, including the Constitution and the statutory provisions (election law, political party law, media law, criminal code, rules of procedure). Assessing an election process requires first and foremost reference to these

domestic laws. The performance of the government and election authorities in implementing the law is assessed throughout the election cycle.

There are certain key aspects to an election which are fundamental to a successful process. Long-term observers should pay particular attention to the following aspects of the election cycle:

- training of election officers
- civic and voter education
- voter identification and registration
- registration of candidates and political parties
- the election campaign
- campaign resources
- media coverage
- pre-election administration
- technical arrangements
- review process

#### *Training of Election Officers*

Observers should assess whether election commission members receive standardised training. Such training should be available to all persons sitting on election commissions at all levels of the election administration. Training should be available no matter whether members of election commissions are independent or appointed by political parties.

#### *Civic and Voter Education*

Observers should assess the extent and effectiveness of civic and voter education. Sufficient civic and voter education needs to be implemented to ensure that participants in the electoral process are fully informed of their rights and responsibilities as voters. These efforts can also generate knowledge and interest about the election process and build a climate for open debate.

Civic education is a longer term process of educating citizens in the fundamentals of democratic society and civic responsibility. It may focus on the choices available to the voter and the significance of these choices within the respective political system.

Voter education is focused on the particular election and should inform voters of when, how, and where to vote. It is therefore essential that this information is provided in a timely manner, allowing voters sufficient time to make use of the information.



While political parties and civic organizations may contribute to civic and voter education efforts, it is ultimately the responsibility of the government and the election authorities to ensure that objective and impartial information is provided to voters. This information should be made available to all eligible voters, including traditionally disaffected segments of the population which could include ethnic minorities, women and illiterates.

#### *Voter Identification and Registration*

The right to vote must be given to all citizens of the country on equal terms, provided they have reached a qualifying age. A national voter register establishes the nationwide list of all eligible voters, and should insure against ineligible and multiple voting.

It is important that the implementation of the registration process be evaluated, to ensure that no unreasonable restrictions are placed on voter registration. Unreasonable restrictions are those based on race, gender, religion, ethnic origin, past political affiliations, language, literacy, property, or ability to pay a registration fee.

Reasonable restrictions may include factors such as residence, citizenship, persons in legal detention, and those considered mentally incapacitated by the courts. In relation to these factors, persons may be barred in some countries from exercising the right to vote without the violation of the universal principles. However, in regards to citizenship, those people who have lived in the country as de facto citizens for a reasonable number of years should be given a fair chance to register to vote.

The maxim "one person, one vote" is strengthened by a well maintained and regularly updated register. One comprehensive, computerised list can assist the authorities in verifying the accuracy of the lists, thereby enhancing the integrity of the voter register. Safeguards should exist to avoid multiple registration.

Registration facilities should be readily accessible to the electorate, and the registration procedures clearly stated. The voters list should be a public document which will be posted well in advance of the election to permit complaints about illegal inclusion or exclusion. If the voters receive special voter cards, there must be adequate security to avoid duplication or counterfeiting of the cards.

All votes should carry the same weight to ensure equal representation. Although not strictly in accordance with OSCE commitment 7.3<sup>1</sup> which

---

<sup>1</sup> Cf. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 439-465, p. 444.

guarantees equal suffrage to adult citizens, in some cases a different weighting of votes may be granted as a positive discrimination to ethnic minorities to ensure that they have some representation in the national political institutions.

(In exceptional cases a separate voting list may not exist, and voting may be allowed on the basis of a citizens register. In such cases, the citizens register should be equally well maintained and accessible. Where, in very rare cases, an election has to be conducted without any register or list, special arrangements should be considered such as the use of indelible ink, to guard against multiple voting.)

#### *Registration of Candidates and Political Parties*

OSCE commitment 7.5<sup>2</sup> guarantees to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination. Any arbitrary or discriminatory application of the law for the purpose of damaging specific political forces, contravenes the OSCE commitment.

The same general principles underlying the right to vote apply for the right to be a candidate. All political forces and movements should therefore be able to nominate candidates on equal terms, and not be limited for reasons of race, gender, language, religion, political affiliation, ethnic or national origin, or economic status.

Reasonable restrictions for persons wishing to become candidates must not unjustly discriminate, and may include a residency requirement in the country for a certain period of time before the elections, or having reached a higher age than the minimum voting age.

The registration requirements should be clear and predictable, and not involve potentially discriminatory demands such as excessive deposits or an unreasonable number of names on registration petitions. A right of appeal must exist for the refusal of registration to a party or candidate.

#### *The Election Campaign*

The OSCE commitments require political campaigning to be conducted in an environment that assures freedom of expression, assembly, and association. These rights must be safeguarded for a period adequate to allow political organizing and campaigning and to inform citizens about the candidates and issues. Adequate security measures must be provided.

The existing government is responsible for ensuring that the ground rules for the campaign enjoy broad support from the contestants, and ensure effective compliance with the regulations. The contestants may adopt a Code of Con-

---

<sup>2</sup> Cf. *ibid.*

duct to ensure responsible behaviour, and should not use any means of violence or intimidation to further their cause.

Candidates must have the freedom to convey their programmes to the voters without disruption of campaign meetings, and with no geographic infringement imposed by government "no-go areas". There must be a well defined process for ensuring the issuing of permits for conducting public rallies, political meetings, and fund raising activities. There must be judicial recourse in the case of unreasonable delays in granting such requests.

The observers should note the availability of venues for rallies, access of all candidates and parties to places and audiences of their choice, distribution of campaign materials, and the effective freedom of assembly, association and expression for all competing political forces. Particular attention should be paid to the use of intimidation or violence to inhibit campaigning.

### *Campaign Resources*

An effective campaign needs sufficient financing. Campaign costs can include salaries, transportation, office expenses, the purchase of print and electronic media, and the printing and distribution of campaign materials. While it is understood that elections do not always take place on a completely level playing field, an equitable and unbiased formula should be agreed upon to ensure some financing to all contestants. This may be regulated by the election law or separate legislation dealing with public financing if these funds are to be provided by the state.

It is the responsibility of the government not to abuse state resources, both human and material, in support of its own candidates. For example, government vehicles, office space and telecommunications should not be used for partisan purposes unless equal access can be provided to the other contestants.

Time is also an important resource for a meaningful election campaign. The duration of the campaign must provide enough time for the contestants to convey their policies to the electorate. The right to freedom of expression, association and assembly, if not previously secured on a permanent basis, must be ensured in sufficient time to allow effective political organization and campaigning.

Observers must ultimately consider whether any disparity of resources between the contestants meant that voters were not well informed about their available choices and whether this substantially affected the outcome of the election.

## *Media*

The OSCE commitments call for unimpeded access to the media on a non-discriminatory basis. The very basis of democratic governance requires that the electorate be able to make informed choices. This demands that all contesting points of view be fairly and equitably communicated.

In this respect, government regulation of the media is of crucial importance to a meaningful election campaign. While larger and better financed parties and candidates may be able to purchase media time or space, an equitable formula should be reached to permit all contestants reasonable access to print and electronic media. This may require the donation of state media time or space or some formula for public financing.

The media should be evaluated by its degree of independence in informing the electorate about the candidates and issues. It should be assured by the government of:

- the right to gather and report objective information without intimidation;
- no arbitrary or discriminatory obstruction or censorship of campaign messages.

While long-term observers should pay attention to the media, it may be necessary to cooperate with specialised agencies in order to have a precise and scientific analysis of the media.

## *The Election Administration*

The Central Election Commission, the Supreme Court or an equivalent body are usually assigned to administer an election. Whichever body is constituted to administer the election, its work should be independent, impartial, and transparent.

The administering body should be independent and immune from politically motivated manipulation. Alternatively, it could be composed of multi-party representatives, with equal representation at all levels of the election administration. If a judicial body is charged with administering the elections, its independence must be assured through transparent proceedings.

The administering body should be able to implement the legislation governing the election process without any undue interference, intimidation or impediment to its duty. Its independence can be further guaranteed if the members have a fixed tenure, the right of return to their previous employment and an independent budget for public record.

It is also imperative for the administering body to be impartial. It must enforce the rights of freedom of expression, association, assembly,

non-discrimination and due process of the law. Any partial treatment or abuse of authority may pose serious threats to an election's legitimacy. Finally, the administering body should be transparent in order to instill public confidence. Its transparency could be assisted if it is composed of well known, respected, and experienced individuals.

### *Technical Arrangements*

The observers should, if possible, establish whether there is a realistic understanding of the requirements for an efficient process in terms of equipment, human resources, specialised skills, and training of election officials. Observers should note what instructions have been issued in the polling station and at constituency level, whether the necessary materials are in place (electoral roll, ballots, ballot boxes etc.), and if electoral officers have received sufficient training and are familiar with the tasks to be carried out on election day.

Three examples of technical planning that often raise questions in an election process are the establishment of the voter register, election boundaries and the design of the ballot:

*Voter Register* - Large scale emigration and internal migration can cause significant population shifts between elections. The difficulty of identifying and registering large numbers of voters who have moved is a substantial technical undertaking. The technical challenge increases when there is a lack of computer equipment available to authorities. To avoid last minute census taking, an updated registration of the population should be conducted at regular intervals, and the voter register should ideally be computerised as a safeguard against multiple registration.

*Election Boundaries* - The election law should provide detailed and uniform criteria for the drawing of electoral district lines, specifying considerations such as the number of voting population per district, natural and historical continuity of boundaries, or norms guaranteeing equal and fair representation to ethnic groups. The boundaries must be drawn in a transparent manner, and ideally by a non-partisan commission of experts assigned for this purpose. Otherwise it may be difficult to determine if the boundaries are elaborated by some politically neutral electoral principle, or in a selective and biased manner.

*Ballot Design and Security* - The complexity or simplicity of the ballot directly affects the efficiency of the voting process. The ballots should be easy to fill out for the voter, and safeguarded, e.g. by watermarks, to avoid duplication. The ODIHR On-site Co-ordinator should determine who printed the ballots and where, how they were stored and distributed to the different regions, and at what time this was done prior to the elections. Where envelopes

are used to authenticate a vote, similar observation should be carried out to ensure their security.

#### *Review Process*

The right to appeal to an independent, impartial, national legal body must be ensured for all involved parties in the electoral process. A complaints procedure should be established as a review mechanism which can serve as the final arbiter of disputes.

Observers should pay particular attention to the selection and composition of the review authority, its terms of tenure and its institutional autonomy, as the integrity of the election process can only be upheld if the review mechanism is independent and impartial.

Complaints concerning the election process that are submitted by candidates or voters alike, must be dealt with equitably and according to due process of law. Procedures and deadlines should be clearly enumerated in the election code. There must also be accessible and adequate facilities for filing complaints with the judicial authorities nominated for this purpose by the electoral law.

Response should be in a timely manner, and all rulings should be recorded and made public. The complaints that are registered during the electoral process can serve as indicators of the issues that should be investigated by the long-term observers.

#### *Election Day Observation*

The basic aim of observing the election day process is to verify whether the voting and counting process are implemented in an orderly manner and in accordance with the electoral procedures. The presence of observers in polling stations can also contribute to building confidence in the election process.

Observers should recognise that some mistakes made by election officials may be because of inexperience or human error rather than due to any deliberate intention to compromise the integrity of the process. However, observers should pay attention as to how irregularities are addressed, and particular attention to recurring patterns of irregularities.

#### *The Vote Count*

Although observers are normally fatigued by the time the vote count begins, this is a crucial stage in the election and should be observed to the end. This

provides the opportunity to spot check whether ballots are counted accurately, reflecting the choices expressed by the voters.

The results should be made available at the polling station level, and can be recorded. The results from particular polling stations can constitute a sample of verified results that can be matched with the overall published results. The tabulation of results should be verifiable at all levels of the election administration.

The first stage in the vote count is normally organised in the polling stations. Any counting system in which the ballots are not counted in the polling station but transported to a central counting location produces significant extra problems of visibility and verification.

### *The Final Assessment*

A de-briefing will be organised by the ODIHR On-site Co-ordinator the day following the election. During the de-briefing the observers should share their findings on the election process and try to reach a common conclusion on how the elections were administered in relation to the commitments of the Copenhagen Document 1990 and the legal framework of the country concerned. The input of observers should concentrate on a factual summary, with particular emphasis on recurrent trends noted during election day observation.

Conclusions are drawn from the collective findings of the pre-election period as reported by long-term observers, as well as the election day findings of short-term observers. The de-briefing should provide an opportunity for all observers to report their findings.

ODIHR issues a post-election statement within 24-36 hours after the election. The statement contains a brief explanation of the composition and deployment of the observation mission and a short factual assessment of relevant aspects of the election cycle. The On-site Co-ordinator submits a short but comprehensive analytical report, including recommendations for improvements in the election process, within two weeks after the election.

An election within the OSCE region may not meet the ideal standard for an election as set out in the commitments. There will always be imperfections and irregularities in an election process. However, all OSCE participating States are committed to do their utmost to ensure that these principles are upheld.

While isolated infractions should be noted, it is the pattern of recurring irregularities that may indicate a serious threat to the integrity of the election process. Therefore, when assessing an election according to the commitments, a relative determination must be made as to whether any breach of the

commitments materially affected the voter's choice and the overall election outcome.

ODIHR's long-term approach to election observation permits an assessment of the entire process. This allows ODIHR to make more useful recommendations to the host country, and also permits an in-depth and well documented coverage of the entire election process.

Ultimately, the principle of freedom can only be fulfilled if the citizens of a country are free to cast their ballot and to effectively choose their leaders. ODIHR hopes that the technical recommendations that it can contribute as a result of long-term observation, as well as documentation of any violations in an election process, will serve as an effective tool in supporting the fundamental human rights as outlined in the OSCE commitments.



## OSCE Parliamentary Assembly Election Monitoring: The 1995 Russian Elections

The OSCE Parliamentary Assembly (PA) had started to establish its pre-eminence amongst parliamentary bodies monitoring elections in Moscow in 1993 with the elections to the Duma. However 1995 represented a major consolidation in election monitoring for the OSCE Parliamentary Assembly. Across the year Members of Parliament from or under the guidance of the PA monitored parliamentary elections in nine different countries, involving nearly 250 observers from 28 participating States. The year also culminated in "free and fair" parliamentary elections in Russia, as determined by the OSCE Parliamentary Assembly's largest ever delegation of 114 observers. Not only was the Assembly's delegation by far the largest single observation team at the Russian elections, but it was an extremely comprehensive monitoring effort that coordinated its activities and resources with all other major delegations. So now the PA's election monitoring programme has become an important and valued activity that gauges democratic progress made in countries undergoing the difficult process of transition to democracy.

The elections monitored by the OSCE Parliamentary Assembly are often the first or second multi-party, legislative elections held in transitional states. They are vitally important as symbolic road signs indicating not only the direction but the distance that democratic reforms have taken. These elections are also a test of a country's willingness to abide by international agreements. A good example is the Charter of Paris, which guarantees the rights of citizens to free and fair elections. And who better than parliamentarians, public officials elected to office themselves, to draw attention to transitional electoral processes? Local and international media attach great importance to election observations and conclusions from parliamentary groups. As a result, governmental policies can be reinforced or repudiated. For example, the 1995 parliamentary elections in Estonia were declared "free and fair" by the OSCE PA delegation which further stamped its approval of the government's democratization policies and programmes, despite the heavy and often unpopular social costs of transitional reforms.

On the other hand, the 1994 parliamentary elections in Kazakhstan were observed by an Assembly delegation to have been heavily manipulated by the government and consequently declared not to be free or fair. The statement drew tremendous attention to this situation in Kazakhstan and ultimately contributed to the dismissal of the parliament and a call for new elections in 1995.

Thus, election observation for the Assembly is a means of supporting and reinforcing OSCE commitments in the field of human rights among the developing states of the former Soviet Union and Eastern Europe. Observing elections emphasizes the importance of legislatures as institutions that provide a balance to executive authority. This is a critical issue in countries that have strong authoritarian traditions and are unused to democratic legislatures or balancing power between different branches of government. The presence of international observers can help build credibility in electoral processes, and can provide democratically elected officials with some measure of legitimacy.

The task of observer delegations, however, is more than just monitoring ballot casting on election day and issuing a press statement. All facets of the electoral process are examined. Prior to elections observers must acquaint themselves with all aspects of election processes in a country, including: governmental policies, the legal and constitutional framework for the conduct of elections, the openness of the process, and the campaign environment as perceived by the different players in the election.

Parliamentary Assembly observers meet with key players in the election process, both governmental and opposition, and have the opportunity to question why decisions or circumstances have transpired in the way they have.

While providing observers with a broad perspective, these meetings are also instrumental in elucidating other areas of potential concern that are not always easily discernible, and for placing events in their proper context. After the elections, observers report their findings and formulate recommendations based on information gathered in both the election and pre-election periods. Of considerable importance to both the monitors and the nation holding the elections is that the parliamentarians take back to their own countries a better understanding of development processes and the many problems facing the host nation.

#### *The Assembly's Commitment to Democratic Development Work*

The OSCE PA is involved in a range of activities which create opportunities for dialogue and which reinforce democratic development. Missions to the former Yugoslavia and Turkey have demonstrated the Assembly's ability to pursue dialogue and address problems under difficult circumstances. Assembly members are also drafting a *Code of Conduct on Politico-Democratic Aspects of Cooperation*. This project, initiated by Prof. Dr. Rita Süßmuth, President of the German *Bundestag* and Head of the German Delegation to the Assembly, represents a strong commitment by the OSCE Parliamentary

Assembly to democracy and human rights. The Committee is reviewing previous international commitments to the principles of human rights and fundamental freedoms, democracy and the rule of law. The Code will seek to define a set of minimum standards which will include a strong component regarding democratic elections. The delineation of these principles in a single document, the Assembly believes, will help the cause of democracy for former authoritarian states.

Another Assembly project is the *Democratic Assistance Programme (DAP)*, intended to broaden the OSCE PA's involvement in helping to strengthen democratic values and legislative institutions in the former Soviet Union. Focusing on the developmental problems of transitional states, DAP seeks to bring parliamentarians, as well as other political leaders and experts, together with their counterparts from newly emerging democracies.

Due to the broad constituency, the Parliamentary Assembly itself and the DAP have unique access and credibility with newly elected parliamentarians helping to facilitate meetings between politicians in a state of equality and mutual understanding.

### *The Election Monitoring Programme*

Despite all of its work in human rights and the furthering of democracy, the Assembly's most widely recognized activity remains the observation of elections. The OSCE PA first decided to participate actively in election observation and monitoring during its 1993 Annual Session in Helsinki. During her address to the Plenary Session, the OSCE Chairman-in-Office, Swedish Foreign Minister Baroness Margaretha af Ugglas, strongly urged the parliamentarians because of their unique expertise, to become more involved in election monitoring. In response, and as a means of assessing the implementation of - and in order to reinforce - OSCE commitments to human rights, democracy and the rule of law among the developing democracies of the former Soviet Union and Eastern Europe, the OSCE PA has developed a particularly active programme for monitoring elections.

The tremendous success of the monitoring programmes is that they function with the basic principles of objectivity, thoroughness, coordination and teamwork. Being parliamentarians, all members of Assembly delegations are experienced as far as parliamentary elections are concerned. Yet, a basic code of conduct and universal standards have been developed which delegation members are encouraged to follow. For instance, observers are not to interfere in the execution of the elections, nor should they give any advice on how practical issues can be solved, or do anything that could lead to confusion regarding who is responsible for the elections. The code emphasizes that

delegation observers need also be impartial when assessing the electoral system, and are expected to show particular caution in dealing with the press and media. All delegation members are expected not to give individual opinions as to the fairness or honesty of the election process, but they do participate in making a general statement after the election, based upon the delegation's shared findings.

It should be noted that OSCE States participate in observer delegations on a voluntary basis. The elections to the Russian State Duma (lower house) on 17 December 1995 marked a record level of interest and willingness of parliaments of OSCE participating States to send observers. The delegation consisted of 114 observers, including 85 parliamentarians from 26 OSCE countries, representatives of the North Atlantic Assembly (NAA), and the United States Commission on Security and Cooperation in Europe. The Parliamentary Assembly delegation coordinated its activities with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) through the announcement of its programme, the selection of deployment cities, and sharing information on deployment routes. As usual, the delegation also coordinated its efforts with monitoring groups from the Council of Europe, the European Parliament, and other international delegations. In order to fully realize the utilization of scarce observer resources, the OSCE PA delegation also fully cooperated and shared information with domestic observer groups, and various organizations which had been conducting long-term election observation. It was the aim of this delegation, as with all Parliamentary Assembly election monitoring groups, to assess whether the Russian elections were free and fair. However, election day observation was only one aspect of this task. Prior to election day Assembly observers acquainted themselves with numerous aspects of the election process, including the context of democratization in the country, the legal framework for the conduct of the elections, and the preparation environment as perceived by the different players in the election. During each election mission, the Secretariat of the Assembly arranged for observers to acquire background information through a series of briefings. In addition, analytical background material is supplied to indicate the kind of concerns and problems anticipated by the electorate and the key players in the election process.

Most delegates attended two days of briefings in Moscow before proceeding to attend an additional day of regional briefings in the area where they were to observe polling procedures. In Moscow, delegates were briefed by experts from seven major non-governmental organizations, who had been actively conducting long-term observation of various aspects of the political and electoral developments through the media, sociological polls and other sources. Meetings were then held with the leadership of the seven major political par-

ties, and with the Chairman of the Central Election Commission, the Chairman of the Constitutional Court, and representatives from both state-supported and independent Russian media. Delegates who monitored elections outside of Moscow also met with representatives of local and regional electoral commissions, local politicians, representatives from political parties, local media and locally based experts.

To provide as full an understanding as possible, Assembly delegation material and meetings generally concentrate on providing information in five categories: the legal framework, political parties and the electoral campaign, civic and voter education, voter registration, ballot design and security.

### *The Legal Framework*

An in-depth understanding of the laws governing the elections is crucial to the task of informed election observation.

Whereas Assembly observers are not in the position to propose amendments to the existing legislation prior to the current elections, recommendations for the future elections are one of the more important functions of the delegation's final report.

Since the main laws governing the electoral process are the Constitution and the election law, the *International Secretariat* prepares an extensive report covering:

#### *Constitution and legal framework:*

- a) the extent of the separation of powers in government and to what extent the judiciary operates independently of the government;
- b) how judges are appointed;
- c) if international assistance was sought in drawing up the Constitution;
- d) on what basis the decision for a parliamentary or a presidential system was made;
- e) the role of opposition parties in making these decisions.

#### *The election law:*

- a) how the electoral law came to be drafted and adopted, and whether the result was a compromise or by consensus;
- b) a number of issues, such as media access and campaign financing are investigated within the context of the law;
- c) observers also seek to identify detailed responsibilities and duties of the different levels of electoral commissions before, during, and after elections;

- d) whether there are clear instructions concerning party and voter registration;
- e) whether an equitable system of dispute resolution exists.

*The governing bodies and the relationship to election administrators must ensure:*

- a) the extent to which mechanisms of government are independent from the ruling party's infrastructure;
- b) if the Central Electoral Commission (CEC) is able to operate independently of the government;
- c) if its independent decision-making capacity is upheld;
- d) what is the source of commission financing.

As an example, the final version of the Russian election law was signed by President Yeltsin and adopted on 21 June 1995, well in advance of the election. It included more stringent signature requirements for parties to place candidates on the ballot, more provisions to increase transparency in the process, presupposing more overall safeguards than the previous law. Russia's new law allows for domestic observer participation of the CEC, and requires that protocols covering the local election results be made available to all observers in each polling station at the end of the counting process. The CEC accredited nearly 900 international observers and over 60,000 domestic observers for the 17 December elections. By far, the most active of the domestic observers came from the Communist Party.

The OSCE PA delegation was generally impressed with the work undertaken by the CEC to ensure free and fair elections in Russia. Some concerns were raised before the elections regarding certain CEC decisions during the party and candidate registration process, however, most of these were dealt with satisfactorily by the courts. Furthermore, other problems that arose appear to have been quickly and competently resolved through efficient lines of communication between the various levels of election committees. The manner of appointment and composition of the CEC seems to have provided an impartial panel for the administration of elections, even though some CEC decisions were subsequently over-ruled by the courts. One representative from each of the 43 electoral associations and blocs was by law permitted to sit on the CEC.

These representatives were allowed to participate and make recommendations through non-binding votes, which added to the safeguards against fraud, and seems to have increased the overall transparency of the process. Also, there appeared to be effective judicial review of CEC decisions during the Russian elections. The right to appeal to the Supreme Court was success-

fully employed by several parties, who were initially banned for failing properly to register, but were later re-instated by the CEC after the Court upheld their appeals. Unlike the 1993 elections, apparently no parties or candidates were barred from taking part in the elections for political reasons. The large number of blocs and electoral associations running in the elections definitely caused some confusion both among voters (making their choice between 43 different parties, and caring the very large ballot) and among the media (which had to give free time slots to all parties). This might be prevented in the future by requiring more signatures to be collected from a higher number of constituencies before a party is allowed on the ballot.

#### *Political Parties and Conduct of Electoral Campaign*

Election observers in general need to have an overview of *the political party spectrum* and the public perception of the various parties. As a result, OSCE PA delegation members meet with party leaders with briefing taking part on:

- a) history, platforms and leadership of the political parties, including any current representative in parliament;
- b) access to sources of finance and publicity, and how this is regulated;
- c) the size of party membership is studied as is its geographical make-up;
- d) visibility of campaign posters, television or radio broadcasts and newspaper coverage is observed. It can also be worth noting whether the leader of a party is a well known personality and if the leader overshadows all aspects of the party, including the platform;
- e) observers note if the party is represented at all levels of the election commissions, or if not, why this is the case, and whether all parties accept the legitimacy of the electoral process;
- f) if parties have been able to register candidates without difficulties, or, if difficulties were encountered, to assess whether they were the result of party disorganization or discrimination by officials.

The free and fair nature of an election also includes observing the *campaign period* and assessing whether the governing party, or any other party, unfairly benefited or was disadvantaged during this period. In this respect, delegation observers note if parties, candidates, election officials and voters agree that the campaign was free of intimidation and violence, or if not, what of complaints were raised and who dealt with them.

To be put on the ballot for the Russian Duma elections, parties were required to collect 200,000 signatures by 22 October 1995, with no more than seven percent coming from any one of the 89 districts of the Federation. In 1993, parties had to collect only half of that number of signatures, with no more

than 15 percent coming from any one district. Even with this new, increased threshold, 43 parties and blocs qualified for registration. However, many parties hired professional signature collectors to meet the requirements. Electoral blocs had to register with the CEC by submitting documents confirming their decision to unite. Subsequently, the CEC was required to announce its decision on registration within five days. Further, parties, electoral associations and blocs were limited to nominating a maximum of 270 candidates. Almost 2,700 candidates registered to run in single-mandate districts, of which over 1,000 were independents.

Compared to the 1993 Presidential decree on elections, campaign financing provisions for the 1995 Duma elections were very detailed and enabled some transparency into this generally difficult area. The law allowed parties and candidates to finance their election campaign from three sources: funds allocated by electoral committees, their own money and funds arising from donations. Electoral funds had to be placed in designated campaign accounts, with funding sources and ceilings set by law. Electoral committees were subsequently obliged to publish the amounts and sources of political funds for each party and candidate. To secure the transparency of campaign financing, every candidate or electoral association was required to file a financial report detailing the amounts and sources of election funds raised and of all expenses borne within 30 days after the election.

Russia's legislation governing campaigning and the media has become more detailed and defined since 1993. Separate legislation was passed covering mass media regulations and the use of state electronic and print media by participants in the elections. Electoral associations, blocs and candidates were entitled to free time slots on both federal and regional state television and radio. In some cases, election debates ("round tables") between candidates were permitted to replace individual time slots on a local level. Similar provisions also allowed candidates to receive free time slots in the state-owned print media. While 35 out of the 43 parties purchased advertising on television, the lack of finance made this impossible to any extent for many of the parties. The reason is clearly seen when it reportedly cost between 10,000 and 30,000 US Dollars per minute on Russian Public TV (ORT), the actual cost depending on time of date for the transmission.

Compared to the 1993 pre-election campaign, delegation members observed that parties and candidates were generally better prepared and appeared more organized in 1995. The political parties had more resources and time to prepare for the elections, and to develop individual strategies designed to attract voter support. While campaign coverage in the state media generally improved in its treatment of parties and candidates compared to 1993, the delegation believed that media coverage did appear somewhat biased in favour of pro-government parties. While delegation members heard some com-



plaints from smaller parties that the high prices for commercial television slots gave well-funded parties an unfair advantage, actual election results told a more complex story. The parties which spent the most on television advertisements did not do as well as expected, whereas the winning Communist Party refrained totally from television advertising (apart from their free time slots).

#### *Civic and Voter Education*

Observers also need to assess whether the participants in the electoral process are fully informed of their rights and responsibilities with regard to the elections. It is important to check to ensure that ethnic minorities are able to participate fully in the electoral process, and whether information on voter registration, voter procedures and the ballots are available in their languages. It is important to notice whether voter awareness campaigns have been conducted by political parties, election commissions, NGOs, the media and above all, the government.

Exit polls conducted during the Russian Duma elections indicated that voters generally were more informed about political parties and candidates than in the previous elections, and that they generally understood proper registration and voting procedures. National as well as regional newspapers, radio stations and television companies offered a wide range of information on candidates and parties contesting the elections.

#### *Voter Registration*

The register that is compiled to authorize that a person may vote is one of the most fundamental aspects of any election. Without well maintained and regularly updated voter registries, the administration of the election is put under severe strain. Observers therefore, as a matter of course, need to be well informed on all aspects of the voter registration process, including:

- whether there is a permanent voter registry at central or local levels, and if so, how often is it updated and by what means. Also it is important to know if voters may amend lists prior to the election and/or on election day itself;
- whether the voter receives a special identification card prior to the election and what information this voter card contains. Concerning security, observers note what kind of security exists to avoid duplication or counterfeiting these cards;

- observers will investigate what safeguards are in place to avoid multiple registration, and if there were any reports of multiple registrations reported;
- what are the provisions for registration of absentee voters.

For the 1995 Russian elections, local administrators were responsible for compiling voter lists on eligibility and residence, making one copy available for each polling station and one for the territorial election committee. Provisions existed to allow voters to be added even on election day by the polling station election committee, if proper identification and proof of residence were produced. Citizens were also allowed to report voter list problems to polling station committees. Higher election committees and courts dealt with any unresolved complaints.

### *Ballot Design and Security*

Since, the complexity or simplicity of the ballot directly affects the ease and the efficiency of the voting process, Assembly observers always familiarize themselves with the format of the ballot:

- whether the law provides for a single or multiple ballot;
- whether it is easy for the voter to fill in the ballot, and what measures were used to ensure against counterfeiting, etc.;
- what storage facilities were used for the ballots, after the printing and prior to distribution, and how ballots were distributed from printing or storage to polling stations.

For the 1995 Duma elections, voters received two ballots - one for the federal list and one for the single-mandate candidates in their district. The federal list contained the names and symbols of each party, as well as the names of the top three candidates. The single-mandate ballot listed the names of candidates and party affiliation when appropriate.

In some cases voters also received additional ballots for elections of governor or mayor if they were taking place at the same time.

When receiving the ballots, voters presented their passport or another form of identification and signed the voter list. In order to prevent multiple voting, an identification number was entered on the list by election officials. Voters who were not able to sign the list, or to fill in the ballots, were allowed to ask for assistance. Voters were also allowed to request a new ballot in case mistakes were made. In one observed instance, an elderly woman exchanged her ballot three times because of mistakes.

Voting premises were equipped with either booths or special places or rooms for voting by secret ballot. For the most part, all stations had booths, although usually rarely enough for the number of voters. Assembly delegation members recommended that a deadline be set in future elections for amending the ballot and removing candidates who drop out at the last minute, so that manual corrections to the ballot would not again be necessary.

### *Election Day Monitoring*

On election day, OSCE PA delegation members were deployed into seven cities and *oblasts* throughout Russia, visiting over 400 polling stations. In Moscow and St. Petersburg alone, 26 observer teams were deployed to cover more than 275 polling stations. Opening and closing procedures, as well as the initial count, were also observed throughout the country. On the basis of all the information collected and observed in the pre-election period, delegation observers were expected to note how the process actually worked in practice on election day, to report their findings and to formulate recommendations.

### *Opening of the Polls*

Each election observer group arrived at a polling station prior to the official opening, so as to observe pre-opening procedures. These included observing that ballot boxes were empty before being sealed, last-minute instructions to officials, and the manual correction of ballots in some regions (where candidates may have dropped out at the last moment). In a pre-opening check, observers are careful not to impede the officials' preparatory work, but take a brief survey of the polling site, including a look inside voting booths which should not contain any unofficial instructions, partisan, or extraneous materials), whether all commission members are present on time, which parties are represented by poll workers, if ballots and other voting materials are organized, and if the polling facility is prepared to begin on time.

### *Voting Procedures*

When approaching polling sites, Assembly observers take care to notice any indications of disorganization, including unusually long lines of people waiting to vote, or people milling around, as well as the presence of police or government officials. Once inside, observers note the orderliness of the polling site and voting activity, and whether any problems occur in finding the

name of the voter on the registration list. Another important indicator is if poll workers and voters appear to understand the procedures.

Observers also check whether written instructions are posted in the polling station for voters, and also look for the presence of partisan campaign materials. Due to the importance of the secret ballot, observers further check that voters are alone when voting, and not accompanied by friends and family. In addition, OSCE PA observers ask voters questions regarding their impression of the election, the clarity of procedures, the availability of information, etc. These exit interviews are generally conducted in situations that ensure maximum confidence, without fear of pressure, and usually outside the range of hearing by the authorities.

For the Russian Duma elections, voters who were due to be absent from their residence on election day were able to vote four to 15 days early at territorial election commissions, and up to three days prior to the election at the election commission of their polling station. With few exceptions, delegation members observed that polling stations opened at 8.00 a.m. local time and closed at 10.00 p.m. The election committees had to seal the ballot boxes after inspection, which took place in the presence of voters and observers. In general, Parliamentary Assembly observers believed that election officials seemed better informed and administered the elections in a more efficient manner than in 1993.

However, some problems witnessed in 1993 recurred again - group voting, open voting and, to a limited extent, proxy voting. In some cases, election officials seemed confused about proper voting procedures for citizens not registered in a particular polling place, but who had just moved into a district. Domestic observers nominated by parties or candidates were present in most polling stations visited by the delegation. However, most parties did not take full advantage of their right to send party representatives to polling stations. Communist party observers far outnumbered all others in polling stations visited by the delegation.

Virtually all delegation members agreed that polling stations generally suffered from poor layout. In addition, some polling stations were too small or ill-shaped for voting purposes (e.g. corridors and hallways). As a result, delegation members witnessed widespread voting outside of the designated voting booths. Polling stations also seemed ill-equipped to handle large numbers of voters during the peak voting times. Many voting booths were too small and provided insufficient space to handle and mark the very large ballot paper. Furthermore, many voting booths were poorly lit so voters had difficulty reading and marking the ballots in the booths.

While open voting undoubtedly constituted a major procedural flaw of the elections, the delegation found that this practice did not substantively change

the nature of the voting process, and often had been common practise amongst members of a family.

Some polling stations did not have enough ballots for the voters (apparently due to an unexpectedly high voter turn-out), but ballot shortages were usually remedied quickly.

Some isolated instances of proxy voting also occurred on election day, but the level of this practice appears to have dramatically declined since the 1993 elections. Also, the new voting procedure of marking the ballot in favour of candidates, instead of crossing out all names other than your chosen candidates seemed to operate smoothly. Voters seemed informed of the change and sample ballots were posted in most polling stations.

The Assembly delegation recommended that election booths in the future should be constructed in such a way to provide more space and sufficient light for voters easily to handle, read and mark large ballots.

### *Counting the Ballots*

At the close of the polls, OSCE PA delegation observer teams were inside polling stations to observe the counting process. Observers checked ballot counting procedures, including the rejection of spoiled or invalid ballots, the ballot sorting, and the security of the ballots. Delegation members also noted the means by which results were reported to the next higher authority. Unlike 1993, any observers present at the time of the poll closing were allowed to witness the counting of votes.

Election officials in most polling stations showed signs of fatigue during the counting process.

During the 1993 parliamentary elections, the OSCE PA delegation was highly critical of the slow counting and tabulation of votes, as well as the lack of public access to the complete results. In 1995, the initial vote count conducted by local polling commission members was efficient, but in some cases hampered by minor counting mistakes, generally attributed to the long working hours put in by the polling commission members.

Because of under-staffing, in a few isolated cases some election commissions accepted the help of domestic observers in the counting process - a violation of the election law. Furthermore, in places where gubernatorial and/or mayoral elections took place, the counting process was complicated by the fact that all ballots were put into the same boxes. However, no irregularities in the vote counting and aggregation of votes at the CEC were observed. While the delegation found that the deadlines set in the election law for publishing final and complete election results were a step forward compared with the 1993 elections, they recommended that greater efforts should be made fur-

ther to reduce the time between polling day and when official results are made public.

### *Conclusions*

The 1995 Russian parliamentary elections constituted a clear improvement from the preceding elections in 1993. The electoral legislation has been both clarified and simplified, enhancing the transparency of the process. Furthermore, the pre-election campaign was more open and more active than in 1993. Through open access to the media and clearer election guidelines, all major parties had the opportunity to publicize their platform and message through a variety of campaign strategies, although this did not stop some complaints about the level of government publicity.

Generally, voting procedures were more organized than in 1993. While some weaknesses witnessed in the last election still remained, they occurred to a far lesser degree.

The monitoring of the election by the Parliamentary Assembly of the OSCE provided a large and useful presence, on the one hand in Russia, as a safeguard and as a reassurance to the Russian people that democratic procedures were being followed and, on the other, to the international world that judgement on the elections was being carried out by independent people who were outside any Russian political influence.

The newly elected Russian Duma was given a "free and fair" mandate to initiate its work and to enjoy both international and domestic legitimacy. It is this kind of international effort and cooperation which underpins the efforts of the work of the Parliamentary Assembly, to reinforce transitions to democracy by the countries of the former Soviet Union and of Eastern Europe. This is the cornerstone of responsible election monitoring.

## The Building of Co-operative Security





## The Work on a Security Model for Europe for the 21st Century

### *Background*

More than twenty years have passed since the signing of the CSCE Final Act. Europe has changed fundamentally during this time. The division into two blocs and the confrontation between two antagonistic systems have been overcome since the end of the Cold War. The bitter ideological struggles of yesterday belong to the past. In the Charter of Paris (1990) the CSCE States committed themselves to democracy, human rights and the rule of law, market economies, social justice, and a responsible attitude toward the environment. Since that time they have been emphasizing that they belong to a new community of values.

Unhappily, the spread of freedom and democracy has been accompanied by new conflicts and the resurgence of forgotten tensions. Against a background of economic and social instability, local wars, violations of fundamental freedoms and human rights, aggressive nationalism and conflicts between ethnic groups have developed.<sup>1</sup> The international community was as little prepared for these new challenges as were the international organizations. All of them are being called upon to adapt themselves as quickly as possible to the new situation, find convincing answers to the new challenges and think about how security in Europe, now and in the future, can best be assured.

Against the background of new security risks and instabilities and also in view of the eastward enlargement of NATO, which it opposes, Russia in the fall of 1994 proposed that a fundamental discussion on the goals, methods and instruments of long-term European security cooperation be undertaken. This proposal was refined on the fringes of the Budapest Review Conference in informal consultations between Russia, the United States and the EU and was put into the draft of the final document. The OSCE "Discussion on a Common and Comprehensive Security Model for Europe for the 21st Century" is intended to help gain respect for the fundamental values of living together in Europe, to meet the new challenges through joint efforts, and to re-examine all existing structures with a view to improving the way they work together.

---

<sup>1</sup> Cf. CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p. 79.

At their Summit Meeting in Budapest (5-6 December 1994) the Heads of State or Government decided to begin a broadly based and comprehensive discussion on all aspects of security in the 21st century. The mandate makes clear that this discussion does not limit the inherent right of each individual participating State to be free to choose or change its own security arrangements, including treaties of alliance, as they evolve. With regard to procedure, it was decided to take into account the ongoing discussions on this topic in the participating States, to hold a seminar on this subject in Vienna in fall 1995 and to put it on the agenda of the Ministerial Council meeting scheduled for December 1995 in Budapest. The Budapest decisions say nothing about the institutional implementation of the discussions. The Chairman-in-Office was requested to present a progress report to the next Ministerial Council. The initial results of the discussion were to be presented by the Chairman-in-Office at the Summit Meeting in Lisbon.<sup>2</sup>

At the Fifth Meeting of the Council of Ministers in Budapest (7-8 December 1995) the objectives of the discussion were more precisely defined, guidelines were adopted, and it was decided how the work was to be organized. The Council decided to move the discussion into a more clearly operational phase. The listing of risks and challenges, already begun, was to be continued. The Foreign Ministers set forth the following substantive guidelines: promoting the observance of OSCE principles and commitments; further developing the OSCE and effectively using its instruments; promoting cooperative approaches and responses to challenges and risks; sustaining a comprehensive view of security; the concept of cooperation between complementary and mutually reinforcing security organizations; further developing coordination and cooperation between the OSCE and the UN; and promoting a transparent and democratic development of trans-Atlantic and regional organizations.

With regard to procedure, it was decided to set up a Security Model Committee which would meet under the auspices of the Permanent Council. The decision stipulated that the Security Model should remain on the agenda of the Senior Council, that additional seminars on the subject should be arranged, and that representatives of non-governmental organizations and academics should participate in the discussion.<sup>3</sup>

---

<sup>2</sup> Cf. *ibid.*, Chapter VII, p. 95.

<sup>3</sup> Cf. Decisions of the Fifth Meeting of the Council of Ministers, 7-8 December 1995, Budapest.

## *Objectives*

At the Budapest meeting of the Ministerial Council the objectives for the discussion of a Security Model for Europe for the 21st Century were also defined more precisely. Above all, the discussion was to aim at making full use of the OSCE's unique capabilities and inclusive nature for the development of a common security space. The common security space is to be based on a comprehensive and cooperative idea of security as well as on the principle of its indivisibility. This space is to be free of dividing lines, spheres of influence and zones of unequal security. The countries and organizations are to work together in a complementary and mutually reinforcing way, building a genuine partnership. They will not strengthen their own security at the expense of the security of other States. They emphasize their common responsibility for maintaining peace and stability in the OSCE region.<sup>4</sup>

## *Significance and Extent of the Discussion; Coordination with Other Security Organizations*

The mandate makes clear that the discussion takes place institutionally in the OSCE but extends far beyond that organization. This raises the question why the discussion is being held in the OSCE. What is its relationship to current debates in other security organizations? What influence does it have on developments in other security organizations?

Because of its large circle of participants and the comprehensiveness of its security concept, the OSCE obviously appeared to be a suitable forum. The OSCE offers the broadest dialogue network in Europe. It is only in the OSCE that all 55 States in the region between Vancouver and Vladivostok participate. The proviso that the discussion was to be comprehensive, i.e. that it was to go beyond politico-military security, also seemed to predestine the OSCE as the forum. From 1975 on, in fact, the CSCE had committed itself to a broad concept of security which, in addition to politico-military aspects, was to include guarantees of human rights and fundamental freedoms, economic development, cooperation in technology, social justice and a responsible attitude toward the environment.

Although the discussion goes beyond the bounds of the OSCE, the OSCE has no power to instruct other security organizations. Hierarchical relationships are ruled out, but improving cooperation and coordination between the various security organizations is one of the objectives. Representatives of the other security organizations are invited to take part in the work on the Security Model. The EU, NATO, the WEU, the CIS and other security organiza-

---

<sup>4</sup> Cf. *ibid.*

tions refer to this work in their political statements. They are also invited to participate in seminars on the Security Model and to contribute to them. Coordination between the organizations takes place horizontally, through the governments of the participating States. The 16 NATO countries, for example, use their internal consultations to ensure that their proposals and contributions are in the enlightened self-interest of the Alliance. The 15 EU members hold regular coordination meetings to clarify their positions. Their ideas are then presented in joint EU papers.

*The Course of the Discussion from December 1994 until June 1996*

At the beginning of 1995 the Hungarian OSCE Chairmanship faced the difficult task of getting the discussion started, giving it a structure and guiding it. Discussions began at the first session of the Senior Council at the end of March 1995.<sup>5</sup> Thereafter, an ad hoc working group was set up at the ambassadorial level which on average met fortnightly. The discussions on the Security Model were once again on the agenda of the Senior Council at the end of October 1995.<sup>6</sup> On 18 and 19 September a seminar was held in Vienna on the Security Model which was open to other organizations, NGOs and scholarly experts.<sup>7</sup>

The work program adopted by participating States in early 1995 provided for a three-stage procedure. First, the underlying principles of the Security Model were to be discussed and worked out; then the risks and challenges in the OSCE region were to be identified and a kind of inventory established. In a third step, joint responses and instruments for dealing with these risks and meeting the challenges were to be worked out.

The main work for 1995 consisted in identifying risks and challenges to security. A broad range of risks was covered, mostly in a very general way. A paper presented by France, acting as the EU's Presidency, provided a working basis for the discussions. It distinguished between various factors of instability - political, military as well as economic, social and environmental - and listed just two dozen individual risks.<sup>8</sup> It quickly became clear that perceptions of security varied considerably, depending on geographic situation and degree of involvement in security organizations. Thus it was important that as many States as possible participate in the discussions and report on their own subjective concerns about security.

---

<sup>5</sup> Journal No. 2, First Meeting of the Senior Council, 31 March 1995.

<sup>6</sup> Journal No. 2, Third Meeting of the Senior Council, 27 October 1995.

<sup>7</sup> Summary, REF.PC/568/95, 5 October 1995.

<sup>8</sup> Cf. Preliminary Contribution by the European Union to the Security Model, REF.PC/272/95, 14 June 1995.

On the basis of the EU paper and other contributions, the Hungarian Chairmanship developed a new version of the risks and challenges, which has been repeatedly updated.<sup>9</sup> The introduction to this document states that security in the OSCE area must be understood as indivisible and comprehensive. Developments of the most different nature - political, military, human rights, economic, social, environmental - can jeopardize security in the OSCE area. Moreover, many risks are interrelated and can have consequences in other fields of security.

At the same time, it was noted that security risks are unevenly distributed in the OSCE area. Certain regions and sub-regions are confronted with different problems, some of which are highly specific. Nevertheless, the postulate about the indivisibility of security requires that all security risks be taken seriously by the OSCE States and by the OSCE as a whole and that common responses be sought for them.<sup>10</sup>

Excerpts from this list of risks show clearly how broad the approach and the consideration of new risks and dangers are:

- striving for power and attempts to create zones of influence;
- increased inclination to use force internally and externally to settle conflicts;
- unresolved territorial claims and conflicts over borders;
- separatist movements that appeal to the right to self-determination of peoples;
- terrorism, drug trafficking, money laundering and other forms of organized crime;
- unstable democratic structures and fragility of the rule of law;
- violations of human rights and fundamental freedoms;
- discrimination against ethnic, cultural, religious and linguistic minorities;
- economic deprivation and disparities between countries and regions;
- the application of economic pressure (e.g. cutting off supplies of raw materials or routes of transport) for political purposes;
- disintegration, fragmentation and polarization of societies;
- uncontrolled migratory flows and the hardships suffered by refugees;
- massive destruction of the environment;
- irresponsible over-use of natural resources;
- insufficient safety standards in industrial production.<sup>11</sup>

---

<sup>9</sup> Risks and Challenges to Security in the OSCE Area, REF.PC/418/95, 24 August 1995; REV.1, 15 September 1995; REV.2, 4 December 1995.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

In addition, the ad hoc working group drafted a decision of the Ministerial Council on the Security Model. As the Hungarian Chairman observed in his report on the course of the discussion, the year 1995 was mainly devoted to conceptual exploration and to working out organizational aspects of the discussion.<sup>12</sup>

The Swiss Chairman-in-Office told the Permanent Council on 11 January 1996 in Vienna that the main purpose of working out a security model should be to promote pan-European security cooperation and to prevent the development of dividing lines in European security policy. At the same time, he invited all participating States to present concrete proposals as soon as possible.

On 19 January 1996 the newly created Security Model Committee met for the first time. At the ensuing sessions the participating States devoted special attention to questions of conflict prevention, including early warning and preventive diplomacy, as well as crisis management and post-conflict rehabilitation. The basis for these discussions was an inventory of existing OSCE instruments and mechanisms which had been prepared by the Secretariat along with a discussion paper from the Swiss Chairmanship which, using an exhaustive catalogue of issues, attempted to define the role and the possible range of actions of the OSCE and other security organizations in different stages of the whole conflict cycle.<sup>13</sup> Hungary, Poland and the Slovak Republic enlivened the discussion at the beginning of March with a proposal on cooperation between the international security organizations. This was the first proposal that had been formally submitted.<sup>14</sup>

The Security Model was a prominent subject at the 4th meeting of the Senior Council in Prague (21-22 March 1996). Russia and Italy/EU presented their ideas. At the 4th Economic Forum which followed, likewise in Prague (27-29 March 1996), a closer look was taken at the relationship between economic and politico-military security. Various delegations contributed to the economic aspects of the discussion on the Security Model.<sup>15</sup>

---

<sup>12</sup> Cf. Security Model Progress Report, REF.MC/14/95, 1 December 1995.

<sup>13</sup> Cf. PC/117/96, 14 February 1996; Add.1, 11 March 1996.

<sup>14</sup> The OSCE Role in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation, REF.PC/169/96, 1 March 1996.

<sup>15</sup> Cf. Fourth Meeting of the Economic Forum, Summary, REF.SC/115/96/Rev.1, 16 April 1996.

*The Proposal of Hungary, Poland and the Slovak Republic of 1 March 1996*

Despite its sweeping title - The OSCE Role in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation - this proposal is in essence limited to principles of cooperation between security organizations. In a first part, the role of individual organizations (OSCE, NATO and its fora for co-operation, NACC and Partnership for Peace, the EU and WEU, and the Council of Europe) is defined. The proposal concludes that all of the institutions mentioned will have to adjust themselves to the new challenges and requirements.<sup>16</sup> Using initial experiences in the implementation of the Peace Agreement for Bosnia as a point of departure, concrete recommendations are made:

- consultation and cooperation among various European and trans-Atlantic organizations in the field of conflict prevention should observe the following principles: practicability, equality of all organizations, flexibility, mutual support, transparency, complementarity and the concept of comprehensive security;
- consultations between the institutions should be conducted on three levels: on occasion and on the margins of routine meetings of a given organization; meetings organized according to a firm schedule and on a rotational basis; ad hoc meetings aimed at specific goals.<sup>17</sup>

*The Proposal of Italy/European Union of 17 April 1996*

This is a comprehensive and broadly-based proposal. The document is the result of internal consultations among the EU countries. It identifies a series of subjects that should be covered in a document on a security model but offers few proposals to guide the search for solutions. Individual EU countries have been asked to prepare more detailed papers on different aspects of the subject in the name of the EU.

Divided into 43 parts, the document undertakes an analysis of the existing institutionalized security cooperation in Europe. On the basis of this analysis, possible improvements and enhancements of efficiency are suggested. Even though it goes beyond the parameters of the OSCE, the document clearly puts the OSCE as an institution in the foreground. It poses three main questions: What contribution can the OSCE make to security in Europe? What is to be the role of other organizations which are crucial to Europe's

---

<sup>16</sup> REF.PC/169/96, 1 March 1996.  
<sup>17</sup> Ibid.

security, and how should they work together? And, finally, what institutional and organizational conclusions need to be drawn from this for the OSCE?

The first chapter explains that the OSCE's mission is to promote the development of a common security space for Europe free of dividing lines and to contribute to the emergence of a real "culture of cooperation". To reach these goals the OSCE should work out a new, politically binding "Platform for Cooperative Security". This Platform - a combination of statutes, "corporate identity" and a concrete work program - is not meant to supplant existing OSCE commitments but to continue them in an appropriate way in a new situation. With regard to substance, new guidelines might *inter alia* contain the following elements:

- Enhancing the implementation of OSCE commitments and considering possible action in cases of non-implementation;
- clarifying the role of the OSCE in the field of conflict prevention, crisis management and peacekeeping;
- developing OSCE principles for the participation in peacekeeping operations;
- better integration of military aspects as well as of the human and economic dimensions into the OSCE's preventive diplomacy;
- effective implementation of the CFE Treaty and the adoption of new arms control measures within the OSCE area at OSCE-wide and regional level;
- democratic control upon armed forces and sufficiency of military capabilities;
- measures for improved implementation of the Code of Conduct on Politico-Military Aspects of Security and for closing any substantial gaps;
- definition of scope/content of post-conflict rehabilitation by the OSCE and of its interaction with other international organizations;
- measures to strengthen democracy, the rule of law and the respect for human rights as the foundations of society (education, consciousness-building, inclusion of NGOs).

In the chapter on mutually reinforcing and supporting institutions the EU first introduces itself as a participant in European security cooperation: "As the main pole of integration, stability and prosperity in Europe, the EU provides an important contribution to the security environment."<sup>18</sup> Mentioned as instruments of its security-building efforts are its third party relations, its bilateral agreements, the Pact on Stability, its technical and financial assistance programs and the Euro-Mediterranean Partnership.

---

<sup>18</sup> REF.PC/252/96, Para. 20.



Moving on to cooperation between the institutions, the EU proposal sets forth general principles to govern such cooperation. The concept of mutually reinforcing security organizations is the cornerstone of this cooperation. Other important principles mentioned are:

- the non-hierarchical cooperation among all organizations in the OSCE area, bearing in mind the special responsibility of the Security Council of the United Nations;
- working out of principles for further transparent and democratic development of the security organizations;
- enhancement of the OSCE's effectiveness in preventive diplomacy through joint action and diplomatic support from other institutions;
- regular or ad hoc meetings of Secretary-Generals, exchange of liaison officers, etc.;
- reaffirming/operationalizing the primary responsibility of the OSCE ("OSCE first") for early warning/conflict prevention/crisis management. Should OSCE efforts fail, presentation of the dispute to the UN Security Council on a consensus basis, if necessary in the absence of the consent of the directly affected states;<sup>19</sup>
- operational and financial arrangements between the OSCE and other European and trans-Atlantic institutions.

The concluding chapter pursues the question of how the OSCE's political effectiveness and operational capabilities can be improved. A number of proposals have been made with a view to the OSCE Summit in Lisbon:

- the OSCE should develop a better overview of existing decisions and structures;
- the functioning of the OSCE's leadership should be strengthened by a more extensive use of Personal Representatives and the role of the Secretary General should be strengthened;
- it should be clarified whether and, if so, in what form the Senior Council can play a useful role;
- the operative functions of the ODIHR should be strengthened and its cooperation with the Council of Europe improved;
- the effectiveness and the operational capabilities of the OSCE Missions should continue to be improved;

---

<sup>19</sup> This is a new version of an idea put forward in the summer of 1994 by Germany and the Netherlands ("Kinkel-Kooijmans Proposal") which was presented as a proposal of the EU countries and Austria, Finland, Norway and Sweden to the Budapest Review Conference. CSCE/BC/WG1/2, 16 November 1994.

- over the long term it might be useful to consolidate the OSCE Institutions (Vienna, Prague, Warsaw) in one place;
- the public relations work of the OSCE should be further improved.

### *The Russian Proposals*

The Russian memorandum of 21 March 1996 is strongly focused on institutional issues. It contains many concrete proposals which are not, however, worked out in full detail. Some elements of it must be regarded as extremely ambitious and could hardly be implemented over the short term.

The development of a common and comprehensive security model is described as a matter of priority. Russia calls on the OSCE States to work out a concept with specific content so as to have a substantial document for the Summit Meeting in Lisbon. The objective is an extensive political declaration setting forth the fundamental principles of a future European security system along with a classification and assessment of the risks, with a view to developing collective responses.

This document should include concrete guidelines. What is being proposed is a European Security Charter. A Charter would make it possible to put relations on a treaty basis and to create for the OSCE region a security system binding under international law. Such a system would offer security guarantees to countries not members of alliances; it would reorganize cooperation between the existing European and Euro-Atlantic organizations on the basis of coordination and a clear division of responsibilities. There is also a suggestion that "a Security Council for Europe (or the OSCE Executive Committee) which would have appropriate powers"<sup>20</sup> might be established.

In addition, there is a proposal that a code of conduct on economic, social and environmental aspects of security be developed, that new commitments be undertaken in the field of human rights, and that cooperation in the fight against terrorism be intensified. With regard to politico-military security, it is suggested that a new concept be worked out for arms control not based on bloc thinking. Finally, the document proposes strengthening the legal foundations of the OSCE and making substantial improvements in OSCE institutions and mechanisms.

As for follow-up actions, Russia suggests that a European conference to be called "Europe of the 21st Century" be organized for 1997/98. There, all OSCE States and existing multilateral institutions would come together to decide on an improved division of labor between the institutions.<sup>21</sup>

The Russian proposal called "An Outline Structure of an Economic Component of a Common and Comprehensive Security Model for Europe for the

---

<sup>20</sup> REF.SC/11/96, 21 March 1996, 2c.  
<sup>21</sup> Cf. *ibid.*, 3.

21st Century", dated 24 May 1996, introduces a dazzling variety of elements culled from the field of economics (social security, elimination of discriminatory trade and economic practices, regional economic cooperation, infrastructure, protection of the environment, preventing the proliferation of technologies for mass destruction, conversion issues, fighting crime and corruption) which are of importance for a security model.

Among other things there is a proposal to define crisis indicators of an economic and social kind and, together with the OECD, the IMF, and the ECE/UN, to set up an economic and social early-warning system that would permit the OSCE to take the necessary steps at an early stage. In order to identify those economic circumstances which are relevant to security, the OSCE, along with competent economic organizations, should develop a mechanism for coordination, cooperation and division of responsibilities.<sup>22</sup>

#### *The Ukraine's Proposal of 28 May 1996*

This rather long paper argues the case for stronger cooperation between the security organizations on the basis of equality, coordination, transparency and comparative advantage. The concept of mutually reinforcing security organizations ought to be implemented more effectively. Exchange of information, the division of responsibilities and coordination should all be improved. The role and the effectiveness of the OSCE should be defined more clearly and strengthened. Compliance with norms and principles should be improved. When these principles are violated there should be concerted action which, when necessary, should include coercive measures. In such cases, the OSCE should turn to the UN Security Council. Such a decision should be based on the principle "consensus minus the violator". The Ukraine favors strengthening the economic dimension of the OSCE. It specifically welcomes measures for economic confidence-building and an economic and environmental code of conduct.

Two Ukrainian proposals deserve special mention. One suggests that security guarantees be given to countries not members of military alliances, if those countries so desire. Depending on the individual case, such guarantees would be provided by one or more European or trans-Atlantic organizations, if they agreed to do so. Secondly, the Ukraine proposes the establishment of a nuclear weapons-free zone for Central Eastern Europe in order to prevent the stationing of nuclear weapons in new NATO member countries as part of NATO enlargement. This point is of particular importance for the Ukraine as it has either scrapped the nuclear weapons it inherited from the USSR or

---

<sup>22</sup> Cf. REF.PC/329/96, 24 May 1996.

given them to Russia under international control and has joined the NPT as a non-nuclear weapons state.<sup>23</sup>

#### *Work Leading up to the Lisbon Summit*

Discussion on the Security Model will continue after the summer break. New and more concrete proposals are expected beginning in September. At the beginning of October 1996 an intensifying seminar on the Security Model will be held in Vienna. It is also expected that recommendations by a working group of independent experts on the Security Model will be published in the fall.<sup>24</sup> The Review Meeting in Vienna (4-22 November 1996) and particularly the Preparatory Meeting before the Lisbon Summit (25 November - 1 December 1996) will give the discussion important new thrust. The Chairman-in-Office has made clear that he expects substantial results at Lisbon. He has called on the participating States repeatedly to make appropriate contributions. A political declaration may be adopted in Lisbon. It would probably contain a risk analysis and, in addition, might lay down new principles of security cooperation as well as arrange for organizational and institutional measures. There could be a procedural decision to govern the further work on the Security Model.

#### *Evaluation and Prospects*

Just one and a half years after the discussion began, we are still in an initial phase. Following the first stage of cataloguing risks and challenges, the participating States are displaying some reticence when it comes to drawing operational conclusions and proposing concrete steps.

This is partly because the drawing up of a Security Model for the 21st Century is a conceptually demanding and politically delicate task. The draft proposals have to satisfy 55 countries with varying needs, interests and ideas. They must be innovative and add something to security. But at the same time it is clear that the participating States attach great importance to their sovereignty and want no limitation of their rights. The security organizations, too, insist on their established autonomy; they show a willingness to cooperate

---

<sup>23</sup> REF.PC/339/96.

<sup>24</sup> At the initiative of Dr. Adam Daniel Rotfeld, Director of SIPRI, the Independent Working Group of security experts was set up to make a contribution to the model discussion from the vantage point of security specialists. With the support of the governments of Hungary, Sweden, Russia and Switzerland, three experts meetings were held (Budapest, 1-3 December 1995; Moscow, 12-13 April 1996; Geneva, 23-24 May 1996). The report and recommendations of the Working Group are to be presented to the OSCE in September 1996.

but are determined not to be dictated to. Thus the work on a Security Model is turning into a difficult balancing act between what is substantively desirable and what is politically doable.

But the reticence of the participating States is also a result of the political situation in the last half of the nineties. It reflects the imponderable factors affecting the actors on the European security stage in this eventful time of transition. In the face of important events - e.g. the results of the Russian presidential elections, the consequences of the pacification process in Bosnia, the eastward enlargement of NATO - neither countries nor organizations want to commit themselves prematurely to new principles, responses and institutions. Despite the non-committal character of the proposals it is heartening to see that the discussion has come to be taken seriously by all participants, states as well as other security organizations. The proposals aimed at improving cooperation between the international organizations and at enhancing the effectiveness of the OSCE are interesting. They are also of a practical kind and could be implemented. But it is questionable whether such improvements in details do justice to the lofty notion of a "Common and Comprehensive Security Model for Europe for the 21st Century".

The discussions held so far have begun a learning process. Our views on a "Security Model" are clearer today than they were a year and a half ago. We know what the Security Model cannot be: a ponderous new collective security structure with rigid and binding allocation of tasks which claims exclusive responsibility for security in Europe and, from a position at the top of the hierarchy, dictates to other institutions what they must do. We have some indications of what this discussion might accomplish. It offers a way of adapting security cooperation steadily and flexibly to new challenges and for working out certain common values, procedures and instruments on a voluntary basis.

There is another lesson we had to learn: differing and sometimes opposed perceptions of security and security interests exist in reality. It would be naive to think that this discussion could simply do away with such differences. A continuing dialogue can, however, make a country's concerns about security and its interests in this regard more understandable to the other states. Open discussion promotes transparency and creates better understanding of a state's motives. Such a dialogue is a confidence-building measure. It can mean that significant changes in the security scene are understood rightly and do not provide a pretext for negative counter-measures.

Still another important lesson is that the discussion of a Security Model can only be carried on at a common pace and together with all other security organizations. The OSCE has no monopoly in this field. Nor does it have the authority to impose its rules on other organizations. Only a coordinated, transparent and cooperative approach by the OSCE, together with other inter-

ested organizations, will ensure that what emerges from these discussions will pass the test of everyday relevance and practicability. What should be avoided under all circumstances, in our opinion, is a model document that exhausts itself in flights of rhetoric and arouses high public expectations on which it cannot make good. "Paper tigers" of this kind damage the credibility of organizations and discredit the principle of security cooperation.

Taking these complexities into consideration, it is becoming clearer and clearer that the discussion of a Security Model is a long-term undertaking which will extend far beyond the Lisbon Summit. What is important is not so much the grandiose idea of a "Security Model" but rather the unspectacular but determined pursuit of a European security agenda which is in the interest of all countries and organizations.

## The Implementation of Conventional Arms Control Agreements

The Treaty on Conventional Armed Forces in Europe (CFE I), the Concluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in Europe (CFE Ia), the Vienna Documents on Confidence- and Security-Building Measures (VD 90, 92, 94) and the Treaty on Open Skies, all concluded in the early nineties, are definitive agreements codifying military strength, forms of conduct and operational options. These treaty regimes, which were *inter alia* intended as the foundation for building a new European security order, have proved to be largely ineffective in the face of changed threats and/or threat perceptions, new types of conflicts, especially those which are ethnically or religiously motivated, and civil wars. They were unable to prevent the war in Yugoslavia and equally helpless in the face of the continuing strife in the Caucasus. The available treaty regimes did not - or do no longer - succeed in fulfilling the primary function of arms control, the prevention of war.

Under these circumstances, issues of conflict prevention, crisis management and peace missions seemed to call more urgently for answers and forced the traditional arms control approach into the background. The variety of ideas about the form of future security relationships in Europe, along with difficulties in implementing the complicated terms of arms control agreements which had resulted from significant changes in the security environment, brought the whole process to a standstill. The plan to harmonize the various arms control obligations failed as did the entry into force of the Treaty on Open Skies. And it was only through an energetic effort on the part of the Western countries that the centerpiece of conventional arms control, the CFE Treaty, could be sufficiently adapted to changed circumstances so that new negotiations could be avoided and the essential terms of the Treaty sustained and implemented.

### *The Implementation of the CFE Treaty*

The CFE Treaty established equal ceilings for the Western and the Eastern group of States Parties with respect to their stocks of five categories of major weapons systems: battle tanks, armoured combat vehicles, artillery, combat aircraft and attack helicopters. Additional regional provisions, the suffi-

ciency principle, and the so-called maximum levels for holdings resulted in binding quotas for each country which could not be altered unilaterally. Among the important obligations which the Treaty imposed on the 30 States Parties to it was the requirement that all necessary reductions of major weapons systems be carried out according to agreed procedures in three phases by 16 November 1995. Beginning on 17 November 1995, all limitations of stocks and deployments provided for in the Treaty must be carried out. In addition, every State Party is obligated to provide at regular intervals information on its ground and air forces - along with other notifications as necessary - and to permit its information to be verified by inspections.

#### *Reductions as of 16 November 1995*

The third and last reduction phase began in November 1994 under conditions promising a successful conclusion. In the previous two phases there had been little reason for criticism and more than 70 percent of all reductions, rather than the required 60 percent, had already been carried out. This meant about 35,000 major weapons systems according to the CFE definitions.<sup>1</sup>

The tendency for the Western countries to fulfill their liabilities more rapidly than the Eastern ones continued in 1995. By the end of March 1995 the NATO countries had already made 90 percent of the reductions called for by the November deadline, the countries in the Eastern group only 70 percent. Germany, which as a result of unification and the related takeover of stocks from the National People's Army had the second highest reduction liabilities of all CFE countries (after Russia), announced the successful conclusion of these reductions at the end of May. Two points merit special attention here: first, that a substantial part of the reduction liabilities had been met not by destroying excess major weapons systems but by selling or giving them to NATO allies; second, that the costs of the whole process were estimated at more than 100 million DM.

The comparatively high costs of destruction methods in conformity with the Treaty provided a significant incentive to meet reduction liabilities by exporting surplus major weapons systems, as became evident not only here but in the cases of various Central and Eastern European countries. Disarming Europe by arming other regions may be consistent with the Treaty but it is at best a morally questionable undertaking and illustrates the urgency of rules on the transfer or export of conventional weapons.

Another version of this problem was seen in connection with Belarus which in February 1995 stopped the reduction process, appealing to economic

---

<sup>1</sup> Cf. Zdzisław Lachowski, Conventional Arms Control and Security Dialogue in Europe, in: SIPRI Yearbook 1995, Armaments, Disarmament and International Security, Oxford 1995, pp. 761-790, in this case: pp. 761-765.



difficulties. A demarche by the NATO countries had no effect. Belarus said it would prefer to sell excess battle tanks rather than destroying them at a high cost, and besides it expected some financial support from the West. Only in October, after the German Foreign Minister had provided assurances in this regard and Belarus had received its initial technical assistance, were the reductions resumed. But there was no longer any chance of meeting reduction liabilities by the November deadline.

Along with Belarus, Kazakhstan, the Ukraine and Russia declared in the fall of 1995 that for various reasons they were unable to carry out the terms of the CFE Treaty on time. The difficulties for Kazakhstan resulted from weapons systems which the then Soviet Union had withdrawn behind the Urals before signing the Treaty (and which it later, in a binding political declaration, promised to destroy by 31 December 1995); the Ukraine and Russia referred to the still unsettled matter of dividing up the Black Sea Fleet, along with Marines and Coast Guard units. Russia also admitted that it had so far reduced only 2,500 of the 8,000 battle tanks and armoured combat vehicles which the USSR had withdrawn behind the Urals, and that it was not going to be able to destroy the remaining weapons systems there by the deadline. In this connection, Russia also referred to the related costs of about 30 million DM. Thus it was all the more astonishing - particularly in view of Russia's very strong military presence on its southern flank - when the Russian General Staff declared in November that it had met its Treaty liabilities by reducing far more than 10,000 major weapons systems. It remained unclear whether Armenia and Azerbaijan would carry out the provisions relating to them because of the difficulty of estimating the gains and losses for both sides from the fighting in and around Nagorno-Karabakh and the impossibility of verifying these on the scene.

#### *Experiences with the Verification Regime*

The problem mentioned above - not being able, for security reasons, to carry out inspections in those areas of the Caucasus affected by war or crisis - was one of the few limitations of a general nature which have so far had to be imposed on the implementation of the verification regime. Apart from isolated instances, no other serious difficulties or indications of Treaty violations have emerged from the 2,351 inspections<sup>2</sup> held between entry into force of the Treaty and the end of the last reduction phase. However, one expectation

<sup>2</sup>

With regard to concrete figures, see: Bericht zum Stand der Bemühungen um Rüstungskontrolle und Abrüstung sowie der Veränderungen im militärischen Kräfteverhältnis (Jahresabrüstungsbericht 1995) [Report on the Status of Arms Control and Disarmament Efforts as well as Changes in the Balance of Military Strength (Annual Disarmament Report for 1995)], in: Deutscher Bundestag, 13. Wahlperiode, Drucksache 13/4450 [German Bundestag, 13th Electoral Period, Publication 13/4450], p. 49.

- one might say, fear - has been confirmed: on-site inspections carried out by one country alone, without coordination with the other States Parties (mainly from the same group), are more expensive, difficult to perform and less efficient than a procedure coordinated by a number of states. It is no coincidence that the countries of the Eastern group have on average had to accept more than twice as many inspections on their own territory as they have carried out; indeed, four countries in this group (Azerbaijan, Georgia, Kazakhstan and Moldova) have not carried out a single inspection of their own during the whole time. Precisely the opposite relationship prevails with respect to the NATO countries, which cooperate in the preparation and coordination of their verification activities and in the evaluation of the Eastern States Parties' implementation record.

One should note in favor of the Western countries, however, that they have taken a number of steps to try to reduce the large discrepancies between themselves and the Eastern States Parties. In 1994 the Easterners were offered access to the NATO data bank VERITY, in which all CFE data are stored, including the annual information exchanges as well as other notifications and inspection reports. All except Moldova have made use of this opportunity and, according to NATO, intensive use is being made of the data. NATO's offer of cooperation and training includes various workshops on the use of the data bank, seminars on cooperation in the verification and implementation of conventional arms control agreements and courses for inspectors.

The Western countries' practice of inviting guest inspectors from allied countries to participate in their inspections (done in 1,247 of 1,557 inspections) has been more and more expanded to include the Eastern States Parties. As a result, by the conclusion of the last reduction phase 165 guest inspectors from Eastern countries had participated in inspections conducted by NATO member countries. Conversely, inspectors from NATO countries have so far taken part in 20 inspections carried out by states of the Eastern group in another country of the same group.

#### *The Flank Problem*

Article V of the CFE Treaty imposes special limitations with regard to the flank zones. Russia and the Ukraine are the only States Parties which, on the basis of this provision, must observe regional as well as country limits on the stationing of their armed forces and their equipment. In an area larger than more than half of its European territory Russia, by the terms of these provisions, may station no more than 20 percent of its Treaty-limited major weapons systems - only one-sixth as many tanks and one-fifteenth as many armoured combat vehicles as, say, in the comparatively tiny region of Kalinin-

grad. The Ukraine is permitted to station in that part of the country that belongs to the flank zone region only 17 percent of its battle tanks, seven percent of its armoured combat vehicles and 25 percent of its artillery.

At least since the outbreak of the war in Chechnya, the other CFE states have had to assume that Russia, whose President, Boris Yeltsin, had already called for the abrogation of these provisions, would no longer observe the flank ceilings established in the CFE Treaty. The reserve with which Russia reacted to repeated offers by the Western countries to make use of every imaginable alternative and loophole in order to increase the number of its weapons in the Caucasus region, while at the same time avoiding violations of the CFE Treaty, justified the conclusion that the forces in this region were to be radically restructured so as to adapt them to the new military doctrine and to the requirements of modern warfare.<sup>3</sup>

In July 1995 Russia presented NATO with new figures for its proposal of a temporary exclusion zone, which it had already introduced in February of that year in the Joint Consultative Group of the CFE states. A short time later the NATO countries rejected the establishment of such a zone but at the same time announced that they would make their own proposal in September for a solution of the problem. It provided for the exclusion from the northern and southern flank zones of five Russian areas (Pskov, Novgorod, Vologda, Volgograd, Astrakhan) and one Ukrainian one (Odessa)<sup>4</sup> but tied this to limitation measures and to additional rules on verification and information which were designed to meet the security concerns of other states in the affected regions.

Russia accepted this solution in principle but then, in October, came forward with another proposal of its own. The areas of Pskov and St. Petersburg were to be excluded from the northern flank and Volgograd, Krasnodar and Stavropol from the southern one. After a meeting with his American colleague, Perry, Defense Minister Grachev stated that the sides had reached a compromise according to which the area around St. Petersburg would remain in the northern flank but that the areas of Volgograd, Krasnodar, Stavropol and Rostov would be removed from the southern flank and assigned to the expanded central region. This compromise met with determined resistance within NATO from Turkey, and reservations were also expressed by the Baltic states and Finland; thus no solution of the problem was found by the end of the last reduction phase.

---

<sup>3</sup> Especially problematic for Russia was the stipulation that only 580 armoured combat vehicles could be stationed in active units in the flank region. This would scarcely have permitted equipping enough fighting units to ensure maneuverability and flexibility, which are particularly important in unsettled areas and in situations of civil strife.

<sup>4</sup> The Ukraine threw its support at an early stage behind the Russian demand for changes in the flank rules, pointing especially to the high costs associated with the transfer of military units. It accepted the NATO proposal.

Since 17 July 1994 the 30 States Parties have undertaken overall reductions of 18,295 battle tanks, 17,435 armoured combat vehicles, 9,349 artillery pieces, 2,096 combat aircraft and 249 attack helicopters. The total of 47,424 major weapons systems represents 95 percent of the reductions called for - not a bad result, even though a closer look at individual provisions of the CFE Treaty does reveal some highly dubious conduct which is obviously inconsistent with the Treaty. A number of countries, for example, in applying the counting rules set forth in Article III of the Treaty, made use of the option of declaring Treaty-limited equipment to be designated for export, thus reducing their reduction liabilities. In the most recent information exchange, Russia declared several hundred major weapons systems, most of them stationed in the flank zone, to be systems designated for removal from the area of application. But the Treaty contains no category that would permit such equipment to be excluded from reduction liabilities. Moreover, with regard to its holdings in the flank zone, Russia has not counted the weapons systems of the Marines and the Coast Guard, the equipment of a paratroop regiment with peacekeeping responsibilities or the Treaty-limited equipment in those areas which might, once the flank issue is clarified, be assigned to the expanded central region; as a consequence, it has, at least on paper, drastically reduced the surplus of major weapons systems in the flank zone. Apart from that, Russia has stationed forces on the territory of Moldova without obtaining the agreement of that country's government required by Article IV, Paragraph 5. Overall, however, Russia has fulfilled its mandatory reduction liabilities<sup>5</sup>, as has been emphasized by the Russian General Staff. The same cannot be said of Armenia, which has slightly exceeded its maximum levels for holdings, or of Azerbaijan and Belarus, which have exceeded theirs more substantially. The last two, however, have now started reduction programs to make their holdings consistent with the ceilings.

The Treaty provisions on exchange of information and other forms of notification have also created difficulties for some countries. Some required notifications have not been given and the deadlines for the annual exchange of information not met, and some of the information received has been inconsistent. The reasons for this, in most cases, were overburdened bureaucracies and/or difficulties in obtaining information from crisis areas. With regard to the Russian data on holdings in the flank zone, however, which were "prettified" to the level of almost 50 percent, these explanations were inadequate; in this instance a more serious problem had to be acknowledged.

---

<sup>5</sup> This statement is, however, only correct if the holdings of the Black Sea Fleet are not counted. Counting them would put both the Russian and Ukrainian holdings above the ceilings provided for in the Treaty.

Nevertheless, most of the information provided has stood the test of on-site inspection.

In view of this situation, the goal of the Joint Consultative Group of the CFE States Parties at its meeting on 17 November 1995 was above all to find a *modus vivendi* on the flank question, as Russia had made itself formally guilty of a breach of the Treaty on the previous day. The solution which was finally found represented a compromise between the Russian concern to have its desired changes acknowledged as legitimate and necessary and the West's primary goal of avoiding a formal change (requiring ratification) of the Treaty text, but it was not a solution of the real problem. Rather, all 30 CFE States Parties issued a joint declaration setting forth principles for the settlement of the flank problem based on NATO's proposal of fall 1995, i.e. providing for a reduction in size of the flank zone. Which areas should be withdrawn from the flank zone, the period of time Russia would be given to adapt its holdings to the ceilings of the new, smaller flank zone, and what additional measures should be applied to promote transparency in the affected regions, were questions which remained open for the time being but were supposed to be further negotiated in the Joint Consultative Group, until the CFE Review Conference in May 1996. Until that time, according to the agreed terminology, Russia was guilty of (only) a technical violation of the CFE Treaty.

#### *The CFE Review Conference from 15 - 31 May 1996*

According to the CFE Treaty, this first of the regular Review Conferences, to take place every five years, was to be devoted to a review of the implementation of Treaty provisions to date. Thus problems of implementation through the end of the last reduction phase were the focal point of the consultations. Once Russia, surprisingly, had agreed to the American-Turkish proposal of March 1996 for a reduction in size of the flank zone<sup>6</sup>, it was finally possible to reach agreement among all States Parties. Accordingly, Russia's flank zone is to be reduced by the area of Pskov in the north and by the areas of Volgograd, Astrakhan, part of Rostov, and a corridor to the maintenance depot in Kushchevskaya in the south. With regard to the Ukraine, Odessa is to be excluded from the flank zone. For the remaining Russian flank zone, ceilings of 1,897 battle tanks, 4,397 armoured combat vehicles and 2,422 artillery pieces - figures which correspond roughly to what the Russians presently have in active units and depots in the flank zone - will remain effective until 31 May 1999. After that the quotas will shrink to 1,800 battle tanks, 3,700 armoured combat vehicles and 2,400 artillery pieces.

---

<sup>6</sup> Surprising in the sense that this proposal scarcely differed from the last Western proposal of fall 1995 which Russia had rejected.

For the area of Odessa, the Ukraine will be allowed 400 battle tanks, 400 armoured combat vehicles and 350 artillery pieces. In addition, the Russian side has been granted the right to make the greatest possible use of the rules governing temporary deployment of major weapons systems and redistribution of the quotas between the successor states of the USSR.

These provisions are supplemented by an obligation on Russia's part henceforth to provide information on its holdings in the remaining flank zone every six months; indeed, for Kushchevskaya this information will have to be given every three months. The Ukraine will be required to give notice of any changes in the area of Odessa which exceed five percent. Russia has accepted ten additional inspections per year in the areas removed from the flank, the Ukraine one.

In a separate statement, the Russian government also gave assurances that the destruction or conversion of 14,500 major weapons systems which the USSR had withdrawn behind the Urals before Treaty signature would be continued and completed by the year 2000. In actual fact, Russia was supposed to have completed these reductions by the end of 1995 but objected repeatedly to the disproportionately high cost of the prescribed reduction methods and managed to meet only about a third of its liabilities by the deadline. Its concerns have now been met to the extent that in the future leaving equipment in the open air with raised hoods - in other words, simple decay - will under certain conditions be accepted as a reduction method. Another arrangement, which is a novelty not just in the CFE context, provides that if, despite good intentions, the destruction and conversion liabilities cannot be met a substitution rule taking into account the availability of financial resources may be applied.<sup>7</sup> The other States Parties which had not yet fulfilled their reduction liabilities joined Russia in giving assurances that they would soon implement the Treaty provisions pertaining to them.

The Final Document of the Review Conference contained, in addition, a compilation of Treaty details on whose interpretation and application agreement had been reached, a list of issues requiring further discussion in the Joint Consultative Group and a summary of the matters which had been discussed in the course of the two-week Conference (Annexes B, C, D). These three sections reflect above all the experience of those offices which have been concretely involved in implementation of the Treaty at the national or international level.

At the conceptual level - and here the Final Document goes beyond the actual objectives of the Conference - the Joint Consultative Group, immediately fol-

---

<sup>7</sup>

The Chairman of the Conference felt compelled to make a statement of his own pointing out that this action in no way prejudiced other arms control obligations. Cf. Final Document of the First Conference to Review the Operation of the Treaty on Conventional Armed Forces in Europe and the Concluding Act of the Negotiations on Personnel Strength, Vienna 15-31 May 1996, p. 19.

lowing conclusion of the Conference, is to begin laying out the scope and parameters of the process needed to adapt the CFE Treaty to the changed situation in Europe. Initial results and recommendations are to be ready for the OSCE Summit in Lisbon.

The subject of adaptation and modernization of the CFE Treaty was put on the agenda mainly under pressure from Russia, which had presented a detailed position paper in advance of the Conference. The relationship to possible NATO enlargement was unmistakable in it and it can be seen as an initial accommodation by the Western countries that they have departed from their rigid view that the CFE Treaty is not legally affected by NATO's Eastern enlargement at least to the extent of acknowledging a political connection between the two. At the same time there was a clear statement, according with Western interests, that the CFE Treaty will retain its validity until such time as any new measures and adaptations which may be necessary have entered into force.

#### *CFE Ia, Vienna Document 1994 and the Treaty on Open Skies*

The implementation of the Concluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in Europe took place largely without difficulties. Since signature, almost all States Parties have undertaken significant restructuring and changes in their force levels but given the nature of the Annex to the Concluding Act, which merely records ceilings declared by the individual states, these are largely in the discretion of those states. As far as is known, Azerbaijan is the only one which, according to the data in the exchange of information of November 1995, has exceeded its personnel limitations, but it corrected this error in the exchange of January 1996. Altogether, the States Parties have reduced the personnel strength of their conventional armed forces by substantially more than one million men, as was noted with satisfaction by the CFE Review Conference in May 1996 - a success, however, which is attributable less to the effectiveness of the Concluding Act than to the budgetary constraints in which the States Parties find themselves. As was the case with the CFE Treaty, it has been primarily the smaller former Soviet Republics which have had difficulty fulfilling the requirements of the Vienna Document 1994 calling for annual exchanges of military information and for information on their defense planning. To put it another way, the implementation of these provisions has been unsatisfactory even though, all in all, a positive trend is discernable. Another trend which has lately become stronger is the small amount of military activity subject to notification and observation. There are various reasons for this (reduced presence of armed

forces, simulation of training scenarios, financial problems, etc.) but one primary effect: the significance of this classic CSBM (Confidence- and Security-Building Measure) has, as was accurately noted in the last Annual Disarmament Report of the German Federal Government, been "(...) to a large extent offset and covered over by a large number of other, more modern measures".<sup>8</sup>

Among these measures is the inspection of certain areas. In 1995 there were altogether 23 inspections which, in comparison with previous years (twelve in 1993 and 20 in 1994) represents a further increase and at the same time shows that these inspections are increasingly being used as a substitute for the other verification measure mentioned, the review. Reviews have the purpose of verifying the data provided on military forces and units. Even though this technique remains an important element of Treaty implementation, considering that there were 60 reviews in 1995, it is obvious that the figures have sunk in recent years along with the reduction of forces. It is particularly the Western states which have made use of the review option. The similarity to developments in connection with the implementation of the CFE Treaty's inspection regime is no coincidence. The reasons are the same: in terms of both money and personnel, the smaller countries, particularly those from the area of the former Soviet Union, are scarcely able or simply unable to implement complex Treaty provisions or even to make active use of their rights. An added factor is that many of them no doubt take a different view of the necessity of these expenses than do the Western countries.

There has been little progress in implementation of the Treaty on Open Skies. Contrary to what many observers expected, Russia, Belarus and the Ukraine have still not ratified the Treaty, thus continuing to delay its entry into force. Even the initiative of a number of Western states to permit more overflights on a voluntary basis has not eased or accelerated the ratification process in those countries in any decisive way.

Nevertheless, work in the Consultative Group of the States Parties has continued. One important result was the agreement to establish a central data bank in Budapest. Bilateral test observation flights have been the essential means of keeping the Treaty alive, and will continue to be until its entry into force. For this purpose Germany, in April 1995, put a Tupolev 154M into service which has already been used to carry out observation flights over Russia, the Ukraine and Poland. It is to be hoped, however, that this path

---

<sup>8</sup>

Bericht zum Stand der Bemühungen und Rüstungskontrolle und Abrüstung sowie der Veränderungen im militärischen Kräfteverhältnis, cited above (Note 2), p. 33.



breaking Treaty<sup>9</sup>, which is highly innovative in the arms control field, can before long move such overflights from a voluntary to a more formal basis.

### *Implementation - and then?*

It is not without good reason that recent years have been described as the era of arms control implementation.<sup>10</sup> If we take into account the military and political changes and upheavals, it can be viewed as a real success that the most important arms control provisions have for the most part been put into effect. On the other hand, there are more and more unmistakable signs that the adaptation of arms control or of the arms control concept to new circumstances has only partially succeeded, while its urgency has increased.

Arms control is not an end in itself, nor is its implementation. The less existing arms control agreements reflect the political reality (as well as the realities of crises, wars and armaments) in Europe, the more difficult it will become to understand pressure for strict observance and implementation of treaties. So far, however, conflicts at a low level of military technology are covered no more effectively by existing treaties than is the tendency to employ high technology as a force multiplier for the armed forces of the future. NATO's eastward enlargement is also throwing a long shadow, but there has so far been no indication of a clear concept for dealing with its implications, including those related to arms control. That is not surprising because a number of vital questions concerning the building of European security relationships are in play. How should the relationship to Russia be developed in the future? What role will be assigned to the United States, to the alliances and to other international organizations?

Without an answer to these questions there will be no basis for planning and defining the new functions of conventional arms control. The anticipated adaptation or modernization of the CFE Treaty will at best provide solutions for a part of the problems discussed here relating to security, armaments and arms control. CFE I can establish force levels and can serve as a point of reference for sub-regional or as a basis for pan-European arms control; it might even be possible to use the Treaty as a basis for some kind of compensation for Russia in view of NATO's eastward enlargement. But it will not alone be enough to get the qualitative arms race under control or to come to terms with the changing nature of war. Rather, this will call for a broad arms control approach, founded on an overarching concept of security policy which

---

<sup>9</sup> Cf. Jörg Wallner, Das Open-Skies-Regime [The Open-Skies-Regime], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 321-330.

<sup>10</sup> Cf. Lachowski, cited above (Note 1), pp. 710-739, in this case: p. 710.

aims more at the political thinking and behavior of the most important participants than at their military potential, but which might also call for self-imposed limitations by the West. It will be interesting to see whether the consultations of the OSCE countries on a new framework for arms control will lead to agreement on these matters.

## The Significance of Regional Arms Control Efforts for the Future of Conventional Arms Control in Europe, Exemplified by the Arms Control Negotiations in Accordance with the Dayton Agreement

### *The Discussion of Regional Arms Control in the Forum for Security Cooperation*

Since the end of the East-West conflict, the biggest security risks in Europe have perhaps resulted from regional crises. Recent years have shown how quickly national or ethnic tensions, often further complicated and sharpened by religious, social or economic factors, can degenerate into open conflict. And we have discovered how great is the danger of such conflicts expanding, particularly in parts of Eastern and Southeastern Europe. We can see the terrible consequences in Bosnia and in the Caucasus as well: war, expulsion and economic decline.

Viewed from a strategic standpoint, however, Europe appears more secure than ever before. The danger of a nuclear conflict has been virtually eliminated. Nor are we any longer exposed to any immediate strategic threat by conventional armed forces.

The pathbreaking arms control treaties concluded during the period of great change in Europe have contributed substantially to this situation. Through implementation of the Treaty on Conventional Armed Forces in Europe (CFE) approximately 50,000 heavy weapons systems have been eliminated. The capacity for surprise attacks and large-scale offensive actions has been eliminated. The CFE Treaty and such agreements as the Vienna Document and the Treaty on Open Skies (which has not yet entered into force) have laid the groundwork for an unprecedented development toward transparency, trust and cooperation. Military confidence- and security-building has in recent years contributed greatly to the normalization of relations between erstwhile opponents. However, until the peace negotiations on Bosnia and Herzegovina in the fall of 1995 arms control did comparatively little to solve the newly erupted *regional* problems, if bilateral agreements on confidence-building measures are excepted. Such measures should not, however, easily be equated with a gain in security for *all*; they can also have the purpose of forming an alliance at the expense of a third party.

We have long been aware of the potential value of "regional tables" at which regional security matters are discussed and regionally applicable measures

for confidence-building and arms control can be negotiated. At the same time that the OSCE's Forum for Security Cooperation (FSC) was established at the CSCE Summit in Helsinki in 1992, a "Programme for Immediate Action" for the FSC was adopted which, among other things, provides for working out regional measures, "including, where appropriate, reductions or limitations". This tasking of the FSC was confirmed by successive CSCE/OSCE Summits and Ministerial Councils, emphasis being placed on efforts to stabilize Southeastern Europe.

There is agreement in the FSC on the nature of regional measures. They should be "custom tailored" and should complement other arms control regimes in the OSCE area. They should concern themselves with concrete problems in a definable area. They may not harm the security of other OSCE States but should, if possible, enhance it. They can be used preventively or in the aftermath of a conflict. Theoretical approaches to regional Confidence- and Security-Building Measures (CSBM), based mainly on alteration of the parameters for the CSBMs contained in the "Vienna Document", have also been introduced in the FSC; they assumed small units and areas rather than large units and movements over big territories. Strategy and "option" papers were drawn up for Southeastern Europe listing possible arms control measures to stabilize the region, arranging these by chronological phases and evaluating them. These discussions in the FSC represented valuable preliminary work for the negotiations on arms control in the former Yugoslavia which took place in the framework of the peace talks beginning in October 1995 in Dayton, Ohio, and later on the Petersberg near Bonn and in Vienna. Apart from that, however, the discussion on regional measures has so far produced scarcely any concrete results.

There are a number of reasons for this. There is unmistakeable suspicion in the affected countries that their participation in regional tables might hurt their existing or hoped-for security relationships with third countries. NATO members are afraid of being "singled out" in the Alliance. NATO "candidates" suspect that the membership they seek might be prejudiced in a difficult phase of adaptation or that regional regimes might come to be seen as a satisfactory "substitute" for admission into the Alliance. Still other countries, even if they are not aiming at NATO membership, fear a decoupling from the United States, along with consequences for the global strategic balance which ultimately provides the basis for their own security as well. Related to that is the suspicion in these countries that they could be forced into an unwanted role as guarantor, a role which they could not in any case fulfill. Considerations such as these play a big part in the widespread skepticism in Scandinavia about a regional table in the Baltic area.

There is also a fear of the consequences for existing arms control treaties. Thus the decision of the OSCE Ministerial Council on Bosnia and Herze-

govina of 8 December 1995, states expressly with regard to the regional arms control negotiations provided for in the Dayton Agreement (see below) that rights and obligations, including ceilings, already fixed in connection with multilateral treaties, are to be respected.

Wherever there are small countries alongside an extremely powerful neighbor, efforts at regional arms control must take account of fears that the establishment of a regional table could provide that neighbor with a vehicle for carrying out possible hegemonial schemes. The question of some kind of lasting involvement of states from outside the region is therefore of special importance to the small countries.

Political psychology should not be underestimated. Countries occasionally do not want to be assigned to a certain region. Slovenia, for example, regards itself as a Central European country, not as Southeast European and certainly not as "Balkan". There are similar views in other countries.

There is a prevailing view in the OSCE that arms control initiatives should, ideally, come "from the region itself". But some of the newly-arisen small countries have very limited experience in this field. And so it is possible that the contribution which confidence-building and arms control can make to the improvement of general political relations has still not been fully recognized everywhere.

As a consequence, the general stagnation of regional arms control could not be overcome until the conclusion of the peace agreement for Bosnia and Herzegovina in fall 1995.

#### *Before the Dayton Peace Negotiations*

When in the summer of 1995 the possibility of a peaceful settlement of the conflict in Bosnia and Herzegovina began to take shape the Federal German government actively introduced the subject of arms control into discussions in the OSCE, NATO and the Contact Group. The underlying thought was that lasting stabilization in the former Yugoslavia and in Southeastern Europe generally could only be achieved if, along with settlement of the political issues, a process of military confidence-building was set in motion and limits on military strength could be agreed to. Owing to the risk of a regional arms race and an undermining of the CFE Treaty, this process should at an appropriate time include the neighboring countries (which unlike the states of former Yugoslavia have in their majority adhered to the CFE Treaty).

The challenge was a complicated one. Stability and a balanced military situation were to be established in three geographic areas, resembling concentric circles:

- *within Bosnia and Herzegovina*, where the Bosnian Serbs had far more weapons at their disposal than did the Federation;
- *between the states concerned by the war*, i.e. the Republic of Yugoslavia, Croatia and Bosnia and Herzegovina (where, once again, the internal relationships in Bosnia had to be considered); here, an imbalance in favor of Yugoslavia characterized the situation at the beginning;
- *between these states and their neighbors*. A special difficulty here was that neither former Yugoslavia nor Albania had subjected themselves to any limitations on the weaponry or the personnel strength of their armies, while Hungary, Bulgaria, Romania, Greece and Turkey belong to the CFE Treaty and the CFE Ia Agreement which impose limitations on both weapons and personnel.

In view of the hatred and bitterness among the people in former Yugoslavia and considering also the unpredictability of political developments, the preliminary discussions on establishing an arms control regime, rather theoretical in nature for lack of any clear peace outlook, assumed that the arms control negotiations would first deal with Confidence- and Security-Building Measures (CSBM) and only later include arms limitations and possibly also disarmament measures. This was in line with the notion that arms control is a process that can only proceed successfully on the basis of established trust and which moves from the relatively "simple" measures involved in confidence-building to more complex arrangements (arms limitations) and finally to the most difficult task (disarmament).

Even before the Dayton talks began it became clear that there was no time for a slow, "textbook" approach of this kind. Rather, it was important to use the political momentum to obtain confidence-building, arms control and disarmament insofar as possible at the same time, or at least in close chronological order.

At the meeting of the NATO Defense Ministers on 5 October 1995 in Williamsburg the American Secretary of Defense, Perry, picked up on a point which the Federal German government had repeatedly emphasized since summer 1995: a peace settlement, Perry said, must include an obligation undertaken by the parties to the conflict to enter into negotiations on arms control. The goal would be a reasonable balance of military strength between the parties, preferably one achieved by reductions. If it were not achievable through negotiations, however, the United States stood ready to assist the Bosnian government forces. Without this clear American position on the precedence of disarmament, successful arms control negotiations in Dayton would have been unthinkable.

The participants in the peace negotiations for Bosnia and Herzegovina in Dayton, Ohio, in October and November 1995 were, in addition to the five Parties (Federal Republic of Yugoslavia, Croatia, the Bosnian Central Government, the Federation of Bosnia and Herzegovina and the Serbian territory in Bosnia and Herzegovina, Republika Srpska): the five states of the Contact Group (Germany, France, Great Britain, Russia, the United States); Spain, which held the Presidency of the European Union; Carl Bildt, as the mediator of the European Union; and Hungary, as the OSCE Chair. The Bosnian Serbs were not at the negotiating table, however, but were represented by the Yugoslav government. Germany, like the other members of the Contact Group with the exception of the United States, was represented only by a small delegation. The working out of the arms control portion of the peace agreement was pushed ahead mainly by the United States and Germany.

After extraordinarily difficult and dramatic negotiations, the peace agreement for Bosnia was initialed on 22 November in Dayton and signed in Paris on 14 December. The General Framework Agreement regulates the relationship of the Parties to one another in accordance with international standards (Charter of the United Nations, Helsinki Final Act), including the requirement that the sovereign equality, territorial integrity and political independence of Bosnia and Herzegovina be respected. This General Framework Agreement has eleven Annexes.

Annex I-B ("Agreement on Regional Stabilization") includes the following stipulations which are important for arms control:

1. Four strands of negotiation on arms control:
  - a. Negotiations between the parties to the conflict in Bosnia and Herzegovina (Central Government, Republika Srpska, the Federation of Bosnia and Herzegovina) on Confidence- and Security-Building Measures (Art. II); to begin within seven days after Treaty signature; first agreements within 45 days;
  - b. Negotiations between all five Parties on the limitation of offensive weapons in accordance with the five categories of the CFE Treaty (Art. IV): tanks, armoured combat vehicles, artillery (from 75 mm caliber; CFE Treaty: from 100 mm), attack helicopters, combat aircraft; verification with OSCE support; begin negotiations within 30 days of signature of the Peace Agreement, conclude them within 180 days; if no agreement on limits has been reached within 180 days the ones set forth in the Treaty will apply;

- c. negotiations between all Parties on limitation of military personnel (Art. IV); negotiations to begin within 30 days after signature of the Peace Agreement, open ended;
  - d. negotiations between all Parties and (unnamed) neighboring states on the establishment of a "regional balance in and around the former Yugoslavia", under the auspices of the OSCE Forum for Security Cooperation; no time frame (Art. V).
2. For the event that the negotiations produced no generally acceptable solution on arms limitations the Agreement provided for establishing ceilings between the Federal Republic of Yugoslavia, Croatia and Bosnia and Herzegovina in the proportion of 5:2:2 - more or less in accordance with population - with the Bosnia and Herzegovina share divided on a 2:1 basis between the Federation and Republika Srpska. The current level of Yugoslav armaments, declared by Belgrade, verified with the assistance of the OSCE and then reduced by 25 percent, were to serve as a basis for calculation.
  3. Limitation of weapons imports (Art. III): the arms control negotiations were tied to the lifting of the arms embargo. Thereafter, the importation of all categories of weapons into the territory of former Yugoslavia would continue to be prohibited for the first 90 days after the arms embargo was lifted (until 13 March 1996). During the following 90 days or until conclusion of the Art. IV Agreement (14 June 1996), the importation of weapons up to 100 mm caliber was permitted; since that time the importation of heavy weapons has been allowed only within the established limits. Security Council Resolution 1021 of 22 November 1995, providing for a phased lifting of the arms embargo, reflects these provisions. The danger of an arms race was thus turned aside.
  4. OSCE support for the negotiation, implementation and verification of the named agreements (Art. IV,4 and V).

The establishment of limits as a fall-back position, the time requirements set for the negotiations and their being tied to the lifting of the arms embargo were all important conditions for rapid and success-oriented negotiations.

*The "Petersberg Conference on Confidence-Building and Disarmament" on 18 December 1995*

The negotiations on confidence-building in Bosnia and Herzegovina in accordance with Annex I-B, Article II, and on limits on heavy weapons and military personnel in accordance with Article IV, were opened in Bonn on 18 December 1995, only four days after signature of the peace treaty, by



invitation of Foreign Minister Kinkel at the "Petersberg Conference on Confidence-Building and Arms Control". 32 governments were represented, half of them at the ministerial level, as well as organizations such as the OSCE and NATO. The remaining OSCE States participated as observers. This "kick-off conference" provided the Parties with a vivid demonstration not only of Germany's interest but that of the entire community of states in arms control in the former Yugoslavia. This had a positive effect on the negotiations in the ensuing period.

Apart from the delivery of this political signal, agreement was reached at the Petersberg Conference on the modalities of the negotiations. In addition to the Parties, the Contact Group, the EU Presidency, and the OSCE Chair were to take part in the negotiations. The "Personal Representatives" of the OSCE Chairman (Ambassador Gyarmati of Hungary for "Article II"; General Eide of Norway for "Article IV") were designated as negotiation leaders. A reporting responsibility vis-a-vis the OSCE was established and a negotiating "route" laid out. The principle of verification of the agreements once concluded was reaffirmed.

The negotiations were then carried on in Vienna, under the roof of the OSCE although not formally integrated into its organizational structure.

*The "Agreement on Confidence-Building in Bosnia and Herzegovina"*  
(Article II)

The negotiations on Confidence- and Security-Building Measures in Bosnia and Herzegovina were completed within the prescribed time on 26 January 1996, after only 45 days. The voluminous Agreement (86 pages including seven Annexes) between the Bosnian Central Government, the Federation of Bosnia and Herzegovina and Republika Srpska is based on the "Vienna Document on Confidence-Building" whose CSBMs, in modified form, were taken over in their full range. An additional basis is provided by the requirements set forth in Annex I-B (e.g. monitoring of weapons manufacturing) and by the CFE Treaty, whose strict verification regime served as a model.

The Agreement, which entered into force upon signature, provides for fifteen confidence-building measures, in particular an exchange of information on heavy weapons, personnel strength and command structures broken down by units up to the level of brigade and independent battalions; the exchange of information on weapons manufacturing, the importation of weapons, military training and defense expenditures and planning; limitations on deployment of heavy weapons; limitation and observation of military activities; a program of military contacts; the establishment of military liaison offices; the establishment of a Joint Consultative Commission and creation of a

comprehensive verification regime. In principle all of the data exchanged is to be verifiable on-site. The leading role assigned to the OSCE was innovative in two particular areas:

a. In verification: International teams including representatives of the Bosnian Parties are to be entrusted with verification responsibilities at the latest by the end of 1997. In setting up a verification regime and putting together the teams, the Personal Representative is to take the lead. The inspection teams will have up to nine members of whom at least three will belong to the so-called "lead nation", i.e. the country to which, in view of the Parties' lack of know-how, the direction of the inspection has been assigned. The "lead nations" in the initial inspections were France and Germany. Altogether, ten OSCE countries served as "lead nation" and 15 additional OSCE States provided associate inspectors for verifying the data exchanges between the three Parties during the "Baseline Validation Period" (1 March - 30 June 1996) during which there was a particularly large number of inspections - a model of international cooperation.

b. As mediator: In disputes between the Parties, mediation is expected first and foremost from the OSCE. In the Joint Consultative Commission, which includes no countries except the Parties (not even the Contact Group states), the Personal Representative will hold the Chairmanship until the end of 1997.

The Article II Agreement was a new challenge for the OSCE. But it provided an opportunity to demonstrate the Organization's competence in the (cooperative) implementation of arms control agreements, thus giving new vigor to the process of arms control in all of Europe. The OSCE made use of this opportunity.

#### *The "Agreement on Sub-Regional Arms Control" (Article IV)*

The negotiations on the limitation of heavy weapons and military personnel turned out to be more difficult than the Article II negotiations. The biggest problems did not stem from arms control as such but were of a general political nature. There was controversy over the status of both Bosnian "entities"; and reservations were expressed over the OSCE's participation in verification. The example of the CFE Treaty, which subjects the Contact Group countries to strict inspection rules, made it easier for the Parties to accept a comparably strict regime.

The voluminous agreement on the limitation of heavy weapons and military personnel (87 pages, including six "Protocols" and five unilateral statements of the Parties on military personnel limitations) between the Bosnian Central Government, the Federation of Bosnia and Herzegovina, Republika Srpska,

Croatia and the Federal Republic of Yugoslavia - an agreement that had taken six months to negotiate - was signed during the "Peace Implementation Conference" in Florence on 14 June 1996 and thereupon entered into force. Owing to differences over the status of the two Bosnian "entities", which lasted almost until the time of signature, the deadlines established at Dayton and at the Petersberg Conference could not be fully met.

The Agreement is to a large extent modelled after the CFE Treaty. The most important provisions include the establishment of limits for the five weapons categories of the CFE Treaty, whereby the relationship of 5:2:2 (2:1) set forth in Annex I-B was consistently applied and the weapons belonging to paramilitary forces were in principle included; a comprehensive exchange of information; an intrusive verification regime; a relatively short reduction period, in two phases - about a third of reduction liabilities must be completed by the end of 1996 and by the end of October 1997 all of them must have been carried out; unilaterally declared limitations for military personnel; participation of the Personal Representative and of third countries in the implementation process.

At the request of the Parties, representatives of third countries can be asked to assist in verification until the end of the reduction period (31 October 1997). The Personal Representative will coordinate such missions. He will hold the Chairmanship of the Joint Consultative Commission until the end of 1996. Thereafter he will be an ordinary member.

The conclusion of the Article IV Agreement signifies the completion of another important step toward security- and confidence-building between the Dayton Parties. The danger of an arms race has been turned aside. The process of confidence-building, having begun, will be continued. The regular exchange of military information and inspection visits will create transparency. On the basis of *provisional* figures the stocks of heavy weapons of the three Parties must be reduced in the next sixteen months by 5,000 or 6,000 systems from the present level of about 15,000. The largest part of this is artillery, the major weapons system of the earlier war. The "growth potential" was limited to 770 systems. It is mainly tanks and armoured combat vehicles that are involved here.

The bottom line is that the stocks of heavy weapons in the region, according to these figures, will be reduced by about a third. When reductions are complete, *all* Parties will have fewer weapons than before. However, while the Federation and Croatia, apart from their substantial reduction liabilities in artillery systems, have some growth potential in tanks and armoured combat vehicles, the Federal Republic of Yugoslavia and Republika Srpska must reduce tanks and combat aircraft to a substantial degree, as well as artillery. This is a good result which hardly anyone would have expected a year ago. We must expect problems in implementation, however.

### *The German Role since the Petersberg Conference*

As a member of the Contact Group, Germany has participated steadily in the negotiations in Vienna. It has contributed to the good results through substantive proposals and through persuasion on all levels. In addition, Germany offered at an early stage to supply expertise. The expert negotiations on verification and reduction issues were led by the German General Oldigs. The Centre for Verification Tasks of the *Bundeswehr* participates in inspections in the Treaty area and in the training of arms control specialists from the Parties.

### *The Negotiations on the Establishment of "a Regional Balance in and Around the Former Yugoslavia" (Article V)*

With the conclusion of the Art. IV Agreement the most important condition for the regional arms control negotiations "with the goal of establishing a regional balance in and around the former Yugoslavia", foreseen in Annex I-B Art. V, has been fulfilled. The most important objective of these negotiations will be to embed the results of the Article II and Article IV negotiations in a larger regional context and to stabilize them. This is all the more important because the role of the OSCE in the implementation of the Article II and IV Agreements will over the medium term become less significant. The Article IV Agreement's structural similarity to and substantial equality with the CFE Treaty, along with the comparable limits, provide a good basis for integration into a surrounding area where arms control has been largely determined by the CFE Treaty.

According to Annex I-B the Article V negotiations are to take place "under the auspices of the OSCE Forum for Security Cooperation" (FSC). No decision has yet been made about participation, substance or schedule.

### *Dayton: A Model for Regional Arms Control Regimes?*

In view of the unpredictability of developments in the former Yugoslavia as well as the fact that arms reductions have not yet begun and negotiations in accordance with Article V must still be held, it is impossible at the present time to make more than a provisional evaluation of the arms control process in accordance with the Dayton Agreement.

Despite a number of complicating factors - e.g. the suddenness of the transition from war to peace, difficulties inherent in the overall political development, the hatred that exists in parts of the population and their readiness as a

result to engage in conflict - the arms control process in the aftermath of Dayton has so far followed a successful course.

A number of factors have contributed to this. The involvement of the international community of states should certainly be mentioned first. With the participation of the United States and Germany, Dayton had two important advocates of arms control. And even afterwards the importance of the issue was again and again made clear to the Parties; and hand in hand with this, there was the offer of the Contact Group and other countries to provide concrete assistance in the negotiations and in the implementation of their results. It is natural that the presence of the community of states in Bosnia and Herzegovina, beginning with IFOR, also promoted the negotiations in Vienna. Putting the process under the auspices of the OSCE gave additional legitimacy to the efforts of the community of states. That the conflict was clearly limited, actually and geographically, also had a favorable effect as did the example of the CFE Treaty; in essence, all that was being asked of the Parties in the Article IV negotiations was that they assume obligations which the majority of the OSCE community had long since assumed through the conclusion of the CFE Treaty.

Political conditions in other parts of Europe are completely different from those in former Yugoslavia. In most cases the contribution which arms control can make to regional confidence-building and conflict settlement - whether in the Mediterranean or Baltic areas, in the Caucasus or even in Central Asia - are likely to be of a preventive nature and not involve post-conflict measures as has been the case in former Yugoslavia. As a rule the most appropriate approach would be an orthodox one: CSBMs first and "hard" arms control only later.

It is thus an open question to what extent the experience garnered in the Dayton process can be used as a model. But there is one particular aspect that seems to me promising for the future - the participation of the OSCE and of third countries in a cooperative approach to implementation. This is an approach that we should continue to pursue.



## Principles Governing Conventional Arms Transfers

### *Introduction*

#### *Helsinki: 1975 and 1992*

The signing of the Helsinki Final Act by the Heads of State or Government of the participating States of the CSCE in 1975 put in motion a process of stabilizing security in Europe through ten principles that would guide the behavior of states, including their attitude towards human rights.<sup>1</sup>

During the CSCE Review Conference and the preparations leading up to the CSCE Summit in Helsinki in 1992 new ways and means were discussed to meet the new challenges in Europe stemming from the end of the Cold War. The negotiations resulted in the Helsinki Document 1992: "The Challenges of Change". In this document, the participating States expressed - amongst others - their commitment "to give new impetus to the process of arms control, disarmament and confidence- and security-building, to the enhancement of consultation and co-operation on security matters and to furthering the process of reducing the risk of conflict".<sup>2</sup> To this end participating States agreed upon a Programme for Immediate Action, to be worked out in the Forum for Security Cooperation (FSC) and its working bodies (the Special Committee and the Working Groups).

#### *Programme for Immediate Action*

In the Programme for Immediate Action (PIA) participating States decided to give early attention to "Arms Control, Disarmament and Confidence- and Security-Building", "Security Enhancement and Co-operation" and "Conflict Prevention". In the framework of the PIA many measures have been negotiated from 1992 onwards. The most detailed agreement is a set of confidence- and security-building measures: the Vienna Document. Twice this document has been further developed and improved, the latest being the Vienna Document 1994.<sup>3</sup> Included in this document is a chapter on Defence Planning.

---

<sup>1</sup> Final Act of Helsinki, Helsinki, 1 August 1975, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972 - 1993*, Dordrecht/Boston/London 1993, pp. 141-217, here: Declaration on principles guiding relations between participating States, pp. 143-149.

<sup>2</sup> CSCE Helsinki Document 1992: *The Challenges of Change*, in: Bloed (Ed.), cited above (Note 1), pp. 701-777, here: p. 706.

<sup>3</sup> Reprinted in this volume, pp. 431-482.

Other documents agreed within the PIA are:

- Code of Conduct on Politico-Military Aspects of Security;
- Global Exchange of Military Information;
- Stabilizing Measures for Localized Crisis Situations;
- Principles Governing Non-Proliferation;
- Principles Governing Conventional Arms Transfers.

All these documents are agreed by consensus, which means that they - inevitably - contain compromises. Furthermore, they are politically binding (as opposed to legally binding like e.g. treaties). As a result, the impact of the measures varies. Most progress in this regard has been accomplished with the Vienna Document, which recently has shown its value in the successful negotiations on military confidence-building measures in Bosnia.

#### *Multilateral Non-Proliferation Regimes*

In the PIA the importance of "co-operation in respect of non-proliferation" is underlined twice, in Section A (Arms Control, Disarmament and Confidence- and Security-Building), paragraph 5, and Section B (Security Enhancement and Cooperation), paragraph 9: "Co-operation in respect of the strengthening of multilateral non-proliferation regimes, including the transfer of sensitive expertise, and the establishment of a responsible approach to international armaments transfers".<sup>4</sup> This text has encouraged participating States to negotiate and adopt two norm-setting documents: "Principles Governing Conventional Arms Transfers" (November 1993) and "Principles Governing Non-Proliferation" (December 1994). This article will describe the negotiating process of the document on conventional arms transfers and will devote attention to the follow-up within the OSCE, in particular a seminar held in Vienna to further the implementation of the principles and identify problem areas.

#### *Principles Governing Conventional Arms Transfers*

##### *Negotiations - History*

At an early stage (in November 1992) a draft on "Non-Proliferation and Arms Transfers" was presented on behalf of 24 participating States, including the 16 members of NATO. In preparation of the Ministerial Council Meeting in Stockholm in December of that year, however, part of the propos-

---

<sup>4</sup> Helsinki Document 1992, cited above (Note 2), p. 741.



al was used for a Ministerial Statement in which the quick accession to the Non-Proliferation Treaty was one of the key issues. Furthermore, in February 1993, the FSC's Special Committee decided that participating States would not only commit themselves to submit their data on imports and exports to the UN Register on Conventional Arms, but also to circulate copies of that information in Vienna amongst CSCE delegations.

From then on, the subject of conventional arms transfers was treated separately from other non-proliferation issues. The United States of America proposed to organize a special meeting of the Forum for Security Cooperation which would concentrate solely on this particular item. This proposal was adopted and a special meeting took place on 17 and 18 March 1993. During this meeting most participating States explained their national approach to conventional arms transfers and it soon became clear that specific CSCE action would be advisable.

At the same time the European Union (EU) - then still 12 members - was working on "Principles Governing Conventional Arms Transfers" on the basis of then already existing texts. After some informal discussion in Vienna, agreement was reached to present the EU text as a new proposal for this subject on behalf of 23 participating States (the twelve EU plus eleven co-sponsors). Negotiations within the CSCE started in July 1993 under the chairmanship of the UK representative, Alan Huckle, and were successfully concluded on 25 November 1993, when the document was adopted by the FSC's Special Committee.

#### *Negotiations - Sensitivities*

The negotiations on the document "Principles Governing Conventional Arms Transfers" have not been easy. The commercial interest in this subject is evident: together the OSCE participating States are responsible for about 90 percent of the total quantity of international conventional armaments transfers. There were significant differences of opinion between the "moralistic" and the "pragmatic" countries. A number of participating States (especially in Central and Eastern Europe) did not (yet) have a national policy concerning conventional arms transfers.

However, because of these difficulties, it is all the more noteworthy, that the (then) CSCE was able to conclude in a relative short period of time a politically binding document which contains guidelines for a subject as sensitive and important as conventional arms transfers. After adoption of the text by the Special Committee in November 1993, Interpretative Statements were made by three delegations, namely Sweden, Poland and France.

Sweden stressed the point that export of military equipment from Sweden is prohibited unless the government waives the prohibition and issues, on a case

by case basis, an export permit. Furthermore, it was stated that Sweden would have liked to see more strict and compelling guidelines concerning the control of transferred arms. The respect for human rights in the recipient country is seen by the Swedish government as an essential condition for the granting of a licence to export military equipment.

Poland agreed in its statement to the consensus on this document, which it considered a very important contribution to stability in Europe and beyond. However, Poland felt many significant provisions of the document to be too general in nature and therefore favoured in future efforts to achieve a common and more specific interpretation of the present provisions.

France clarified in its statement its understanding of a number of notions contained in the document regarding French practices with respect to conventional arms transfers.

#### *Follow-up of the Document on "Principles Governing Conventional Arms Transfers"*

The purpose of the document "Principles Governing Conventional Arms Transfers" is to enhance transparency. Together with the UN Register of Conventional Arms it introduces greater openness and makes it easier for the international community to monitor excessive arms build-ups in any one country.

In order to ensure proper implementation of the "Principles" the EU stressed on 23 March 1994 the importance of the commitment of the participating States to cooperate in respect to non-proliferation in a broad sense. As far as conventional weapons were concerned, participating States were urged to supply data to the UN Register of Conventional Arms and to circulate them amongst CSCE delegations. Furthermore, the EU suggested holding a seminar on the implementation of the "Principles", i.e. the commitment to "reflect, as necessary, the principles (...) in its national policy documents governing the transfer of conventional arms and related technology"<sup>5</sup> as well as the commitment to exchange information within the FSC on national legislation and practices, including mechanisms to control conventional arms transfers.<sup>6</sup>

---

<sup>5</sup> Principles Governing Conventional Arms Transfers, 1993, chapter III, paragraph 5a, in: FSC Journal 49/1993.

<sup>6</sup> Cf. *ibid.*, paragraph 5c.

### *Budapest Summit 1994*

The idea of a seminar on this subject was generally welcomed, but delegations felt - in the spring of 1994 - it would not be feasible to organize an OSCE-wide seminar before the CSCE Review Conference, which would start in early October 1994, in preparation of the Summit in Budapest. This meant that the follow-up would have to be pursued as soon as possible in 1995.

One of the decisions of the Budapest Summit (December 1994) concerned the future tasks of the CSCE Forum for Security Cooperation. Apart from the continuation of the FSC's work in accordance with its mandate, it should develop new approaches to the items therein and to a framework for arms control. The FSC "will give increased attention to the improved *implementation of existing CSCE commitments* relating to confidence- and security-building".<sup>7</sup> The plan to organize a seminar on conventional arms transfers was perfectly in line with the Budapest decision to devote increased attention to implementation issues.

#### *Preparation of the Seminar on Principles Governing Conventional Arms Transfers*

In January 1995 the EU, at the request of the Netherlands, held its first coordination meetings on the preparation of the reintroduction of the proposal to organize a seminar on conventional arms transfers as a follow-up to the document that was agreed upon by participating States in November 1993.

The focus of the seminar would be on the exchange of information and experience regarding the implementation of the "Principles" in national laws, regulations and practices and on the mechanisms to control armaments transfers. Such an exchange would be mutually beneficial and identify different ways of implementation in view of the general nature of the "Principles".

Apart from a discussion on the agenda and modalities, the EU also debated the desirability of a questionnaire, to be sent to participating States well in advance of the planned seminar. The responses to the questionnaire could then be used by the delegations while preparing for participation in the seminar. It was decided that the draft questionnaire of the United Kingdom would be used as a basis for discussion. The questions were related to the policy and procedures of participating States for the export of conventional arms and related technology, including national legislation, licence applications, control lists, enforcement, etc. The agenda of the seminar followed the questionnaire closely.

---

<sup>7</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p. 92 (emphasis added by J.v.V.).

The proposal to hold a seminar and send out a questionnaire was eventually introduced in the FSC on 29 March 1995 and a decision was taken on 26 April 1995. The seminar took place on 20 and 21 June 1995.

#### *The Seminar*

For two days experts in the field of conventional arms transfers from most OSCE participating States debated ways and means to give further impetus to the document "Principles Governing Conventional Arms Transfers". Responses to the questionnaire were provided by 28 participating States. On the first day the main issue was: *Discussion on the implementation requirements contained in the OSCE-document "Principles Governing Conventional Arms Transfers" with a focus on transfer of knowledge and experience on export law, control lists, licences and enforcement practices and procedures.*

Regarding the sub-item on *export control law*, delegations concluded that countries with economies in transition were faced with special difficulties in passing effective national legislation. Cooperation in this respect with other OSCE participating States could prove useful. In order to enhance transparency and democratic control, it was felt desirable that all guidelines governing conventional arms transfers in OSCE States be published nationally and that such publication become standard in all participating States.

As for *control lists*, delegations stressed that duplication of efforts should be avoided and participating States were urged to support the international efforts already underway to develop consistent control lists for conventional arms and related technology in order to provide an organizational background for multilateral and bilateral consultations to encourage transparency and a consistent treatment of arms exports. It was agreed that the national control lists would be circulated amongst OSCE States and that a delegated representative of the new post-COCOM forum would be invited for a briefing on decisions taken by that body on the arms control list, once negotiations were completed.

It was agreed that *export-licences* should contain at the minimum the following elements: the nature of the licence (temporary, permanent, renewal), the nature of the transaction (export, import, transit), the name of the licensee (and possibly the exporter), the country of destination, possible transit countries, the addressee, an indication of the equipment and its value, an end-user-certificate and, if needed, the advice of the ministries consulted. In order to enhance transparency and harmonization of national systems, it would be useful to consider at a future date the possibility of adding further elements to the minimum list.

The need for improvement of cooperation was felt in the field of *enforcement practices and procedures*. More specifically, in order to facilitate international cooperation, the early establishment of national points of contact by the participating States was recommended. During the discussion, delegations concluded that special attention should be given to the control of transfers of know-how through the various methods of telecommunication.

During the second day of the seminar discussions focused on two subjects:

*a. Increased transparency through international efforts and possibilities for better international cooperation in preventing undesirable or unauthorized transfers in some categories.*

A lively debate took place on the trade in light arms and small weapons. The trade in these categories of weapons, both legal and illegal, was perceived to be of great concern, in particular with respect to regional conflict and tensions. The necessity to increase transparency in this field was acknowledged. The suggestion to widen the scope of the UN Register of Conventional Arms, however, was met with caution, mostly on practical grounds.

*b. Coordination in the field of control agencies and combating illegal conventional arms transfers.*

The need to establish a list of contact points was reiterated. Furthermore, the issue of illegal conventional arms transfers was debated at length. The suggestion was made to establish a Code of Conduct for Conventional Arms Transfers.

#### *Follow-up of the Seminar*

In order to ensure continued attention for the subject of conventional arms transfers the FSC decided on 19 July 1995 on follow-up action concerning a number of related items. The recommendations that resulted from the discussions during the seminar were used to define proper activities towards the implementation of the measure. These activities included:

- the exchange of national points of contact in enforcement agencies,
- an update of the questionnaire based on the responses received so far,
- distribution and completion of the questionnaire on a yearly basis,
- consideration of setting up workshops for experts,
- circulation on an annual basis of the national contributions of the participating States to the UN Register of Conventional Arms,

- inviting a delegated representative of the new post-COCOM forum for a briefing about decisions taken by that body, when negotiations are completed.

The ongoing process of monitoring implementation activities is the responsibility of the FSC through the monthly implementation meetings of a Working Group.

### *Concluding Remarks*

In pluriform democratic societies controversial weapons transfers are under constant scrutiny by parliaments, non-governmental organizations and the media. The transfer of weapons to Turkey, for example, is followed closely by these institutions because of Turkey's policy concerning human rights and the use of arms in the fight against the Kurds. It is therefore essential to achieve greater openness and transparency in transfers.

One way of achieving this would be to create an OSCE Conventional Arms Register whose scope would go beyond the seven categories of arms of the UN Register (which are battle tanks, armoured combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers). One could think of including smaller arms in an OSCE Register. The immediate problem, however, is verification. How can the transfer of these smaller weapons be verified? A permit system would be too costly and labor-intensive, if it would work at all.

Another way of establishing greater transparency is making available to the OSCE participating States all information that is provided by national governments to their parliaments, non-governmental organizations and other interested parties (including producers of armaments). In the Netherlands, for example, the government reports to parliament yearly by providing the Dutch entries into the UN Register of Conventional Arms, as well as a survey of the total number of licences, and their value, issued for export of military goods from the Netherlands.

## The Code of Conduct on Politico-Military Aspects of Security

### *Democratic Political Control of Armed Forces and Giving Concrete Form to the Prohibition of the Use of Force*

The "Code of Conduct on Politico-Military Aspects of Security" was worked out between September 1992 and the end of November 1994 in the CSCE Forum for Security Cooperation and approved on 6 December 1994 by the 52 Heads of State or Government assembled in Budapest for the CSCE Summit. It entered into force on 1 January 1995 as a politically binding document of the OSCE community of States.<sup>2</sup>

The name "Code of Conduct" makes one think of a "law book" or a compendium of norms. At first, a number of OSCE participating States did indeed have in mind the idea of creating a compendium of all norms relevant to the OSCE. But the Document which emerged from Budapest no longer reflects this objective.<sup>3</sup> In its present version the Code of Conduct takes the OSCE's comprehensive security concept as its point of departure but focuses on aspects of politico-military security. At its center are guidelines for tying armed forces into the democratic structures of a civil society characterized by separation of powers and the rule of law. At the same time it sets forth rules for the permissible use of armed forces, not only externally but also in domestic conflicts. The underlying thought is that the misuse of military force is extraordinarily dangerous, that military power is an essential element of

---

<sup>1</sup> Ortwin Hennig, Minister Counselor, Deputy Head of the Permanent Mission of the Federal Republic of Germany to the Organization for Security and Cooperation in Europe, Vienna. The author is presenting his personal views.

<sup>2</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, Chapter IV, Code of Conduct on Politico-Military Aspects of Security, pp. 87-91. All quotes from the Code of Conduct in the present article are from this document.

<sup>3</sup> A detailed description of the Code of Conduct would go beyond the limits of this article. In early 1995, following the conclusion of the negotiations, the German Permanent Mission to the OSCE put together a Commentary on the Code of Conduct which, based on direct knowledge of the negotiations, provides background and a number of possible interpretations. This Commentary is available in manuscript form and can be obtained from the Foreign Office in Bonn, Referat 241. For a synopsis of the origins and content of the Code of Conduct, see: Klaus Achmann, Kooperative Sicherheit: Neue Grundsatzdokumente [Cooperative Security: New Basic Documents], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 307-320.

political power and that the latter takes concrete form in the armed forces. At the same time, the Code affirms and refines those OSCE norms designed to ensure security and stability in international relations. At the center is the prohibition of the use of force which is embodied in a number of fundamental security commitments.

#### *A Part of OSCE "Standard-Setting"*

The Code of Conduct seeks to elevate the standard of political civilization amongst OSCE participating States with regard to the use of military power and thus to fill a gap in collective norm-setting by the OSCE States. For this purpose, it connects the new rules on democratic political control of armed forces and their employment with the existing network of OSCE norms, without altering existing norms and standards. It seizes upon those norms which are related to this basic concern. It confirms the commonalities and the indivisibility of the politically binding OSCE norms as they relate to the legally binding norms of the United Nations and of the Geneva Conventions. In this way it gives greater regional and sub-regional effectiveness to the international norms which govern the politico-military activities of states and their use of military power.<sup>4</sup>

When bloc confrontation in Europe ended in 1989/1990 the CSCE was faced with the task of finding a new identity. It decided to turn itself into an instrument for channelling the effects of the changes in Europe, to which it had itself contributed.<sup>5</sup> The Code of Conduct is an integral part of this strategy of "management of change". The new security landscape in Europe and the security relations between participating States, which were perceived as new, needed to find expression in an appropriate document.<sup>6</sup>

---

<sup>4</sup> Michael R. Lucas, The Role of the OSCE Code of Conduct as an Instrument of Early Warning, Early Action, and Conflict Prevention, Paper for the joint seminar organized by the Netherlands, Clingendale Institute of International Relations and Stiftung Wissenschaft und Politik at Ebenhausen, Germany, 11-12 December 1995, Peace Palace in The Hague, p. 5.

<sup>5</sup> Ortwin Hennig, Die KSZE/OSZE aus deutscher Sicht - kein Wechsel der Unterstützung [The CSCE/OSCE as Seen from Germany - No Modification of Support], in: OSZE-Jahrbuch 1995, cited above (Note 3), pp. 121-135, here p. 123.

<sup>6</sup> It was on 30 January 1992 that the Federal Republic of Germany, at the CSCE Ministerial Council, for the first time proposed a norming of state behavior with a view to strengthening security, both internally and externally. On 19 May 1992, at the Preparatory Meeting for the CSCE Summit, France and Germany then tabled a formal proposal for a Code of Conduct, with the support of ten additional countries. As a result of this initiative the Helsinki Summit Document of 1992, in Point 12 of the "Programme for Immediate Action", ordered the newly-created Forum for Security Cooperation to take up consultations on "(...) establishing a code of conduct governing their mutual relations in the field of security". 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 and Basic Documents, 1972-1993, Dordrecht/Boston/London 1993, pp. 701-777, Annex: Programme for Immediate Action, pp. 739-743, here: p. 742.



Between 1973 and 1992 the CSCE had worked out, in the human dimension, increasingly detailed and competent standards for the behavior, both internal and external, of states. Setting standards in the area of the human dimension was the main business of the CSCE for as long the relationship between the state and the individual remained at the center of the debate between CSCE participating States. Since 1992 the use of military power for domestic purposes as well as externally has become another important subject between them. After the end of the confrontation between blocs and the fragmentation of the security landscape that accompanied the political upheaval it became easier to employ military force and it has been done more frequently. At the same time a need has become apparent for assistance to numerous newly established or reestablished countries in building up their military forces and tying them into democratic political systems.

Hitherto, the CSCE's framework of norms, created over almost twenty years, has largely omitted statements on dealing with military power. It was only after the end of the bloc confrontation that it became possible, and at the same time necessary, for OSCE participating States to go beyond standards for the protection of the individual or of national minorities and make the effort to find multilateral norms for an area at the heart of their sovereignty by establishing politically binding rules for the politico-military aspects of their conduct, both internally and externally.

#### *The Expression of a Collective Political Interest in the Post-Confrontation Phase*

The Code of Conduct thus accords with the collective political interest of the OSCE community in the post-confrontation phase in Europe, and does this in a variety of ways:

- It establishes the OSCE's normative foundation for responsible and cooperative behavior in security matters. Thus it represents the specific answer of security policy to the new causes of (mainly domestic) conflict that have appeared since the beginning of the nineties.
- It creates a solid framework for contacts and cooperation in security matters between the transition states and their OSCE partners. It builds a security-policy bridge between East and West with the objective of improving the security of participating States and preventing armed conflicts. As such it is an important building stone in the growing system of cooperative security.

- With its cooperative and comprehensive view of security, it reflects in particular the security needs of the new or the reborn states. At the beginning of the nineties it was essential to secure what had been achieved politically in the Charter of Paris and to promote and strengthen the building of democratic states in the enlarged OSCE area. A necessary part of this is to ensure that the armed forces, as an important instrument of state power, are subject to civilian control.
- It was the first norm-setting OSCE document to give new participating States the opportunity to play an active and creative role in the negotiations. Its negotiation by all OSCE participating States thus represented a practical offer of cooperative security.<sup>7</sup>

Conceptually, the OSCE States did not plough any new ground with the Code of Conduct. It fits neatly into the OSCE's philosophy of military transparency. The creation of military transparency through CSBMs and, later, the reduction of military forces by the CFE Treaty were, along with the human dimension, of central importance to the overall CSCE process in overcoming the division of Europe. In the same way, the Code of Conduct, along with other instruments of conflict prevention, is intended to help stabilize tense situations in and between participating States and thus to contribute to greater stability in the entire OSCE area.

#### *Why are there Provisions for Democratic Political Control of Armed Forces?*

Armed forces are an important part of the way in which sovereign states express their power. They are a significant power factor internally and externally. The building and strengthening of democratic structures to which the OSCE participating States committed themselves in the Charter of Paris in 1990 can only succeed if the armed forces are a part of them. In a democratically organized polity there can be no elements of sovereignty which are withdrawn from democratic control and legitimation. The dictum which states that "all state power is derived from the people" must also apply - must in particular apply - to the armed forces which states use to ensure their capacity to engage in armed struggle.<sup>8</sup>

<sup>7</sup> While the Eastern and Central European countries, along with Russia, made active use of this offer and influenced the negotiations with their ideas, the CIS states unfortunately played a marginal role in working out the Code of Conduct.

<sup>8</sup> The argument which also a number of Western delegations used during the negotiations, that "democracies do not wage war against one another" can scarcely be sustained. Linking a democratic or republican form of polity with peaceableness is a relatively new and specifically "liberal economic" viewpoint. In this connection, see: Panajotis Kondylis, *Ein so schlimmes Spiel. Das Prinzip "Demokratien bekriegen sich nicht" [Such a Nasty Game. The Principle that "Democracies do not Wage War Against Each Other"]*, in: Frankfurter

"Democratic political control" is meant to describe the primacy of civil institutions, legitimized by the will of the people, in making decisions on defense and security matters. It does not mean that "civilians" decide better than soldiers. Democratic political control also is intended to mean that soldiers, like all others, are not above the law. Success or lack of success in establishing democratic control of the armed forces in Russia, Eastern and Central Europe and the CIS states represent important factors and conditions in determining the outcome of the democratization processes there. These processes, for their part, influence the security situation in the Western part of Europe and the integration of the Eastern states into Western institutions. It is not without reason that both the EU and NATO make democratic control of the armed forces a criterion for the admission of new members. It is a key element, particularly in the transition from authoritarian forms of rule to democratic constitutions.

After the confrontation between the blocs ended, control of the armed forces acquired an additional dimension because military forces give up their traditional view of their role only with difficulty and resist taking on new responsibilities in a changed security environment.<sup>9</sup> Russia is a particularly difficult case in this regard. As a result of the former Soviet Union's role as a world power, the Russian military had a highly developed sense of their political and social importance. Hence the attitude of the Russian military toward the transformation going on in Russian society remains a decisive factor in the general political evolution of the country.<sup>10</sup>

In the Code of Conduct, Russia, the Central and Eastern European countries and the CIS states have accepted democratic political control of the armed forces as a goal of their policy and, in so doing, have underlined the importance of democratizing the armed forces as part of the overall transformation of their societies. Obviously the speed and seriousness with which this is being pursued varies from one country to another.

---

Allgemeine Zeitung, 17 April 96, p. N5. After the hiatus of 1989/1990 this view once again gained some currency and made itself felt in the negotiations on the Code of Conduct.

<sup>9</sup> For a detailed account of the difficulties of Central and Eastern European states in restructuring the civilian-military relationship, including the question of democratic political control of the armed forces, see: Rudolf Joó, *The Democratic Control of Armed Forces, The Experience of Hungary*, Chaillot Paper 23, February 1996, Institute for Security Studies, Western European Union, p. 12 ff.

<sup>10</sup> Cf. *ibid.*, p. 25.

Differences between the OSCE countries of a historical, political, constitutional, cultural and social nature will result in different answers to the question of how democratic political control of the armed forces is to be accomplished. The Eastern and Central European countries will surely have different priorities and options than do countries without any democratic tradition such as, for example, Russia and the other countries that have come into being on the territory of the former Soviet Union. For that reason the Code of Conduct does not offer any model for democratic control of the armed forces. It provides a framework containing the necessary elements for linking the armed forces to the structures of a democratic state.

The Code of Conduct obligates the states to subject their military and paramilitary forces, internal security forces, as well as the forces of police and of intelligence services to democratic control and to integrate them into civil society. At the same time it offers advice as to how this can be done.

Three levels of control need to be distinguished:

a) *The constitutional and political position of the armed forces in the state*

This category includes obligations with respect to the creation of the legal and political conditions needed to ensure democratic political control of armed forces. Among them are:

- Justifying and defining constitutional responsibilities with regard to legislation for and administration of the armed forces: In a democratic form of government, democratic political control means responsibility. Democratic responsibility assumes a constitutional basis for the state functions and the organs which must carry them out responsibly. The constitutional order must justify and at the same time limit responsibilities for legislation affecting the armed forces and for their administration.
- Linking the political leadership and administration to the constitution, the system of justice and the law: In a democratic state based on the rule of law, government and administration are bound to justice and law. They are subject to the control of the constitutional organs. The linkage of the armed forces to justice and law can be ensured by subjecting them to civilian control.
- Democratic legitimation of the civilian Commander in Chief of the armed forces: The Commander in Chief of democratically controlled armed forces belongs to the civilian political leadership. Because it is democratically legitimated, democracies give the civilian political leadership priority over the military order.

- Ensuring the political neutrality of all armed forces: At the same time, the civilian Commander in Chief of the armed forces embodies the primacy of the political element over the military. In a democratic state, the military is an instrument of the political system. Its relationship to that system is of an executive, serving nature. All of the armed forces are expected to observe political neutrality. Armed force is not entitled to intervene in political disputes. That does not at all mean, however, that members of the armed forces may not exercise their rights as citizens.
- Parliamentary control of the armed forces: The primacy of the political element is also expressed in parliamentary control of the armed forces. Parliaments exercise this control mainly through their responsibility for the budget. The annual budgeting gives them the ability to control and co-determine the strength of the armed forces and the essentials of their organization and thus the basic lines of defense policy. Through their allocation of funds, parliaments have an effective instrument for controlling the armed forces.

b) *Internal conditions in the armed forces, i.e. their internal order and the rights and duties of soldiers*

The objective here, among other things, is:

- to provide a legal foundation for the rights and duties of soldiers,
- to make sure that soldiers have the legal means to claim their rights,
- to ensure that soldiers enjoy all of the rights of citizens provided for under international law and in OSCE documents.

Participating States have regulated the internal order of their armed forces and the rights and duties of soldiers to varying degrees. It is common to all democratically constituted states, however, that certain elements of democracy and the rule of law also apply to the internal organization of the armed forces. The soldier is neither above the law nor an instrument lacking legal rights. On the contrary, with some restrictions - e.g. regarding freedom of movement or the right of free speech - he enjoys fundamental freedoms and human rights. It should be difficult, in a democracy, for the soldier who is aware of his fundamental rights and responsibilities to be misused for the illegal schemes of power politics. The soldier has to know what his duty of obedience entails and what its limits are. When he is put in the position of refusing to obey orders whose execution would result in a crime or other legal offense, he is eligible for the protection of the state.<sup>11</sup>

---

<sup>11</sup> In the Federal Republic of Germany, the concept of "citizen in uniform" solves the problem of defining the legal status of the soldier in such a way that he does not get caught be-

Of particular importance are the clear references to the personal responsibility of the members of the armed forces for their behavior with respect to national and international law. To be sure, the negotiators did not succeed in including a specific statement to the effect that soldiers may not carry out any orders that violate national or international law, but this idea finds expression in an indirect way. A soldier cannot put the responsibility on his superior when he carries out an order which violates national or international law.

Also worthy of note is the continuing obligation of OSCE States to familiarize the members of their armed forces with the provisions of international humanitarian law.

c) *Criteria limiting internal security missions*

The participating States are to ensure that their armed forces, both in wartime and time of peace, are led, staffed and equipped in accordance with the provisions of international law. The principle of individual responsibility of commanders is identified as a basis for observance of this requirement. The States further obligate themselves to adopt rules for the internal use of military force which would prevent harm to the civilian population or the suppression of civil rights.

These rules are of special importance for the internal stability of OSCE countries. The idea is to make sure in peacetime that the armed forces will prove themselves in times of crisis. This is particularly important for internal security missions. The Code of Conduct explicitly mentions the commitments of States not to use their armed forces to limit the exercise of their legitimate rights by citizens or groups of citizens. For cases when internal missions are undertaken, it gives first priority to the rule of appropriateness and protection of the civilian population.

The Code of Conduct's rules on democratic political control of armed forces do not go as far as does the concept of "*Innere Führung*" as it is known in Germany. Still, it is noteworthy how far the Code's norms do go in approaching the terms of this concept.

*Expanding the OSCE's General Framework of Norms for Security Policy*

Along with democratic political control of armed forces, the strengthening and refinement of the OSCE's norms for creating security and stability in international relations is another essential part of the Code of Conduct.

---

tween the military system of which he is a part and the free and democratic political system he is expected to defend.

It supplements the accomplishments of arms control by taking a new approach which looks at the *intentions* of states and seeks to strengthen the prohibition against the use of force through a number of fundamental security obligations. Its centerpiece is the prohibition of the threat or use of force (the UN's monopoly on the use of force is an exception) against the territorial integrity or the political independence of another state.

The Code of Conduct not only condemns open violence but also every kind of indirect manifestation thereof when it is directed against the territorial integrity or the sovereignty of other States. Particularly noteworthy here is the emphasis put on the principle that a country may station its armed forces on the territory of another only with that second country's express agreement. Equally important is the provision which enjoins the states to offer no support to irregular forces, which nowadays threaten the integrity of many countries and seek to overthrow legitimate governments.

Terrorism represents another new threat to the community of states. The Code of Conduct deals with this problem as well. Its statements on irregular forces and on fighting terrorism lend weight to the cooperative approach of the Code and constitute a principle of active solidarity.<sup>12</sup>

Also worthy of mention is the new obligation, which applies to all OSCE countries, to develop military capabilities in conformity with the principle of sufficiency and to determine the level on the "basis of national democratic procedures".<sup>13</sup> What this means is that the autonomy of OSCE States in matters of security policy has for the first time been given some limits. They are no longer entirely free to decide on the strength and equipment of their armed forces. The legitimate interests of the other OSCE participating States have now been added to the equation as a criterion for determining the adequacy of these forces. These new norms could, for example, provide the basis for any OSCE State to ask another for an explanation of how it arrived at a given level of strength and equipment for its forces. This assumes, of course, that the state putting the question has got the impression that the other, in establishing and equipping its forces, has violated the principle of sufficiency, or that the decisions were not reached through "national democratic procedures".

Another innovation with regard to the threat of violence is to be found in the treatment of the problem of military imbalance. The Code of Conduct obli-

---

<sup>12</sup> Dr. Rüdiger Hartmann, Ambassador and Government Commissioner for Disarmament and Arms Control, Lecture at the OSCE Seminar "Code of Conduct" on 7 May 1996 at the *Zentrum Innere Führung* of the *Bundeswehr* in Koblenz, unpublished manuscript, p. 19.

<sup>13</sup> Points 12 and 13 provide a formulation of the sufficiency rule. Point 12 contains a highly subjective text. The reference in Point 13 to national democratic procedures is meant to introduce a more objective element for determining the adequacy of forces and thus to balance Point 12. The Points are complementary.

gates the states to eschew activities that might cause the superior military power of one country to turn into domination over its neighbors.

The Code of Conduct makes a connection between the OSCE principle of "indivisible security" and the observance of arms control obligations in good faith. This shows the importance which is attached to arms control: the Code of Conduct makes observance and implementation of arms control obligations a test of cooperative behavior on the part of states.

There is a close logical relationship between the commitment of States to refrain from any threat or use of force in their mutual relations and the requirement that disputes be settled only by peaceful means. In addition to reaffirming the prohibition against the use of force, the Code of Conduct obligates OSCE States to take a cooperative approach to solving conflicts. A concrete example of this might be entering into consultations in threatening situations and making active use of the range of instruments the OSCE has developed for early warning, conflict prevention, crisis management and peaceful settlement of disputes.

The OSCE has entered into new territory with the commitment to cooperate in the provision of humanitarian aid. It was the conflict in Bosnia and Herzegovina which occasioned this new commitment.

Also new in the Code of Conduct are the statements regarding solidarity with those participating States which want to make use of their right of individual and collective self-defense. These were adopted primarily at Poland's instance. They provide, over and above the security dialogue and arms control measures, a framework for action in crisis situations. The reciprocal assurance "to act in solidarity if CSCE norms and commitments are violated and to facilitate concerted responses to security challenges" is expressed here more clearly than ever before in an OSCE document. And this statement is reinforced by the commitment that the participating States "will consider jointly the nature of the threat and actions that may be required in defence of their common values".<sup>14</sup>

At first blush these commitments do not seem to go very far. But they represent a first step toward a concrete mutual commitment of countries to support each other in warding off attacks against their security. They in no way alter the fact that for the foreseeable future the OSCE will not be able to offer its participants the protection of a functioning system of collective security since it, unlike the UN, does not have the means to put the violator in his place with coercive force when a breach of law has occurred. Indivisible security, which really does apply to all OSCE States, is an objective but, as Bosnia and Herzegovina as well as the Caucasus have demonstrated, still not the reality. Even so, the call for solidarity in the Code of Conduct offers a usable normative basis for the possible expansion of the OSCE into a system of

---

<sup>14</sup> Budapest Document 1994, cited above (Note 2), Point 5.



collective security which, when there is a threat of military force, guarantees a certain level of solidarity from the other participating States.<sup>15</sup>

The Code of Conduct also contains carefully balanced formulations which in effect relate to the right of states to join international organizations or to quit them. This is a right which Poland and others appeal to in their argument with Russia over the question of joining NATO.

Finally, the Code of Conduct also touches on the important question of the OSCE's relationship to other security institutions. A "key role" is assigned to the OSCE for a system of cooperative security in the OSCE area. But the fact that the OSCE States have agreed to go on developing "complementary and mutually reinforcing institutions" makes clear that there is to be no hierarchical order amongst the various security institutions.<sup>16</sup>

Especially the last-mentioned commitments (solidarity, right to belong to international organizations, relationship of the OSCE to other security institutions) show that the Code of Conduct also provides a sound basis for a Security Model for the 21st Century, which is being discussed at the present time in OSCE fora on Russia's initiative.

### *Presumed Weak Points*

Critics of the Code of Conduct point in particular to the following weak points:

- It cannot prevent armed conflict between OSCE States nor can it stop the employment of military force in internal conflicts of individual OSCE participating States. The involvement of Russian forces in Chechnya is cited again and again as the most striking example of this.
- Many of its provisions are vague and imprecise. There are no objective and quantifiable criteria for their fulfillment and they remain for the most part subjective. Not the least of the Code's weaknesses is its language,

---

<sup>15</sup> This does not assume any autonomous system of collective security for Europe. But the OSCE, as a regional arrangement of the United Nations, could be used as an instrument to apply the *global* system of collective security provided for in the UN Charter more effectively in the *OSCE area*. Point 5 of the Code of Conduct offers a *normative* basis for this purpose but the *institutional* aspect is contained in the Kinkel-Kooijmans initiative ("OSCE first") with its effect of coupling the OSCE with the UN Security Council, an initiative which one hopes will be successfully adopted at the Lisbon Summit in 1996. Cf. Ortwin Hennig, *Die KSZE/OSZE aus deutscher Sicht - kein Wandel der Unterstützung*, cited above (Note 5), p. 132.

<sup>16</sup> Budapest Document 1994, cited above (Note 2), Point 4.

which is indefinite and imprecise. All of this means that the Code is for the most part a "cosmetic exercise".<sup>17</sup>

- It lacks any precise mechanism of implementation going beyond a vague obligation to provide information when it is requested.

The Code of Conduct has acquired practical importance as a reference document more quickly than expected, not least owing to evaluations of the Russian action in Chechnya. The resolution of 2 February 1995 in the OSCE Permanent Council<sup>18</sup> focusses explicitly on the violation by Russian forces of the principle of appropriateness in the application of force to internal conflicts - and does this with the agreement of Russia. The Russian military action in Chechnya, which began on 11 December 1994, only five days after conclusion of the CSCE Summit in Budapest on 6 December 1994, has unfortunately been cited frequently as a negative "test case" for the use of the Code of Conduct as an instrument for early warning and conflict prevention. Russia is subject to three kinds of limitations on its choice of military approaches to the action in Chechnya:

- The Code of Conduct reaffirms applicable international humanitarian law, including the Geneva Red Cross Conventions of 1949, the 1977 Protocols Additional thereto, as well as the 1980 Convention on the Use of Certain Conventional Weapons. Article 3 of all Geneva Conventions (minimum humanitarian standard), the II. Protocol Additional thereto (ratified by Moscow in 1989) and the 1980 Convention all apply to the fighting in Chechnya as a non-international conflict.
- It prescribes appropriateness of means for such cases in which recourse to force cannot be avoided in performing internal security missions.
- It prohibits participating States from using their armed forces to limit the exercise of their human and civil rights to persons as individuals or as representatives of groups or to deprive them of their national, religious, cultural, linguistic or ethnic identity.<sup>19</sup>

---

<sup>17</sup> For example: The CSCE Review Conference and Summit: Decisions made and deferred, in: Basic Papers, published by the British American Security Information Council, 7/1995, p. 4.

<sup>18</sup> OSCE Document PC.Dec/10 of 2 February 1995.

<sup>19</sup> Budapest Document, cited above (Note 2), Points 34, 36 and 37. For the rest, Point 25 contains a passage to which Moscow might appeal in connection with its action. According to it, no participating State will "tolerate or support forces that are not accountable to or controlled by [its] constitutionally established authorities". Point 21 requires to "provide for and maintain effective guidance to and control of (...) military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy". In Chechnya this has not been the case since 1991.

In other words, Russia is allowed to use no more than the mildest methods needed to achieve the desired success in dealing with the rebels. To that extent it is true that there are no objective, quantifiable criteria for deciding whether or not there has been a violation of the Code of Conduct.

Nevertheless, it would be a mistake to create a credibility problem for the OSCE and the Code of Conduct by entertaining false expectations. All of our experience shows that the behavior of states cannot be regulated by international laws or even by politically binding multilateral standards of conduct, particularly when it comes to their own populations. The rules of the Code of Conduct, however perfect they might be, cannot in themselves eliminate tensions and conflicts, especially when one considers that almost all armed conflicts in the OSCE area involve the collision of two fundamental principles: the right of self-determination versus the territorial integrity of states. The objective is, rather, to persuade the states by means of a purposeful dialogue using concrete examples - for which the OSCE is the most suitable forum - that it is in their own interest to observe the OSCE's politically binding rules of conduct (for example as a criterion on which extent and intensity of the special partnership that Russia seeks with the Western Alliance might be made to depend). The provisions of the Code of Conduct, in this particular case, at least force Russia to explain and justify its behavior - which looks very much like a violation of the principle of appropriateness - almost weekly in OSCE bodies. This exposes its activities in Chechnya to widespread international attention and creates transparency.<sup>20</sup> The result: the OSCE lacks any means of enforcing the observance of its norms, but every norm at least raises the moral cost of its own violation.

As for the criticism of its imprecise language, we should remember that the Code of Conduct is a political document whose prospects for further political development actually depend on rather loose formulations. The political innovation intended in and by the Code would have suffered from legally unimpeachable and clear terms. The ambivalent formulations are thus a reflection of its purpose in seeking political commitment. One advantage of political commitment over legal obligation lies in the fact that its terminology leaves room for creativity which is sometimes desirable with a view to exploring more freely the various political developmental options in Europe. In working out the Code of Conduct the participating States were not under any

---

<sup>20</sup>

The OSCE Assistance Group in Chechnya should be recalled in this connection. The example of Chechnya shows that Russia is prepared to grant the OSCE a role in settling an internal conflict. It is not possible for Russia alone, without the participation of an international body, to solve problems such as Chechnya through negotiations, not least because there is no Chechen leader who would negotiate directly with Russia without a multilateral corrective of this kind. This realization has led Moscow actively to seek the involvement of the OSCE as corrective in the Chechnya conflict.

compulsion to formulate texts requiring approval by national parliaments. Even so, political innovation did suffer during the negotiations from the desire of some delegations to work out a legally unimpeachable text. This legalistic approach of many participating States to a political text designed to obtain political commitment often led to compromises which, as viewed by the EU, were only second-best solutions.

It was particularly the United States that saw the texts not so much from the standpoint of their value for political development in the European OSCE area but from the standpoint of their congruence with America's extra-European, world-wide commitments. An example: The EU tried hard to have Point 9 ("The participating States reaffirm the inherent right, as recognized in the Charter of the United Nations, of individual and collective self-defence.") concluded with the words "if an armed attack occurs". Otherwise an important condition of the right of self-defense in conformity with Article 51 of the UN Charter would go unmentioned, the use of military force would be made easier and the threshold for its use lowered. The United States rejected this proposal. It justified its action by appealing to its world-wide interests which did not allow an abbreviation of the right of self-defense through the condition "if an armed attack occurs". The EU was not indifferent to the argument that self-defense in some parts of the world might call for the deterrent use of force (e.g. against an acute threat of the use of weapons of mass destruction) but thought that it could exclude such situations in the OSCE area and that it ought to do so.

Another problem in the negotiations was the attempt of a number of Central and Eastern European states to use the Code of Conduct to overinsure themselves against a still perceived Russian threat. This led either to Russia's blocking certain texts or to compromise formulations which had been more or less denuded of the content originally intended by these states. In this connection there were also efforts to make use of certain subjects to promote important national or regional political principles (e.g. minority issues, NATO enlargement). These efforts failed in the face of resistance from other interested participating States. It became evident that the Code of Conduct, as a "global" OSCE document, was not a suitable instrument for pursuing specific national or regional political interests.

More generally, the price for the OSCE's pioneer work in norm-setting has always been the acceptance of formulations which are often still imprecise, weak or spongy. One might recall the first CSCE texts on the human dimension and the right of free movement, or the rudimentary initial decisions in the Final Act on Confidence-Building Measures. So we should not put our expectations too high. We cannot, for example, expect the CIS states to take over our concept of the "citizen in uniform". But it certainly can be seen as a political success when a document to which all OSCE participating States

have agreed simply takes up the subject of the "fundamental rights of the soldier". This is a foundation on which we must continue to build. It is a fact that, despite all inadequacies of formulation, limits have for the first time been put on freedom of military action in the OSCE framework. Beyond that, OSCE participating States have, in the Code of Conduct, committed themselves for the first time to lay out their internal rules for armed forces in accordance with agreed international guidelines and, to that extent, to permit themselves to be monitored.

What applies to all OSCE norms also applies to the Code of Conduct: it can only contribute to internal and external stabilization if all OSCE States strive to meet the commitments set forth in it. Its value will stand or fall with the determination of the participating States to implement and monitor it. To the critics of inadequate implementation mechanisms in the Code of Conduct one can say that it is clearly different from other arms control arrangements in the OSCE area. The CFE Treaty, the Vienna Document and the Treaty on Open Skies all contain very concrete rules of implementation whose fulfillment can be checked by exchanges of information and by verification. But the provisions of the Code of Conduct are in very large part not accessible to this kind of procedure. Accordingly, there is no detailed section on implementation.<sup>21</sup>

In the end, the dilemma of providing for implementation of norms in a document that is only politically binding proved unsolvable. The effort of a number of states to create stricter implementation arrangements for the Code of Conduct than for other OSCE norms<sup>22</sup> failed in the face of resistance from those countries which rejected any special mechanism as an excessively legalistic element that had no place in a politically binding document.<sup>23</sup> As things now stand the appropriate bodies, mechanisms and procedures of the OSCE are to be used for its implementation. The Forum for Security Cooperation could, for example, be used more intensively to monitor compliance with the

---

<sup>21</sup> Dr. Rüdiger Hartmann, Ambassador and Government Commissioner for Disarmament and Arms Control, cited above (Note 12), p. 26.

<sup>22</sup> On 5 May 1993, Austria, Hungary and Poland tabled a proposal to apply the consensus-minus-one principle to cases in which the Code of Conduct was violated; CSCE/FSC/FC.17, I, 3. The problem with the consensus-minus-one procedure is well known: compliance requires the cooperation of precisely the state which has refused its consent. A system of cooperative security calls especially for the cooperation of the problematic participating States if it is to be politically meaningful and effective. Despite this field of tension the German delegation took a friendly view of this proposal. The option of making a decision without the agreement of the state which is breaking the rules can increase the chances of the rule-breaker altering his conduct.

<sup>23</sup> The United States, in particular, took the position that the Code of Conduct needed no implementation mechanism because that would give it a legal rather than political character. See: "Food for Thought Paper" of the US Delegation, "Principles for Consideration in Development of a Code of Conduct", 23 March 1994, Point V, p. 4.

Code of Conduct.<sup>24</sup> In any event, the provisions for implementation of the Code of Conduct remain open. If in the future farther-reaching arrangements for the implementation of all OSCE norms should be introduced, they would apply to the Code of Conduct as well.

There is growing awareness throughout the OSCE States that the Code of Conduct needs to be implemented by way of a purposeful and open dialogue between the participating States in the course of which experience and information on each country's implementation efforts would be exchanged. This takes place at seminars and symposia, for example, at which military people, politicians and government representatives from all of the OSCE participating States meet.<sup>25</sup> In tandem with the OSCE such efforts are also undertaken in the framework of the Partnership for Peace program (PfP) and the North Atlantic Cooperation Council (NACC) on securing and expanding democratic control of the armed forces in partner states, all of which are OSCE participating States. They represent a welcome reinforcement of the OSCE's own implementation efforts with respect to the Code of Conduct.

### *A Process*

The Code of Conduct provides an individual and also international basis of appeal on politico-military aspects of security. It is at once an additional instrument for early warning and an orientation aid for developing democracies that are looking for an internationally accepted model of how to organize and lead their armed forces. In places where democratic constitutions are still too

---

<sup>24</sup> Thus, in a proposal of the EU for discussion of the Security Model for the 21st Century entitled "Contribution of the EU to the Discussion on a Security Model", REF.PC/252/96 of 17 April 1996, Point 12: "It would be also advisable to link the Code of Conduct to the OSCE Vienna Institutions by deciding specific procedures for reviewing the Code's commitment within the FSC." The Parliamentary Assembly has also spoken out in favor of stronger implementation efforts within existing fora: "The OSCE should work for full implementation of the politically binding Code of Conduct on Politico-Military Aspects of Security and consolidate further the control mechanisms for its implementation by making full use of the existing appropriate OSCE control bodies, mechanisms and procedures", Ottawa Declaration of the PA of the OSCE 1995, Chapter I, Point 22, quoted in: Contribution of the PA to the Discussion on a Security Model, REF.PC/231/96 of 3 April 1996.

<sup>25</sup> The *Zentrum Innere Führung* of the *Bundeswehr* held a second OSCE Seminar on 7-9 May 1996 in connection with a German-Dutch initiative (Document OSCE/FSC 1 of 24 May 1995) on the linkage of armed forces with democracies and parliamentary control of them. There had been an initial event on 10-11 December 1995 in The Hague on the status of the Code of Conduct in international law. Sweden will hold another such OSCE Seminar in the second half of 1996 in Stockholm on aspects of implementation of the Code of Conduct.

weakly developed, it can be used as a guide in the process of further developing such constitutions.

The period since the Code of Conduct entered into force on 1 January 1995 is too short to permit a comment on the influence it has so far had on the politico-military situation in the OSCE area or its individual regions. Awareness of it in OSCE States and in OSCE activities could certainly be improved. Its possibilities are being used only hesitatingly and sporadically. This may be one reason why the Code of Conduct has remained virtually unknown to any substantial number of people in the OSCE countries. Still, significant developments in the OSCE have always come about as the result of a process, not as unique events. The same holds true for the norms of the Code of Conduct. They can only be realized through a long process of education and learning involving the political elites, military commanders and ordinary soldiers and taking into account the historical, political, constitutional and socio-cultural peculiarities of the OSCE participating States. We should not forget that many of these countries are just at the beginning of such a process.

Thus the Code of Conduct marks the beginning, not the end, of a long political discussion which will take up, among other things, the way states deal with military force and link their armed forces politically to the society. It provides a basis and a starting point for a purposeful dialogue among all OSCE States which should culminate in a common understanding of the interpretation to be given to its norms.

Until recently any international discussion of the organization and social position of the armed forces in a state was a political taboo. Today we talk openly about creating common military structures. The Code of Conduct further represents a first hesitant attempt to develop common political structures in the constitutions of OSCE States with the goal of helping to put their military forces into a democratic framework. Some people may regard this, and indeed the whole Code of Conduct, as getting ahead of the game. But with growing willingness and determination on the part of the participants to change their thinking and the rules of their behavior there is perhaps some reason to hope that realities will gradually begin to move in the direction indicated by the Code of Conduct.





## The OSCE "Code of Conduct on Politico-Military Aspects of Security": A Good Idea, Imperfectly Executed, Weakly Followed-up

The OSCE "Code of Conduct on Politico-Military Aspects of Security" was adopted at the Budapest Review Meeting (October-December 1994) and endorsed by the Budapest Summit on 5-6 December 1994. It entered into force as a politically binding agreement on 1 January 1995.

The Code consists of 37 recommended rules of behavior in the field of military security (and five implementing paragraphs). These rules, or principles, cover four main subjects: (1) the security relationship among OSCE participating States, including protection of participating States from domination by others; (2) democratic control over the armed forces of individual participating States, including paramilitary forces; (3) protection of the democratic rights of members of national armed forces; and (4) restrictions on the use of national military forces in war and their use against the civilian population of their own state.

Because many of the OSCE participating States most active in formulating the text had divergent objectives, the Code lacks coherence. Nevertheless, its unifying theme is to place restrictions on the use of armed forces between participating States and inside them. So far, the Code has had less determined follow-up by OSCE institutions than other projects, such as those in human rights and minority rights fields; more follow-up is needed and is possible. Partly as a consequence of limited follow-up, the Code has not been fully applied to the armed forces of many former Warsaw Pact states and Soviet successor states that were its main intended target. This is especially true of Russia. Nonetheless, the Code has had some impact, and its usefulness has not ended.

### *Negotiating History*

As with many CSCE projects of the early post-cold war period (e.g., the Human Dimension Mechanism and the Copenhagen Document), the overriding motivation of the Code of Conduct on Politico-Military Aspects of Security is to prevent repetition of the abuses of the Nazi and Soviet regimes, in this case, their use of national armed forces to intimidate and dominate other European states and their own populations.

In 1992, France, always desirous to consolidate post-cold war security arrangements and to prevent backsliding, proposed that CSCE security obligations be codified in treaty form. The United States was already nervous at that time about the post-cold war future of NATO and about potential competition to NATO from French actions to build up the WEU. It reacted sourly to the French proposal for a new treaty, believing that carrying out the French project could augment the status of OSCE and make it a more dangerous competitor to NATO. Once again caught between its two major allies, France and the USA, Germany proposed as a compromise the idea of a politically binding code of conduct for the armed forces of OSCE participating States. This proposal was approved by the 1992 Helsinki Review Conference and referred for implementation to the Forum for Security Cooperation established by the same Review Conference. A text was negotiated between 1992 and 1994, and only barely completed in December 1994 in the last hours of the Budapest Review Conference.

The main OSCE participating States in drafting the text were Poland, the European Union acting as a unit, and Austria and Hungary in tandem. Poland's approach was the most ambitious in the political sense; its underlying aim was to use the formulation of the Code as the kernel of a European security system. More specifically, without naming names, Poland sought to restrict military behavior which could bring repetition of its wartime and post-war domination by Nazi Germany and the Soviet Union. Thus the Code (para. 5) commits other participating States to consult promptly with a participating State requesting help in defending itself in order to jointly consider the nature of the threat and what can be done about it. Participating States are called on (para. 8) to deny assistance to any State that threatens use of force or uses force against the territory or political independence of another State, and the Code also declares (para. 13), that "(n)o participating State will attempt to impose military domination over any other participating State." Although Poland secured inclusion of these components of a possible security system in the text of the Code, the underlying idea has not yet been further developed or discussed.

The European Union members had decided after signature of the Maastricht Treaty to fulfill the Treaty requirement to move toward a Common Foreign and Security Policy (CFSP). They decided to begin by coordinating the policy of EU member States on CSCE issues and arms control. The Code of Conduct project was one of the first applications of that decision to a specific OSCE issue. Influenced by the original French proposal for a treaty, the EU members, for the first time in CSCE caucusing separately from NATO members, wanted a text that defined norms of European security. They focused on bringing together and slightly elaborating some of the longstanding OSCE principles, including several from the original Helsinki Accords, such as full

respect for all CSCE principles, respect for national sovereignty, and the right to join alliances or not to join them (paras. 4, 10, 11).

Because the Code project was an early experiment in Common Foreign and Security Policy for the European Union, individual EU members felt compelled to support the texts initially agreed by them and not to depart from them during OSCE discussions in order to seek compromise. This factor added to the length of the deliberations. The EU group was criticized by other participating States for selecting only some CSCE security principles for elaboration, allowing the erroneous impression that those principles not selected were no longer valid. As a result of this criticism, the Code (para. 7, para. 40) explicitly asserts the validity of all previously agreed CSCE security principles.

Turkey, evidently apprehensive about potential EU use of the Code project to influence Turkey's treatment of its Kurdish population, tried to neutralize this danger by submitting a counter-draft to the EU draft. It finally settled for the inclusion of a commitment for joint cooperation against terrorism (para. 6).

Austria and Hungary, acting as a team, energetically pursued the objective of using the Code to set forth a comprehensive, updated OSCE security code, to include some mention of all OSCE principles having to do with security. The two governments wished to include not only traditional military security but also security based on promotion and protection of human rights, economic rights and protection of the environment. In the final text, the close relationship between peace and respect for human rights, economic and environmental cooperation is mentioned (para. 2), as is cooperation to develop sound economic and environmental conditions and to avoid violations of human rights (para. 17). Austria and Hungary did not give up their support for the broadest possible coverage of these concepts until the Budapest Review Conference was in session. As a result, Forum participants devoted a great deal of time to debating the merits of broad and narrow definitions of security, an additional reason why discussion of the Code lasted so long.

The United States, a reluctant participant from the outset, limited itself to opposing the more far-reaching aspects of both the EU and the Austrian and Hungarian drafts. It made little positive contribution to the entire operation until late in the work discussion, coming out in March 1994 with a paper supporting provisions assuring democratic control of the armed forces. Russia played a defensive role throughout, prophetically trying to cut back on some of the proposed restrictions on the domestic use of armed forces. As it was, the Code was approved by the Budapest Summit five days before the Russian military assault on Chechnya, the campaign repeatedly violated the Code's restrictions on excessive use of military force against civilians.

In the end, elements of all positions were hurriedly combined to form the final text. To some degree, the circumstances of its negotiation deprived the Code of clear thrust and purpose.

### *Content*

The content of the Code reflects the divergent perspectives of its authors. As noted, the first section of the Code lists a number of principles taken from the Helsinki Accords and the Charter of Paris: Among them are respect for all decisions of the CSCE; security is shared and cannot be obtained at the expense of others; respect for sovereign equality; endorsement of the inherent right of self-defense; each State has the right to belong to alliances or not to belong to them (paras. 1, 2, 3, 4, 7, 9, 10, 11).

The next group of articles, which reflect concepts pushed by Poland and other Eastern European states, have as their objective protecting small States against domination by large States. These principles include an obligation for joint consideration of threats to security of a participating State; the obligation to refrain from assistance to States that threaten participants; the right of each State to belong or not to belong to alliances; a prohibition against stationing of foreign forces on the territory of a second State without the freely negotiated agreement of the latter; and prohibition of attempts to impose military domination over another State (paras. 5, 11, 13, 14).

A third section (paras. 20-37) contains a detailed description of principles of democratic control of the military, e.g., control of armed forces should be by "constitutionally established authorities vested with democratic legitimacy" and accountable to national legislatures; decisions on defense budgets should be made by national legislatures, not the executive. This section also treats the role of the citizen soldier, emphasizing that treatment and training of military personnel should reflect high standards of human rights. Several important paragraphs insist that restraint should be exercised by military and paramilitary personnel both in interstate conflict and internal security missions (paras. 24-26, 28-31, 34-37).

These principles contain new material going beyond earlier CSCE decisions, and in that sense can be said to represent the main substance of the Code. On the one hand, these provisions represent the essence of the lessons on democratic control of the military and the citizen soldier culled from Western experience and intended to be passed on to the Eastern states. On the other hand, the agreed principles restricting the use of military force in war and for internal security, contained in Paragraphs 34-37 - military commanders should be accountable both to national and international law; armed forces should be used for internal security missions only in conformity with constitu

tional principles; armed forces should use restraint and avoid injury to civilians and civilian property; armed forces should not be used to limit peaceful exercise of human and civil rights - reflect concerns over historic misuse of armed forces in the Third Reich and the Soviet Union and in areas under Nazi and Soviet occupation, but also more contemporary abuses of armed forces in Russia and surrounding republics, as well as Bosnia.

### *Implementation*

The Code represents a marriage of convenience between the French desire to codify the principles of peaceful relations between states and the desire of the United States and others to direct the Code at assuring democratic control over armed forces.

In both cases, the target was the states of Eastern Europe and the newly independent successor states of the former Soviet Union, states whose armed forces had earlier been under the firm control of the Communist Party and which lacked experience in parliamentary control. The lengthy negotiation of the Code did provide an extended opportunity for officials of these states to learn of the experience of Western states in democratic control of the armed forces.

As in the case of OSCE documents on human rights and minority rights, the Code provides all OSCE participating States with the opportunity to observe and comment on fulfillment of Code commitments by other participating States, a right specifically assured in Paragraph 38. In 1995, discussion of national performance in applying the Code was added to the annual assessment of confidence-building measures carried out by the Conflict Prevention Centre. Naturally enough in the circumstances, the main subject of both the March 1995 and the March 1996 review sessions was the conduct of Russian forces in Chechnya, which far diverged from the Code's agreed principle of avoiding undue violence by armed forces against their own citizens. In 1995, Russia responded by arguing that the OSCE Mission in Grozny had not reported any violations. The OSCE has not been able to bring about lasting change in Russian military conduct in Chechnya. However, the legitimacy of enquiry and comment by participating States' governments on the issue of Russian behavior and policy in dealing with an internal crisis has been established.

It has been left to individual participating States' governments to volunteer statements on their performance of Code commitments. Written reports have been submitted by several states, among them Ireland, Finland, Belgium, Slovakia and Italy. During the March 1996 assessment of confidence-building measures, oral presentations on their implementation of the Code were made

by Greece, Ukraine, Poland, and Sweden. By March 1996, half of OSCE participating States had reported in some form regarding their fulfillment of Code commitments, often to the effect that they have translated and distributed the Code to their officials and military officers.

This issue, reporting how participating States have complied with the Code and discussing these reports, should receive more emphasis from the OSCE Chairman-in-Office and the OSCE Ministerial Council. Other OSCE participating States' governments and NGOs should be encouraged to express their own evaluation of how well the Code has been implemented in practice by individual participating States. The aim should be to develop systematic discussion of this topic of the kind that has taken place on the human dimension and on minority rights.

In May 1995, the Netherlands and Germany took the initiative to sponsor a series of seminars to foster understanding of the Code. The first seminar took place in December 1995 at The Hague with a general review of the history and potential of the Code. A second seminar was held in May 1996 at Koblenz, Germany, focusing on the armed forces ombudsman of the German *Bundestag* and on the principles of the citizen soldier as developed in the post-war German armed forces. It is valuable that these two countries, Netherlands, with a strong history of democratic control of the forces, and Germany, which has a dark history of earlier abuse and a post-war record of signal achievement in democratic control over the armed forces, should undertake this project.

However, despite adoption of the Code, the actual situation in many newly independent countries both as regards democratic control and restraint in the use of military force is quite negative. Democratic control over the armed forces is weak in Poland and Romania, to name two, and extremely weak in Russia. In Russia, although the Duma approves the military budget, there is no real parliamentary control over the actions of the military, paramilitary or intelligence services, no accountability by the military to the parliament as regards spending of funds, and unmediated direct command over the armed forces by the Russian President. With regard to use of force, the actions of the Yugoslav National Army in Croatia and of the Turkish armed forces in repressing the uprising of the Turkish Kurds did not confirm to the standards of avoiding injury to civilians while using armed forces for internal security missions. The disregard for safety of civilians on the part of the Russian armed forces in the civil war in Chechnya from December 1994 to the present, with at least 30,000 civilians killed, has been widely documented. The protests of OSCE countries did at least bring Russia to permit an OSCE observer-mediator mission at Grozny.

Russia is the worst offender against the Code, both as regards democratic control and failure to limit injury to civilians from domestic use of military

forces. And Russia is simply too large and too poorly governed now to be brought to accountability and reform by the Code. Yet the fact that Russia has signed the Code means that, over time, it can be repeatedly reminded of its commitments; Europe is better off with a Code violated by Russia than with no Code at all. Reviving and implementing another OSCE project, "Third Country Peacekeeping", which would enable OSCE observers to check some of the excesses of Russian troops on peacekeeping missions, might provide more practical help.

There is more light with regard to Code compliance by smaller countries. OSCE authorities in Bosnia negotiating arms control for former Yugoslavia will surely seek to bring the parties to accept the Code. The Code was not explicitly mentioned in the September 1995 report of the NATO Council in describing the requirements to be met for candidates for NATO enlargement, although it could well have been cited in the report. However, the NATO report does give prominent mention to the general subject of democratic control over the armed forces in listing the requirements that should be met by candidates for NATO membership. (The only explicit mention of the Code of Conduct in the NATO report is in paragraph 27, which urges Russian adherence to the Code in a clear reference to Russian behavior in Chechnya.) Moreover, Western delegations report that NATO officials are referring to the Code in discussing with Eastern governments the Partnership for Peace program and also enlargement of NATO. Therefore, whatever the intrinsic benefits or shortcomings of the NATO enlargement project, it has generated inducement to meet higher standards of civilian control over the armed forces. Both in the preparation phase and after NATO enlargement has taken place, NATO member governments will probably keep up the pressure on this subject on candidates for NATO membership and new members. Present NATO members will do this in their own self-interest of maintaining high standards for members of their own alliance.

Since adoption of the Code, there has been little discussion of its potential as a focus for discussion of a possible pan-European defense community. In opening the December 1995 Conference in The Hague, the Netherlands Foreign Minister stated his belief that the Code principles, especially Paragraph 17, which lists types of friction that can lead to conflict, and Paragraph 18, which urges early identification of potential conflict, might also be used as a form of early warning. Up to now, there has been no organized development of this aspect by participating States' governments.

## *Evaluation*

The OSCE Code of Conduct on Politico-Military Aspects of Security will remain a basis for continuing constructive dialogue among OSCE participating States' governments on the use of military power and on the relationship between the armed forces and other institutions in pluralistic states. The Code was a good idea that has been imperfectly executed and that has been rather weakly followed-up by OSCE. It joins other OSCE concepts and projects in waiting for the day when OSCE gains sufficient weight to put more energy and authority behind implementing its own decisions and principles.

Confidence- and Security-Building Measures developed by the CSCE/OSCE have in the course of time and in various guises found regional application around the world. Despite imperfect application in the OSCE area, the OSCE Code of Conduct could with benefit also be discussed and applied outside the OSCE area. This would be particularly valuable in a number of non-industrialized countries, like some in Central America, whose armed forces have a long record of using violence against the civilian population. In this sense, it is to be hoped that the OSCE Secretariat will have transmitted the text of the Code of Conduct to the Organization of American States, to the Organization of African Unity, and to ASEAN's Regional Forum, as well as to the United Nations, and that the OSCE will in the course of time make it possible for officers and officials from non-industrialized countries to attend seminars on the Code.



## The Pact on Stability in Europe - A Diplomatic Episode or a Lasting Success?

During the East-West confrontation the primary task of diplomacy was to keep the bi-polar confrontation stable with the least risk and at the lowest possible cost. Accordingly, stability was defined mainly in military and strategic terms and the means for achieving this goal were security policy along with arms and disarmament policies. Today stability can only be understood as a kind of process, i.e. a social and political evolution with contradictory elements, both cooperative and confrontational, open-ended as to its results and with the goal of strengthening and making more durable the cooperative elements. Stability can only be achieved as the result of the reciprocal relationship between the creation of international structures and internal developments,<sup>1</sup> the latter being of decisive importance.

The West developed various instruments for strengthening its relations to the political East as it was, and for stabilizing that region. Four kinds can be distinguished: *First*, the cooperation between individual Western and Eastern countries as it found expression in hundreds of treaties and in the fundamental reorientation of the Central European countries' international economic relations. *Second*, cooperation between the West as a whole and individual countries in the East. This took the form of membership in the Council of Europe and in the OECD, Association Agreements with the EC/EU, and NATO's Partnership for Peace program. *Third*, cooperation between the West and the East, each acting as a group. The clearest example of this is the North Atlantic Cooperation Council. *Fourth*, the encouragement of sub-regional cooperation between Central and Eastern European countries, ranging from support for the Visegrád group to the Pact on Stability in Europe. The importance of the latter lies in the fact that the countries of Central Europe, in their westward march, tended to neglect their immediate neighbors and especially their former alliance partners. Thus the idea of the Stability Pact filled an important gap in European cooperation.

Based on its ability to integrate economic, social and political issues, the European Union has a unique potential for creating stability which enables it,

---

<sup>1</sup> Cf. Uwe Nerlich, Möglichkeiten und Probleme einer Konstellationsanalyse als Grundlage künftiger sicherheitspolitischer Planung [Possibilities and Problems of a Constellation Analysis as the Basis of Future Security Policy Planning], in: Wolfgang Heydrich/Joachim Krause/Uwe Nerlich/Jürgen Nötzold/Reinhardt Rummel (Eds), Sicherheitspolitik Deutschlands, Neue Konstellationen, Risiken, Instrumente [Germany's Security Policy: New Constellations, Risks, Instruments], Baden-Baden 1992, pp. 23-75, here esp. pp. 40-52.

much more than NATO or the OSCE, to establish contact with the domestic political dimension in individual countries. In this context, the Pact on Stability in Europe, which grew out of an initiative of Prime Minister Balladur in April 1993, has double significance: it represents the first major effort, using the methods of preventive diplomacy, to help stabilize the foreign policy relationships of a series of Central European countries, and it is at the same time the first Joint Action of the European Union's Common Foreign and Security Policy (CFSP). With the Concluding Conference in March 1995 and the handover of this project to the OSCE, its first phase has been concluded. The 52 participants adopted a document which contains the same principles and commitments that they had earlier agreed to in the CSCE context, a list of bilateral treaties, all of which were drawn up outside of the Stability Pact with the exception of the one between Slovakia and Hungary, and a package of cooperative measures financed by the EU. That looks like a rather modest result when it is measured against the need for stabilization in Europe. But it would be premature to write the project off as finished. The newness of the task which the EU and the OSCE set themselves in the Stability Pact raises the question whether, over and above the obvious results, it does not hold lessons that could be useful in future stabilization initiatives.

#### *From the Balladur Initiative to the Pact on Stability in Europe*

If one follows the course of the Balladur initiative to the Concluding Conference on the Stability Pact in March 1995<sup>2</sup> the development looks at first glance as though it had been steady: President Mitterrand presented the French initiative to the European Council in Copenhagen in June 1993,<sup>3</sup> the European Union decided in December to adopt the Stability Pact.<sup>4</sup> The Inaugural Conference in May 1994<sup>5</sup> led to discussions at two regional tables, one

<sup>2</sup> On the development of the Stability Pact see: Hans-Georg Ehrhart, EU, OSZE und der Stabilitätspakt für Europa - Präventive Diplomatie als gemeinsame Aufgabe [EU, OSCE and the Pact on Stability in Europe - Preventive Diplomacy as a Joint Task], in: *Integration* 1/1996, pp. 37-48.

<sup>3</sup> Cf. French Proposal for a Pact on Stability in Europe, submitted to the summit meeting of the European Council, Copenhagen, 22 June 1993, in: Stockholm International Peace Research Institute (Ed.), *SIPRI Yearbook* 1994, pp. 247-249. All subsequent references to the Balladur Plan refer to this text.

<sup>4</sup> Cf. Beschluß des Rates vom 20. Dezember 1993 über die gemeinsame Aktion betreffend die Eröffnungskonferenz für den Stabilitätspakt [Decision of the Council of 20 December 1993 on the Joint Action with regard to the Inaugural Conference on the Stability Pact], in: Auswärtiges Amt [Federal Foreign Office] (Publ.), *Gemeinsame Außen- und Sicherheitspolitik der Europäischen Union (GASP)* [Common Foreign and Security Policy of the European Union (CFSP)], Documentation, 10th rev. ed., Bonn 1994, pp. 380-382. The relatively long period of time between the presentation of the Balladur Plan and the decision of the Council shows that the EU countries were at first skeptical about the Plan.

<sup>5</sup> Cf. Documents of the Stability Conference in Paris on 26-27 May 1994, in: *Blätter für deutsche und internationale Politik* [Journal for German and International Politics] 8/1994, pp. 1018-1022.

for the Baltic states and the other for the Central European countries, whose results were summarized at the Concluding Conference on 20-21 March 1995 in Paris.<sup>6</sup> In view of this appearance of continuity it is easy to overlook the fact that the political structure of the Stability Pact of 1995 differs in important ways from the Balladur initiative.

In his Government Declaration of 8 April 1993, Balladur put his proposal on a par with the great European efforts of the last two centuries at creating a new order - from the Congress of Vienna in 1815 to the Paris Treaties of 1919/1920 to the Yalta Conference of 1945. The goal of the new initiative was to stabilize the situation in Europe and create a "new balance" from which the entire Continent would profit.<sup>7</sup> Balladur's proposal was in the tradition of Mitterrand's failed Confederation idea of 1991 and did not 'just' aim at the stabilization of Central and Eastern Europe but, of equal importance, strove for a new balancing of the relationship between France, Germany and Central and Eastern Europe, the goal being a joint German-French 'Ostpolitik' (eastern policy).<sup>8</sup> It is only in this context that the reference to a 'new balance' makes sense and, indeed, it was soon dropped, just as the reference to the historic conferences. In the French proposal of June 1993 the Pact was defined more modestly as being aimed at "stabiliz[ing] the Central and Eastern European countries which may eventually be associated to varying degrees with the European Union."<sup>9</sup> It was to deal with problems over borders and minorities in relations between the Central European countries and in their relations with Russia. These goals were retained in later versions of the Stability Pact. The document of the Inaugural Conference names nine "countries which seek admission"<sup>10</sup> (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia). In the French proposal of 1993 the conflict in Yugoslavia was explicitly ruled out as a subject for the Conference, which was to be "clearly an exercise in preventive diplomacy very different in nature from the curative measures required in ex-Yu-

---

<sup>6</sup> Cf. Pact on Stability in Europe, adopted on 20 March 1995 by the 52 States of the OSCE at the Concluding Conference on the Stability Pact in Paris.

<sup>7</sup> "C'est la volonté de créer un nouvel exemple français qui nous permettra de rénover notre société tout entière", [Text of the Government Declaration by Balladur on 8 April 1993], in: *Le Monde*, 10 April 1993 (these and all subsequent translations of foreign language sources are our own).

<sup>8</sup> See Ernst Weisenfeld, *Frankreich und Mitteleuropa - Der Plan für einen Europäischen Stabilitäts-Pakt* [France and Central Europe - The Plan for a European Stability Pact], in: Ingo Kolboom/Ernst Weisenfeld (Eds.), *Frankreich in Europa, Ein deutsch-französischer Rückblick* [France in Europe, A Look Back by Germany and France], Bonn 1993, pp. 167-179.

<sup>9</sup> French proposal, 22 June 1993, cited above (Note 3), p. 248.

<sup>10</sup> Inaugural Conference, 26/27 May 1994, cited above (Note 5), p. 1018.

goslavia."<sup>11</sup> The various conflicts in CIS countries were initially excluded as were problems between members of the European Union and their neighbors, e.g. between Italy and Slovenia or Greece and Macedonia. Conflicts involving minorities in Western Europe were not mentioned at all. As long as the Pact was an EU initiative this selection of countries was understandable as one aimed at future members. But the limitation of participants could never be justified with this argument - neither at the beginning, in the first phase of the Balladur initiative, nor later after the Stability Pact had been turned over to the OSCE. Because the objective was to practice preventive diplomacy, the warring successor states in Yugoslavia really did have to be excluded, but this did not apply to a number of successor states to the Soviet Union, e.g. the Ukraine or Belarus. The fact that no member of the EU was regarded as an 'object' of stabilization creates the impression that those countries harbor no risks to stability. This may be true of most of them but the problems of Northern Ireland, say, or Greece's territorial claims should nevertheless not be forgotten. The impression arises that the 'target area' of the Stability Pact was defined by those foreign countries where the Union had the most external influence - the Central European states which were already relatively stable. The focus on minority and border issues is interesting for the way in which it was justified and also for the way its content was originally described and later changed. The French proposal explained its choice of issues by the experience in Yugoslavia. All Central European countries rejected this parallel. For example, the former Hungarian Foreign Minister, Jeszzenszky, said: "The former Yugoslavia is an exception and not a rule."<sup>12</sup> In a narrow sense Jeszzenszky was right: in Yugoslavia a state made up of many peoples disintegrated into ethnic national states in which the minorities were so substantial that they in turn claimed their right of self-determination and secession. There is no comparable situation anywhere in Central Europe. At the same time, Jeszzenszky himself underlined the central argument of the Balladur initiative: "The whole Yugoslav conflict (...) erupted on account of the Serbian minority in Croatia." And: "Just because, there is no immediate threat of an armed conflict, does not mean that it does not exist."<sup>13</sup> Despite the contradictory statements of the Hungarian Foreign Minister it is clear that it was the tragic events in Yugoslavia which determined the thinking of Western and Hungarian politicians alike.

Although the French proposal of June 1993 appealed to CSCE principles it significantly changed the normative basis of its two main themes.

---

<sup>11</sup> French proposal, 22 June 1993, cited above (Note 3), p. 249.

<sup>12</sup> Géza Jeszzenszky, Speech in the Council of Europe, 8/9 October 1993, in: Foreign Ministry of the Republic of Hungary (Publ.), Current Policy 26/1993, p. 2 (henceforth cited as Current Policy).

<sup>13</sup> Géza Jeszzenszky, Interview with Magyar Nemzet, 25 September 1993, in: Current Policy 24/1993, pp. 7-8.

Most astonishing was that a French draft, of all things, talked about "the collective rights of a minority".<sup>14</sup> This problem, according to Montbrial, "seems not to have occurred to the authors of the Balladur Plan, at least not at the beginning. The *démarche* commits France, and with it the Community, to a logic of 'minority rights' which is largely opposed to French tradition".<sup>15</sup> With regard to borders the French proposal deviated in two ways from the political standard. First: "minor rectifications of borders"<sup>16</sup> were said to be acceptable. This position stays within the framework of the CSCE Decalogue, according to which borders in Europe are 'inviolable', thus ruling out any change by force but leaving open the possibility of peaceful change. What departed from political convention in the French proposal was that this was openly stated and went against a widely accepted informal consensus according to which borders in Europe are not only inviolable but unchangeable. Second: the Stability Pact was to make the borders 'sacrosanct', i.e. unchangeable by any means whatever, and this does indeed go beyond the CSCE/OSCE standard. The proposals for collective minority rights and for the possibility of 'border rectifications' aroused extremely contrary reactions, as one would expect. Jeszenszky stressed that the Balladur Plan did not seek to redraw borders but that it was the first international effort since World War II to improve the state of minorities.<sup>17</sup> And the Hungarian government was, at least at the beginning, the only one of the target countries to support the Stability Pact without reservation. By contrast, the Slovak Prime Minister, Meciar, emphasized at the Council of Europe summit in 1993: "[B]ut we cannot, in any case, accept the part of the plan which addresses the possibility of preventive border changes in the interest of satisfying requests of nationalities."<sup>18</sup> Romania shared this position and also opposed collective minority rights. Neither of these changes in the normative basis has been retained; in the Document of the Inaugural Conference there is already nothing more to be found on 'rectifications of borders' or 'collective minority rights'. The Central European countries criticized the fact that only their minority problems and not the ones in Western Europe were to be addressed. Poland and the Czech Republic claimed that they had neither unsolved border issues nor minority problems.<sup>19</sup> In the Czech Republic there were, moreover, serious reservations about introducing the sensitive subject matter of the

<sup>14</sup> French proposal, 22 June 1993, cited above (Note 3), p. 247.

<sup>15</sup> Thierry de Montbrial, *L'Europe et les minorités nationales*, in: *Le Figaro*, 30 March 1995.

<sup>16</sup> French proposal, 22 June 1993, cited above (Note 3), p. 247.

<sup>17</sup> Cf. Jeszenszky, 25 September 1993, cited above (Note 13), p. 7.

<sup>18</sup> Vladimir Meciar, Excerpt from the address of the Slovak Prime Minister V. Meciar at the first Council of Europe summit on human rights and national minorities, Vienna, 9 October 1993, in: Ministry of Foreign Affairs of the Slovak Republic (Publ.), *Documents, Foreign Policy of the Slovak Republic 1993*, p. 105.

<sup>19</sup> Cf. Adam Daniel Rotfeld, *Europe: the multilateral security process*, in: Stockholm International Peace Research Institute (Ed.), *SIPRI Yearbook 1995*, p. 284.

German-Czech Treaty into something that was being worked out under EU auspices.

As a way of achieving its goals the French proposal provided for bilateral treaties between the affected countries which would then be assembled into a Pact on Stability in Europe at a Concluding Conference. The absence of any ratification provisions in the French action plan of 1993 shows that there was no intention of giving the Pact a legally binding character.<sup>20</sup> Rather, the participants in this conference were to "serve as guarantors of these bilateral agreements".<sup>21</sup> Later, however, there was never any more talk of such guarantees. The arrangements were to be supplemented by flanking measures and by both positive and negative incentives: the prospect of EU membership, of associate membership in the WEU, of economic assistance - or the denial of all these things. These sanctions, however, suffered in the event from their own modest potential or from having already been used or not being fully usable. The nine Central European states, for example, had already been made "Associate Partners of the WEU"<sup>22</sup> in May 1994, before the Inaugural Conference of the Stability Pact; the volume of projects to promote good-neighborly relations which the EU supports is, at 200 million ECU<sup>23</sup>, very limited and these resources are in any case covered by the projected PHARE program for Central Europe. Its most effective weapon, the prospect of membership, was one the EU could only use indirectly at that time because its internal decision-making on the timing and extent of enlargement had not been completed.

The negotiating format provided for in the French proposal of 1993 for a Stability Pact was appropriate to its character as a Joint Action of the EU's Common Foreign and Security Policy (CFSP). Along with the member states of the Union (12 at that time), participants were to be the countries of Northern and Central Europe (with the exception of Albania and the successor states of Yugoslavia), the United States, Canada, Russia, Belarus, the Ukraine and Moldova. The participation of the CSCE was not foreseen nor indeed was that of any other international organization. This represented a remarkable change in French CSCE policy because at the CSCE Summit in Helsinki in July 1992 Foreign Minister Dumas had proposed a security pact for all of the then 52 participating States.<sup>24</sup> The initiative's focus on the EU raised a question about the future role of the CSCE in European stability policy.

---

<sup>20</sup> But this is what Jeszenszky hoped for: "The Balladur Plan is supposed to be a convention with international legal force." (Jeszenszky, 25 September 1993, cited above [Note 13], p. 7).

<sup>21</sup> French proposal, 22 June 1993, cited above (Note 3), p. 247.

<sup>22</sup> Kirchberg Declaration of the Western European Union (WEU) of 9 May 1994, in: [gopher://marvin.nc3a.NATO.int:70/00/Other\\_International/weu/COM/com0905.94](http://marvin.nc3a.NATO.int:70/00/Other_International/weu/COM/com0905.94).

<sup>23</sup> Cf. Ehrhart, cited above (Note 2), p. 41.

<sup>24</sup> Cf. Walter Schütze, *The Stability Pact for Europe: New Avenue or Dead End?*, in: *Peace and the Sciences*, Vol. XXVI (June 1995), p. 1.

The inclusion of Russia in the Stability Pact, which was an objective necessity owing to its conflicts with the Baltic states, further aggravated this problem. A stability pact outside of the CSCE would inevitably have led to a far-reaching weakening of the CSCE's standing. But because virtually all of the participating States were unwilling to agree to that, the CSCE/OSCE was gradually drawn into the project. It was already represented at the Inaugural Conference<sup>25</sup>, in which 39 countries participated. The Conference also decided on a new two-stage structure: the project as a whole was in future to be dealt with in the 52-country framework and, following completion, be handed over to the OSCE; the original goal of a focus on Central Europe was retained by the creation of the two regional tables.

Beginning in September 1994 the two regional tables met three and four times respectively. At the Baltic Table, in addition to Estonia, Latvia, Lithuania and the EU, were Poland, Russia, the United States, the Council of Europe, the CSCE Troika and the Baltic Council, and since the second session Iceland and the United Nations Development Program (UNDP) joined in as observers. Present at the Central European Table were Bulgaria, the Czech Republic, Hungary, Poland, Romania, Slovakia and, in addition, Austria, Switzerland, Canada, the United States, the HCNM (High Commissioner on National Minorities) of the OSCE and a representative of the Council of Europe; Turkey joined for the final phase. The EU approached the conversations with care, wanting to avoid the impression that any pressure was being applied. EU representatives explained the various support programs of the Union and the participating countries presented their interests and wishes. Finally, the bilaterally negotiated treaties were discussed. The fact that the political terms and the design of the Pact had been changed substantially since mid-1993 contributed to the good atmosphere. A point of central importance for the Baltic countries was that Russian troops had in the meantime been withdrawn; that had been a condition of those three countries' participation. Russia did not at first want to participate at the Baltic Table (where it subsequently took quite moderate positions) because it feared its relations with the Baltic countries would be put under EU supervision. This concern was greatly lessened when the project was put into the OSCE context. On the other hand, the Baltic states were hesitant to agree to Russia's participation and, in this case, viewed the presence of the United States as an indispensable counter-weight. The planned transfer of the Pact to the OSCE, with its consensus rule, lessened the fear at the Central European Table that

<sup>25</sup>

The Council's decision of December 1993, with the addition of Malta, Cyprus, Slovenia and the Holy See, mentions the same countries as the French proposal of 22 June 1993 had done and, further, the CSCE, the Council of Europe, WEU, NATO and the United Nations as additional conference participants (cf. Decision of the Council, 20 December 1993, cited above [Note 4], pp. 380-381).

the European Union might exercise excessive influence over bilateral relationships.

While the regional tables, in accordance with the instructions of the Inaugural Conference, were first to discuss problems of economic cooperation and the treatment of minorities, the question of how projects initiated under the Stability Pact were to be financed quickly assumed importance. Various countries criticized the EU's lack of generosity and Poland, in particular, asked for special resources going beyond PHARE. Another subject was the relationship between the Stability Pact and CSCE norms. The Union took the position that CSCE commitments should be regarded as the 'upper limit' and that nothing should be agreed to which went beyond them. Slovakia favored commitments on the basis of the Council of Europe's Framework Convention for the Protection of National Minorities; other countries took a more flexible position. Another controversial issue was what kinds of agreements should be attached to the Stability Pact. The Czech Republic held the view that only documents which came into existence after the Inaugural Conference should be accepted. The fact that this was the only approach which would permit the effects of the Pact to be measured argued for this position. But Romania wanted to have all relevant documents included, irrespective of when they had been adopted. Another aspect of this problem was the question whether only so-called basic treaties should be on the list or whether it could include other relevant documents. In this connection, the Hungarian delegation insisted on the inclusion of agreements dealing with minorities, a concern which could hardly be rejected in view of the importance of this issue for the whole Stability Pact.

Even before the Inaugural Conference a certain disenchantment could be noticed in Hungary. The conservative Hungarian government was of the opinion that there was a close connection between border issues and minority questions. The Foreign Minister at that time, Jeszenszky, referred in his speech at the Inaugural Conference to the peace treaties after the First World War: "These borders defined independent states in place of empires (...) But the new borders also cut sizeable communities off from the majority of their nation that formed a state, so creating national minorities that differ from the majority in their language, culture and historical tradition (...) One indispensable requirement for stability and good-neighbourly relations in the case of many Central and Eastern European countries is to reach a settlement of the situation of the national minorities based on applying absolutely the principles of democracy, of participation in public affairs by those who are governed, and of subsidiarity and decentralization."<sup>26</sup> There were two reasons why the Hungarian government of that time was dissatisfied with the draft document

---

<sup>26</sup> Géza Jeszenszky, Statement at the Conference for a European Stability Pact, 26 May 1994, in: *Current Policy* 8/1994, pp. 1-2.



for the Inaugural Conference. First, the possibility of minor rectifications of borders originally provided for in the Balladur initiative was no longer there, apart from a brief reference to "questions regarding borders". Second, the conversations following the Inaugural Conference were conducted in a way which made clear their inter-state character, which was perfectly natural under international law. But the conservative Hungarian government felt compelled to make a long interpretative statement on this matter: "The Hungarian government cannot formally represent the citizens of other countries who belong to a Hungarian national minority, but it considers it an essential requirement that the representatives of the minorities concerned should be able to present their views during the process and on the agreements reached. This is in accordance with the interests of the minorities, of the governments concerned as well as of all participants in the Conference since only an agreement that is accepted by the minorities themselves can establish permanent stability."<sup>27</sup> Nor does the new socialist-liberal Horn government, which made the conclusion of basic treaties with Romania and Slovakia the centerpiece of its foreign policy program, have especially great hopes for the effectiveness of the Stability Pact. That Pact, the Horn government argues, talks only about borders and that is the position of Romania and Slovakia; one has to be skeptical about the Stability Pact, partly because it has become an end in itself for France but also because no basic treaties can be concluded without bilateral agreement.<sup>28</sup> Prime Ministers Horn and Meciar had agreed in January 1995 to conclude a basic treaty by the time of the Concluding Conference on the Stability Pact on 20 March 1995 but it was very unclear at the time whether this would succeed.<sup>29</sup> That the treaty did in fact come about, with Recommendation 1201 of the Council of Europe's Parliamentary Assembly included<sup>30</sup>, shows that in the end Slovakia was prepared to enter into commitments going beyond the Framework Convention of the Council of Europe. With the conclusion of the Slovak-Hungarian basic treaty the Stability Pact had for practical purposes reached its objective, but this was the only case in which a new treaty could be concluded.

<sup>27</sup> Interpretative statement on the concluding document of the Inaugural Conference on a Pact on Stability in Europe. This statement was not printed in any collection of the Conference documents (cf. Inaugural Conference, 26/27 May 1994, cited above [Note 5] and Agence Europe, 31 May 1994, Europe Document No. 1887).

<sup>28</sup> Conversations with staff members of the Office for Hungarians Abroad and the Hungarian Foreign Office, 24 November 1994 and 16 November 1994.

<sup>29</sup> On the Slovak-Hungarian basic treaty, cf. Wolfgang Zellner/Pál Dunay, *Die Außenpolitik Ungarns im ersten Jahr der Regierung Horn* [Hungary's Foreign Policy in the First Year of the Horn Government], in: *Südosteuropa* 11-12/1995, pp. 664-671.

<sup>30</sup> Cf. Recommendation 1201 (1993) on an additional protocol on the rights of national minorities to the European Convention on Human Rights, in: Council of Europe, Parliamentary Assembly, Forty-Forth Ordinary Session (Fourth Part), 1-5 February 1993, Texts Adopted by the Assembly, Recommendations 1198 to 1209, Strasbourg 1993, pp. 1-7.

The Concluding Conference on the Pact on Stability in Europe adopted a document consisting of three parts: a political declaration on the principles of good-neighboring cooperation; a list of about 130 agreements between the nine countries and members of the EU, as well as among the nine and between them and other neighboring states; an annex listing the assistance projects proposed by the nine at the regional tables and those financed by the EU as a part of PHARE.<sup>31</sup> The political declaration stresses "our efforts to ensure stability in Europe" but in its concrete portions concerns itself mainly with those countries "to which the European Council has offered the prospect of accession."<sup>32</sup> The declaration mentions as a normative basis commitments undertaken in the United Nations, the OSCE and the Council of Europe, lists the most important relevant documents and once again cites the CSCE Decalogue of Helsinki 1975.<sup>33</sup> The Conference transferred responsibility for the further implementation of the Stability Pact to the OSCE.

### *The Pact on Stability in the Hand of the OSCE*

On 25 July 1995 the Permanent Council of the OSCE decided on guidelines for the further implementation of the Stability Pact,<sup>34</sup> among them the continuation of the existing regional tables and the creation of new ones. French Prime Minister Balladur, at the Concluding Conference, had suggested that there be round tables for the southern part of the Balkans, where to date there had been no open conflicts, and for the Caucasus.<sup>35</sup> In view of the cooperation agreement between the EU and the CIS and of the TACIS Program, there are efforts, especially on the part of Finland, which is co-chairman of the Minsk Group, to use the Stability Pact to solve the Nagorno-Karabakh conflict. The conclusion of the Dayton Agreement on 21 November 1995<sup>36</sup> created a new basis for a Balkan Table. Shortly before Dayton the Foreign Ministers of 29 countries<sup>37</sup> met on the initiative of the EU, particularly France, to establish a special version of a Southern Slavic Table.

<sup>31</sup> The focal point of these projects were measures for cooperation across borders and for expanding border-crossings; in addition there were projects for economic and cultural cooperation, the environment and minorities (cf. Annex 1 - Part [b], PHARE Projects Supporting the Pact on Stability in Europe).

<sup>32</sup> Concluding Conference on the Stability Pact, 20/21 March 1995, cited above (Note 6), p. 487.

<sup>33</sup> Cf. *ibid.*

<sup>34</sup> Cf. Ehrhart, cited above (Note 2), p. 43.

<sup>35</sup> Cf. Archiv der Gegenwart, 21 March 1995, p. 39854.

<sup>36</sup> Cf. Framework Agreement on Peace in Bosnia and Herzegovina, initialed on 21 November 1995 in Dayton, Ohio, in: <http://www.state.gov/www/current/bosnia/bosagree.html>.

<sup>37</sup> Participants were among others the Foreign Ministers of the EU countries, the Yugoslav successor states, the United States, Russia, Turkey, and Switzerland as well as representatives of the OSCE and the Council of Europe.

The objective was not negotiations between governments but paving the way for a renewal of dialogue between the elite elements of society in Serbia, Croatia and Bosnia and Herzegovina. There turned out to be very little interest in those countries with the exception of Serbia, which would like to find fora in which it can appear on a basis of equality; a meeting in Vienna in April 1996, which was intended to identify concrete projects, had no success. The already established tables for Central Europe and the Baltic countries each held two informal meetings. At the Central European one there was some interest in carrying on; they at least did not want to let the table fall by the wayside. As subjects for discussion, transportation, trade, the environment and the fight against drugs were mentioned. There was no longer any talk about border and minority issues. Romania did not want to deal with them and even Hungary did not argue on their behalf. The Central European Table no longer played any role in connection with the open issues in the Romanian-Hungarian basic treaty. There was hardly any concrete discussion of problems or proposals for action. Nor did the discussions at the Baltic Table produce any new ideas; on the contrary, it was clear that there were certain questions which the Baltic states preferred to discuss in the Baltic Sea Council. Now, a full year after its transfer to the OSCE, the steam seems for the time being to have gone out of the Stability Pact. Only for the Southern Slavic Table do there seem to be a few possibilities which are dependent on the implementation of the Dayton Agreement. This does not, however, exclude the possibility that the newly acquired instrument of regional negotiations might, if needed, be used again in the OSCE framework.

#### *Experience with the Pact on Stability in Europe*

The heart of stabilization in Europe lies in evening out the socio-economic and cultural-political differences in the level of development on the continent. This, if it ever succeeds, will be a task of many decades. Viewed in this light the Stability Pact appears to be an episode. Still, far-reaching processes often begin with small steps of mainly symbolic significance. The Stability Pact represents - this is perhaps its most important aspect - a political will, born of the experience of the catastrophe in Yugoslavia, to tackle stability problems in Central Europe before being forced to do so by a manifest crisis. It has done this with modest resources and it is thus perhaps trite to note that the results have also been modest. This was a condition of its coming into existence at all, since no one was willing and/or able to make a substantial gamble with its attendant risks. What is important in any evaluation of the Pact is not alone and even not primarily its direct successes but the experience which participants have garnered as a result of it.

*First*, during its whole course, the project was accompanied by a kind of tension emerging from the contrast between its pan-European claims and the actual concentration on Central Europe. This limitation, occasionally criticized, was right; extending it to the CIS area would have overburdened its limited resources even more. This remains true regardless of any ideas for applying the Pact's 'carrot and stick' approach to the CIS area in the future. It was also necessary to tie the Pact to the OSCE; not to have done so would have supported a tendency to deal separately, in institutional and normative terms, with stability problems in Central Europe and in the CIS area. Trying to resolve this tension simply by moving more to one side or the other will not be possible in the future either, if the goal of a pan-European order is to be sustained.

*Second*, it became evident that the European Union's potential for promoting stabilization depends on the intensity of its cooperative relations, mainly with regard to enlargement, and is thus limited in its extent. The EU's stabilizing influence on its nearer and more distant neighbors decreases as the intensity of its cooperative relationships - ranging from membership aspirations to association to simple cooperation - goes down. The reason why the Central European countries went along with this project even though almost all of them viewed it skeptically at the beginning is because they want to join the EU and regarded work on the Stability Pact as a condition for that. The fact that Slovakia has concluded a treaty with Hungary while Romania has not yet done so<sup>38</sup> can be interpreted as a consequence of lesser or greater distance to the goal of EU membership and, therefore, greater or lesser influence on the part of the Union. This highlights once again the fundamental importance of the Union's enlargement process; it is only against this background that the Stability Pact was possible.

*Third*, one can note over the course of the project a certain shift of emphasis from classical problems of sovereignty and security (borders, minorities) to cooperative economic and social issues. This shift reflects not only the direct political interests of certain participants but also the strengths and weaknesses of the Union and, ultimately, the changing nature of stability.

*Fourth*, the Stability Pact proved that the often-cited 'interlocking institutions' really can interlock in a useful way and do not have to stymie each other through institutional egoism. At the regional tables, in particular, all of the organizations with an interest in the problem worked together for the first time. This was made possible by the relatively loose procedural structure and probably also by the relative modesty of the project's goals. What is important is that we have learned that this kind of cooperation is possible when there is a political will for it.

---

<sup>38</sup> The Romanian-Hungarian basic treaty was signed on 16 September 1996 and entered into force later that year.

*Fifth*, the relationship between the European Union and the OSCE in connection with the Stability Pact, which in this specific form was only achieved as the result of a long process, represents an innovation that may have substantial promise for the future. For one thing, it has become clear that the European Union, apart from association and enlargement aspects, cannot *alone* produce stability and ought not to try. On the other hand, we have seen that it is indispensable as an initiator and active supporter. This last point concerns not only financing but also and especially the political dimension. The Union is not better equipped to deal with issues of 'pure' foreign and security policy than other international organizations are; in some respects its position may be worse. Moreover, the fundamentally equal character of relations within the OSCE would be harder to maintain in the EU's relations with third parties, which are characterized by the distinction between 'internal' and 'external'. Finally, the rapid collapse of the EU's norm-setting effort with respect to borders and minorities, embodied in the French initiative of June 1993, shows that the Union is no better prepared to deal with such issues than others are. On the other hand, the OSCE is dependent on EU initiatives, as the gradual fading away of the Stability Pact since March 1995 shows. The political/institutional model of an 'EU initiative in the OSCE framework' could be of importance for the future, particularly in relations between the Union and Russia.

*Sixth*, the Stability Pact once again makes clear that the current legally binding rules on the protection of minorities are inadequate; while politically binding commitments go significantly farther, they are subject to differing interpretations and are not sufficiently implemented. This deficit in norm creation and implementation can be attributed both to the reinvigoration of ethnic nationalism in Central and Eastern Europe and also to the unwillingness of a number of Western European states to create binding minority rights. The resulting signal to Central European governments can only be that the subject of minority rights does not need to be taken too seriously.

As a result of the forthcoming enlargement of the EU and NATO a number of the former target countries of the Stability Pact will become a part of the Western 'interior' and thus no longer the object of stabilization initiatives directed *toward the outside*. This means that stabilization efforts directed toward the outside ought to be concentrated on those countries which are not, or not yet, ready to become members of the EU or NATO. This refers, first and foremost, to the Baltic states, but also to (a part of) the successor states of Yugoslavia. The main importance of stabilization, then, would be to avoid letting the borderlines which any incomplete integration leaves behind become lines of confrontation but, rather, to bridge them in the most cooper-

ative way possible. The Pact on Stability in Europe has provided important experience for this purpose.

## Economic Transformation and Limitation of New Risks





## Problems of Economic and Social Transformation in Eastern Central Europe and the CIS States: Fields of Activity for the "Economic Dimension" of the OSCE?

### *On the Economic and Social Dimension of Security*

Since the founding of the CSCE/OSCE the main traditional goals of the Organization, security and cooperation, have not been defined only in terms of foreign policy and armaments policy. They have always had a substantial economic dimension. The position and the importance of economic cooperation for guaranteeing peace and security was expressly emphasized in Basket II of the Helsinki Final Act, a number of fields of activity (trade, cooperation in industry, science and ecology) were identified, and the requirements for cooperative progress were set forth.<sup>1</sup> This approach was in line with the cooperative developments in East-West relations brought by detente policy but was not able to give much new or independent thrust to that process. Following the end of the East-West conflict the importance of economic and social factors for international security continued to grow. The collapse of the Soviet hegemonial system in Eastern Europe at the end of the eighties opened up new possibilities for various forms of cooperation, not least in the economic field, while at the same time the role of military security as a factor in international relations weakened, at least from a global perspective. On the other hand, the upheavals in Eastern Central Europe and the CIS states were accompanied by new security problems, many of them largely the result of discontinuities in economic and social development caused by the transformation.

There are a number of reasons why these discontinuities had such serious consequences. Of particular importance are the oppressive legacies of the collapsed communist system, the extraordinary complexity of the work involved in the transformation, and the comparatively low level of economic development in almost all of the countries undergoing this process. These factors were generally underestimated, both in the reform countries and in the West, and this led almost invariably to exaggerated hopes and false strategies - false because they were inadequate and inconsistent. For that reason we need to take a look at the conditions and the status of the transformation before we can investigate its security implications.

---

<sup>1</sup> Final Act of Helsinki, Helsinki, 1 August 1975, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 141-217, esp. pp. 156-181.

Owing to the close relationship between economic and socio-political developments it is not only the economic but the political and social legacies of failed communism which impede the transformation of economic conditions: deficiencies of power and authority, weakly developed democratic forces, inability of social groups to organize themselves, and a lack of guiding social values and behavioral norms, all of which contribute to the spread of criminality. In a narrower economic sense, the old bureaucratic structures and interest groups go on functioning and thus burdening economic change. Central elements of the old system such as paternalism and "egalitarianism" left behind forms of economic behavior which do not exactly favor the transition to a market economy. Above all, the decades of Eastern European economies with an essentially negative character meant that any systemic change must inevitably lead to economic and social shocks. Nevertheless, a comparison of the systemic, behavioral and structural legacies of the individual transitional economies of Eastern Europe reveals that, despite many common elements, they differ substantially from one country to another and that the conditions under which the transformation process began were thus quite varied.

There are two aspects to the complexities of reform. For one thing, the transition to new economic conditions, in particular the shift to stable, socially accepted and efficient market systems, must take place at the same time as the change of the political system and the society into one with democratic and pluralistic structures. There are close relationships between political and economic transformation but many contradictions as well. And the restructuring of economic conditions is in itself an extraordinarily complicated process, made up of at least five different parts: the micro-economic liberalization of domestic and international economic relations, as the "essential point of entry" into a market economy; macro-economic stabilization with the vital objectives of overcoming transformational recession and fighting inflation; the institutional change, aiming at market economies; the transformation of existing economic structures and ensuring that that transformation is accompanied by adequate social flanking measures. Here, too, there are between the various reform objectives many contradictions which are difficult to overcome.<sup>2</sup>

---

<sup>2</sup> A more detailed discussion is in: Hans-Hermann Höhmann, *Marktwirtschaft ohne Alternative? Aspekte und Bewertungsmaßstäbe der osteuropäischen Wirtschaftstransformation* [Market Economy without Alternatives? Aspects of the Eastern European Economic Transformation and Standards for Evaluating it], in: BIOst (Ed.), *Zwischen Krise und Konsolidierung. Gefährdeter Systemwechsel im Osten Europas* [Between Crisis and Consolidation. Systemic Change at Risk in Eastern Europe], München 1995, pp. 189-195.

As for the level of economic development, four of the 26 OSCE countries in the region - which account for just half of all members of that Organization - belong, according to the UN classification<sup>3</sup>, to the "low income" (in 1994 up to US-Dollars 750 GNP per capita) group: Albania, Azerbaijan, Armenia and Georgia. Most of the others, including Russia, belong to the "lower middle income" group (up to US-Dollars 3,000 GNP per capita). Only three (the Czech Republic, Hungary and Slovenia) belong to the "upper middle income" group and none of the transformation countries is represented in the "high income" category. In addition to the low level of income in these countries, the negative trend in national income development has aggravated the situation. The "transformational recession" (J. Kornai)<sup>4</sup>, which began after 1989, was particularly serious in the successor states to the USSR and is still going on in many places. The national product of the Ukraine in 1995 was, for example, about 60 percent below the level of 1989 and in Russia about 50 percent below. The transformational recession in Eastern Central Europe was significantly smaller, however, which in turn led to the relatively early resumption of economic growth.

A low level of development of national economies, the rapid collapse of the communist system of rule and of economic management, and continuing burdensome legacies along with the transformational recession they have triggered are the main causes of other unfavorable socio-economic developments which - again with significant variations from one country to another - represent potential factors of internal destabilization. Worthy of mention are:

- the social security systems, which are so far only rudimentary;
- the unemployment which accompanies economic reform;
- the substantial growth of income and property differentials within the population;
- the growing impoverishment of those parts of the population which are incapable of adapting to the changed economic circumstances and conditions of work;
- medical care, which has deteriorated and is now often inadequate;
- environmental damage, often severe, and finally
- the high level of criminality, which continues to grow.

All of these negative economic, social and ecological factors make the transition to "normally functioning" civil societies more difficult and intensify the

---

<sup>3</sup> The World Bank (Publ.), *From Plan to Market*. World Development Report 1996, Oxford/New York et al. 1996, pp. 188-189.

<sup>4</sup> Janos Kornai, *Transformational Recession: The Main Causes*, in: *Journal of Comparative Economics* 19/1994, pp. 39-44.

danger of reactionary turns in domestic policy, whether of a communist or authoritarian and nationalistic kind; they could have international spill-over effects and they pose a potential risk to domestic and international security. The widespread, although not universal, return of post-communist groups to government responsibilities as a result of the second wave of parliamentary elections since 1989 shows that there is substantial dissatisfaction with economic and social progress. On the other hand, one can assume that these security risks would diminish if the systemic transformation to democracy and market economies proceeded successfully and if, accompanied by economic recovery and social consolidation, it were supported by a sufficient popular consensus.

#### *A Transformation with Varying Degrees of Success*

The variations between transformation countries have become manifest in all areas of the reform process.<sup>5</sup> We see again and again that the countries which have made the most progress in transforming themselves are also the ones which have been most successful in overcoming the transformational recession. According to the level of politico-economic restructuring and economic recovery achieved, various zones of diminishing intensity in the transformation process can be discerned, although the lines between them are imprecise and there is also considerable differentiation within individual zones. The five Eastern Central European countries - the Czech Republic, Poland, Hungary, the Slovak Republic and Slovenia (ECE/5 states) are clearly at the head of the pack. It is equally easy to see which ones are bringing up the rear: all those countries affected by war or civil war in which decline and chaos prevail (former Yugoslavia, Trans-Caucasus, Tajikistan). All the other countries are to be found somewhere between these groups. Some are having a bit of success in trying to catch the leaders; in others, restructuring and efforts to overcome the transformational recession have at best produced unstable stagnation in which positive and negative factors balance each other out.

#### *Favorable Prospects for Eastern Central Europe*

Despite all difficulties the transformation has progressed substantially in the Eastern Central European countries and the economic situation has also clearly improved.<sup>6</sup> Given favourable conditions at the start it was possible to begin the rebuilding of the system relatively fast and successfully. A whole

---

<sup>5</sup> Cf. EBRD (Publ.), *Transition Report 1995*, London 1995, pp. 11-13.

<sup>6</sup> Cf. ECE (Publ.), *Economic Survey of Europe in 1995-1996*, New York/Geneva 1996, pp. 53-57.

set of transformational measures was introduced and some of them have been completed. There has been positive growth in all ECE/5 states since 1994, in Poland for the fourth year in a row. The transformational recession was less severe in these countries; overall, the decrease in GDP after 1990 came to only about 15 percent. It appears that the ECE/5 states are in the process of catching up with the weakest EU countries, becoming "normal European problem children" in the economic sense and preparing themselves for membership in the European Union. Positive elements, in addition to the growth in GDP that has been achieved, are the investment growth which is once again under way and the moderate development of annual inflation rates which ranged from nine percent (Czech Republic) to 28 percent (Hungary) in 1995 and can, all in all, be described as "transformationally appropriate". But there are also several negative economic developments in the ECE/5 states which must be pointed out: the unemployment rates, ranging between 15 percent in Poland and ten percent in Hungary (both figures for 1995), are relatively high (the Czech Republic is an exception with the very low rate of 2.9 percent); average real wages have been declining since 1990; gaps between social groups are getting larger; an effective system of social security has yet to be established; and some portions of the population are threatened by poverty, especially because the governments, as in Hungary in 1995, have occasionally had to resort to strict austerity measures.

The three Baltic states, Estonia, Latvia and Lithuania, are trying, with varying success, to catch up with the leading transformation countries.<sup>7</sup> But they still have substantial economic and social problems, not least because they have had to overcome a much deeper transformational recession. Despite numerous problems of adaptation, however - and contrary to many predictions (including ones from the West) -, the process of removing themselves from the old Soviet economic association has had positive results for the Baltic states, mainly owing to the additional leeway they have gained for pursuing an economic policy in accordance with their own capacities and needs and the reorientation of their international economic relations more toward the North and West.

The transformation in the countries of Southeastern Europe - Albania, Bulgaria and Romania<sup>8</sup> - has been characterized by instability and susceptibility to disruptions in macro-economic consolidation and systemic change, but it has not been without favorable prospects. Albania has had high economic growth rates since 1993 but the population remains extraordinarily poor owing to the very low level of development. Romania, too, has achieved a growth rate of about five percent while Bulgaria, with regard to growth and

---

<sup>7</sup> Cf. Länderanalysen der FAZ, Baltikum [Country Analyses of the Frankfurter Allgemeine Zeitung (FAZ), the Baltic States], April 1996, p. 3.

<sup>8</sup> Cf. FAZ (Publ.), Osteuropa-Perspektiven. Jahrbuch 1995/96 [Eastern European Perspectives. Yearbook 1995/96], pp. 95-114, 203-218.

stability, is having great difficulty keeping up. The low level of economic development aggravates problems in both of these countries.

#### *Continuing Problems in Russia and Other CIS Countries*

Russia is a special case because of its size and its geo-political importance. It is certainly the most advanced of the transformation countries in the CIS but its path toward democracy and a market economy is still plagued by many problems. Among them:

- the especially burdensome legacies in Russia, not least with respect to sectoral and regional economic structure;
- contradictory political concepts together with uncertain power relationships and regional efforts to achieve autonomy, with the result that even after Yeltsin's reelection the central government remains weak;
- the continuing negative consequences, both internally and externally, of the war in Chechnya; and finally
- the persistently unsatisfactory economic situation.

The speed of GDP decline has been slowed but once again in 1995 there was a drop of four percent which, in this case, particularly affected private consumption. A real economic structural transformation has begun, unfortunately under conditions of insufficient adaptability and willingness to react on the part of firms, accompanied by completely inadequate capital formation. Progress has been made in monetary and fiscal stabilization but this is once again being put at risk by electoral promises which now must be redeemed. A beginning has been made in the process of systemic transformation leading to a market economy and the course is being held to despite many difficulties. But obstacles and false starts abound, making clear that institutional change is either inadequate or is not taking hold. The old social system of Russia has, after all, come off its hinges; the distribution of property and income has become very uneven and poverty has increased, more or less mitigated by traditional or spontaneously developing new networks for self-help whose potential durability is, however, difficult to judge. All in all, the transformation process in Russia, in comparison with Eastern Central Europe, is still far from being consolidated. But the continuation of Yeltsin's Presidency, democratically legitimated, at least gives Russia a chance to avoid the turbulence and instability that would have attended the possible alternatives - his staying in office without an electoral mandate or a victory

for Zyuganov; it allows cautious hope that the political and economic transformation can go on, even if not entirely free of tensions.<sup>9</sup>

Transformation in most of the other CIS countries is lagging even more than in Russia. Here too there are some areas in which substantial transformation projects have made a certain amount of progress (e.g. in the Ukraine) but there are also enormous realization problems which, in extreme case, threaten to paralyze any reform plan. What these countries have in common with Russia, however, is the impossibility of completely abandoning the reform course; there is no promising alternative to the policy of systemic change that has been more or less clearly undertaken. For one thing, it is clear that increased interventionism - extensive price controls, for example, or subsidies for unprofitable factories or administrative interference - would lead to mixed economies that would not be particularly efficient and might well be counter-productive. And a complete return to the old conditions of a planned socialist economy looks even less feasible. The lack of any fundamental alternatives to reform policy does not, of course, completely rule out administrative interference with the transformation process or changes of course and zig-zag movements in economic policy, whether they result from economic desperation or from continuous blockades, initiated by reactionary forces.

#### *Transformation and the "Economic Dimension" of the OSCE*

Since the beginning of the transformation process the CSCE has paid a lot of attention to the economic dimension of security and stability and to the necessity of successful systemic transformation. The main stages of conceptual development can here only be indicated with a few key terms: while the old formula about promotion of "stable and equitable international economic relations in the interest of all States" was still presented as the main objective of economic cooperation in the Concluding Document of the Follow-up Meeting of Vienna of 15 January 1989<sup>10</sup>, then, beginning with the Bonn Conference on Economic Co-operation in Europe in April 1990, it was the development of market economies, political pluralism and the rule of law which took over the central position in the CSCE's catalogue of economic objectives.<sup>11</sup> In the "Prague Document on Further Development of CSCE

---

<sup>9</sup> Cf. Hans-Hermann Höhmann/Christian Meier, Zwischen Hoffen und Abwarten: Jelzins Wahlsieg, der Westen und der G7-Gipfel von Lyon [Between Hope and Patience: Yeltsin's Electoral Victory, the West and the G7 Summit in Lyon], Aktuelle Analysen [Contemporary Analyses] of BIOst, Köln 45/1996.

<sup>10</sup> Concluding Document of Vienna, Vienna, 15 January 1989, in: Bloed, cited above (Note 1), pp. 327-411, here: p. 343.

<sup>11</sup> Cf. Document of the Bonn Conference on Economic Co-operation in Europe, Bonn, 11 April 1990, in: Ibid., pp. 425-438.

Institutions and Structures" of January 1992, the focus on "the transition to and development of free market economies" was again put in the foreground of economic cooperation. In addition, it was decided to establish an Economic Forum in order to promote a dialogue on issues of market economy reform and to encourage related activities and proposals by European and trans-Atlantic organizations such as the OECD, the European Investment Bank, EBRD and ECE.<sup>12</sup> Finally, the Document of the CSCE/OSCE Budapest Summit (5/6 December 1994) emphasized support for the economic reform process and the development of market economies and environmentally friendly policies as indispensable elements of security and stability in the OSCE region.<sup>13</sup>

As reasonable and necessary as it may be to discuss economic and social development problems in Eastern Central Europe and the CIS states with a view to their importance for security and stability and, hence, as a part of the OSCE's economic dimension, we should not entertain exaggerated hopes for clear analytical results and unambiguous conclusions regarding an interdependent relationship between socio-economic development and questions of internal stability and security. For one thing, the data are often too imperfect to give a precise enough picture of the structure and explosiveness of socio-economic problems; there are serious problems of measurement and evaluation, particularly when it comes to international comparisons. Moreover, the risks to security and stability in the OSCE region that lie in bad economic and social circumstances usually come less from the situation itself than from the way they are perceived and evaluated by the people and from their fluctuating usefulness in political debates and power struggles. Extensive case studies and the development of sensitive indicators would be needed to establish a dependable basis for judgement and decision.

On the other hand, the range of instruments available to the OSCE for meeting its responsibilities in the economic dimension as defined in its documents is also extremely limited.<sup>14</sup> In working out and implementing economic, ecological and social support programs for the transformation countries - these generally include untied credits, project-related transfers of funds, technical assistance and consultation, support for training and advanced training programs, help in developing labor markets and establishing social security systems and support for the protection of the environment - it is

---

<sup>12</sup> Prague Document on Further Development of CSCE Institutions and Structures, Prague, 30 January 1992, in: *Ibid.*, pp. 830-838, here: p. 833.

<sup>13</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, esp. pp. 101-104.

<sup>14</sup> Cf. Ivan Majercin, Die wirtschaftliche Dimension der OSZE: Neue Herausforderungen [The Economic Dimension of the OSCE: New Challenges], in: Institut für Friedensforschung und Sicherheitspolitik und der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg/IFSH] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 365-371, here: p. 368.



clearly other organizations than the OSCE which have the lead. Among the most important are the big international economic and finance organizations (OECD, World Bank, IMF, European Investment Bank, European Bank for Reconstruction and Development). The European Union also plays a big role, both as a cooperation partner and future anchoring ground for the Eastern Central European reform countries and as an organizer of assistance programs (PHARE and TACIS *inter alia*). There are, in addition, the multi-lateral and bilateral activities of the G-7 countries, support measures from other countries, and the efforts of new regional associations (CEFTA and the Central European Initiative *inter alia*). Finally, there are also smaller participants - the Federal States in Germany, for example, as well as many associations and foundations - which concern themselves with support for the transformation countries. The OSCE, in contrast to these, has no similar network of institutions and no noteworthy financial resources of its own that would permit it to take on responsibility for adequately ensuring security and stability in economic, ecological and social terms. Thus the very brief section on the economic dimension in the 1995 Annual Report of the OSCE Secretary General was limited to the observation that the Economic Forum had discussed "various aspects of regional economic co-operation in the fields of trade, investment and infrastructure and, in particular, their relevance for security and made specific proposals on improved integration of the economic dimension into the work of the OSCE".<sup>15</sup>

Even though the OSCE's work in the economic and social fields is very limited its value should not be underrated. It consists, first, in the fact that the OSCE is the largest institutionalized forum, focused on but at the same time transcending Europe, for the discussion of relations between economic, ecological and social developments, on the one hand, and the entire complex of security issues on the other. At the same time it is a forum in which developed industrial countries and less developed transitional countries have almost equal shares of the overall membership. This not only opens up the possibility of an East-West dialogue but offers an opportunity for intensive communication amongst Eastern participating States - badly needed to discuss regional cooperation which is still too weakly developed as a result of the attractive force of the EU, and to forestall further disintegration of the economic space in Eastern Europe. In addition - an aspect which is of particular importance for CIS members - the OSCE is the most important pan-European organization which includes countries that never have an opportunity to become real economic partners, let alone become full members of the EU. Still, there should be a review of how the existing institutions of the economic dimension of the OSCE can be given broader effectiveness. Finally, there is the question whether, beyond simply doing better what has already

---

<sup>15</sup> OSCE, The Secretary General, Annual Report 1995 on OSCE Activities, reprinted in this volume, pp. XXX-XXX, here: p. XXX.

been done, the economic functions of the OSCE could not be expanded and given a more secure institutional form. What is at issue, in the final analysis, is to develop suitable forms and methods for international cooperation in the entire OSCE area so as to halt the trend, which can already be seen, toward a new division of Europe between the established market economies and the successful reform countries in Western and Central Europe, on the one hand, and the transformation countries in the CIS area which are threatened by stagnation on the other, and thus to counter the dangers for stability and security in Europe which this trend entails.

## The Fight against Organized Crime as a Challenge for Europe - for the OSCE as well?<sup>1</sup>

### *Europe as an Area without Frontiers for Transnational Crime*

Recent years have seen a significant change in Europe with regard to internal security. In the eighties one could hardly notice any Eastern European influence on organized crime and, in particular, on drug criminality in Western Europe; but in the nineties, since the lifting of the Iron Curtain, we have had to adopt a new way of looking at the matter. Europe has become a single area in which criminals can operate unhindered by national borders.<sup>2</sup> That means that Eastern European criminality has become a familiar phenomenon in Western Europe in the same way as organized crime from West Germany looks for "new markets" in the East, side by side with the burgeoning local and regional criminality there. This can represent a significant danger for democracies that are still young and whose prosecution authorities are in a transitional phase.<sup>3</sup>

The Federal Republic of Germany, in cooperation with its Western partners, began at an early stage to try to counteract this new phenomenon. Assistance to Central and Eastern European states (CEE states) in the outfitting and equipping of their police forces was considered particularly important.<sup>4</sup> A large number of bilateral agreements on fighting organized crime have been concluded with the states of Eastern Europe.<sup>5</sup> In addition, during the German

---

<sup>1</sup> This article is based on a publication in the magazine "Integration" 2/1996; it has been brought up to date and slightly changed.

<sup>2</sup> Of the 787 investigatory proceedings on organized crime pending in the Federal Republic of Germany in 1995, involving more than 7,000 suspects and roughly 52,000 individual criminal acts, more than two-thirds had been committed internationally; cf. Lagebild Organisierte Kriminalität Bundesrepublik Deutschland 1995, Bundeskriminalamt (BKA), Wiesbaden [Situation Report on Organized Crime in the Federal Republic of Germany 1995, Federal Criminal Police Office, Wiesbaden].

<sup>3</sup> According to the BKA's Situation Report for 1995 (see Note 2) the danger of organized crime lies in its systematic exploitation of the sheer variety of forms and the flexibility of the economic and legal systems. Legal business structures often provide an ideal basis for illegal activities. Financial transactions, which are frequently very hard to get to the bottom of, are used to conceal crimes.

<sup>4</sup> Between 1992 and 1994 Germany provided altogether DM 66 million in police equipment assistance worldwide, of which DM 30.3 million went to the countries of Central and Eastern Europe. For the 1995-1998 period, DM 50 million (out of a total of DM 73 million) have been earmarked for the CEE states.

<sup>5</sup> There are cooperation agreements on fighting organized crime and drug criminality with Bulgaria (BGBl. [Federal Law Gazette] 1994 II p. 1025), the Czech and Slovak Republics (BGBl. 1993 II p. 37), Poland (BGBl. 1992 II p. 950) and Hungary (BGBl. 1993 II p. 743). Similar agreements have been signed with Belarus, Estonia, Kazakhstan, Latvia, the Ukraine and Uzbekistan.

Presidency in the European Union in the second half of 1994 a joint meeting of all EU and CEE Ministers responsible for internal security was held for the first time. The "Berlin Declaration" of September 1994, which was worked out there, provides for intensified cooperation in the fight against organized crime.

This only touches on a few possible approaches to an overall strategy for cooperation in the fight against crime in Europe. But the subject of "internal security" must continue to be treated, within the existing European mechanisms and bodies for cooperation, as a top priority. For the most various reasons, what has so far been done to achieve cooperation in Europe in the realm of internal security has still been inadequate. But the threat which international organized crime represents calls for the full utilization of all forms of cooperation so that through improved coordination this phenomenon can be fought successfully.

Along with the European Union, the States of the Schengen Agreements and the Council of Europe, the OSCE, too, has adopted the goal of maintaining the peace in Europe, especially by way of conflict prevention strategies designed to foster a secure life together. European security today is not threatened by conflicts between states but by international organized crime. If international crime is able to undermine the structures of the state or if it becomes a decisive force in society and in the economy, this will put at risk the security of the other European countries. How should we respond to this? Is this not a challenge for the OSCE?

#### *Past Approaches to Cooperation*

There have been initial efforts at cooperation in the realm of internal security in the European Union, the Council of Europe, and the Schengen Agreements, as well as in other international agreements and cooperative arrangements.

#### *The European Union*

The Treaty on European Union (TEU) of November 1993 provides various mechanisms for cooperation on internal security which can be traced back to the extension of the Community's responsibilities and of the available forms of cooperation. Opportunities created by the Treaty for states to work together on Justice and Home Affairs - the so-called "third pillar" of the EU Treaty - include cooperation between Member States in combatting all seri-

ous forms of crime.<sup>6</sup> Unlike the EC Treaty ("first pillar" of the EU Treaty), agreements between the European Union and third states in this sector are not possible under international law. The most Member States can do in connection with the "third pillar" is to reach common position when they represent the European Union toward the outside.<sup>7</sup> Only very limited use has been made of this option so far, particularly because of its unwieldiness. The decisions of the Copenhagen European Council in 1993 introduced first steps toward improving cooperation between the European Union and the CEE states within the framework of the so-called "structured dialogue" and the "Berlin Declaration" of September 1994 on combatting organized crime. But neither Russia<sup>8</sup> nor the trans-Atlantic dialogue between the European Union and the United States<sup>9</sup> and Canada is included in these structures.

The only items included in the Association Agreements between the EU and the CEE countries ("Europe Agreements") were the preventive struggle against drugs and money laundering. Even though the Europe Agreements were so-called "mixed agreements" between the Community and its Member States on the one side and a third state on the other, the subjects of Article K ff. of the EU Treaty were not made a part of them. Thus the comprehensive cooperation which is needed between the states of Eastern and Western Europe cannot at present be realized on the basis of these fragmentary beginnings within the European Union.<sup>10</sup> As far as the third pillar is concerned there is the additional problem that the use of these relatively new areas of cooperation provided for in the EU Treaty is further impaired by differences over the interpretation of Art. K ff. TEU between the members.

---

<sup>6</sup> Art. K.1, No. 9, Treaty on European Union (TEU). For more detail on Art. K ff. see: Klaus-Peter Nanz, *Der "3. Pfeiler der Europäischen Union": Zusammenarbeit in der Innen- und Justizpolitik* [The "Third Pillar of the European Union": Cooperation in Justice and Home Affairs], in: *Integration* 3/1992, pp. 126-140.

<sup>7</sup> Cf. Art. K.5 TEU: In international organizations and at international conferences where they are represented, Member States will present the common positions set forth in this Title.

<sup>8</sup> With regard to cooperation with Russia, there are only bilateral understandings and agreements, e.g. the German-Russian Memorandum of Understanding to combat international nuclear smuggling of 22 August 1994. An agreement on combatting organized crime is still being negotiated.

<sup>9</sup> To strengthen partnership between the US and the EU, as well as its Member States, it was agreed in a declaration of 23 November 1990 (Trans-Atlantic Dialogue) to exchange information and consult on all important questions of common interest. At the Summit meeting in July 1994 in Berlin one of the results was the establishment of a working group to combat international organized crime and drug trafficking.

<sup>10</sup> To the extent that the Association Agreements with the CEE states have been ratified, the focus of implementation is at the present time being put on the economic restructuring of these countries.

## *Council of Europe*

Cooperation between the (at present) 39 Member States<sup>11</sup> of the Council of Europe in the field of internal security is essentially limited to the penal aspects of fighting crime by working out conventions and treaties - e.g. against money laundering, organized crime, and drug abuse (Pompidou Group). This covers a fair portion of internal security but, in contrast to the OSCE, such important partners as Russia, the United States and Canada are not members. Moreover, the institutional structure of the Council of Europe does not appear to be flexible enough to do the work of coordination needed in fighting transnational crime in Europe.

## *The Schengen Agreements*

The purpose of the Schengen Agreements of 1985 and 1990 was to eliminate weaknesses in security that might result from the abandonment of police and customs formalities on the internal borders of the Community.<sup>12</sup> This initiative originally involved only Germany, France and the Benelux countries but in the meantime all EU members with the exception of the Nordic states, Great Britain and Ireland have joined. These agreements are an inter-governmental instrument for the states involved in reducing border formalities. Neither the Schengen Agreement nor the Convention applying the Schengen Agreement<sup>13</sup> provides for institutionalized relations with third countries. A document associating Norway and Iceland with the Convention applying the Schengen Agreement is being negotiated. But this is justified by the membership of these countries in the Nordic Passport Union and is related to the intention of Denmark, Sweden and Finland to join.

## *International Agreements and Forms of Cooperation*

At both the United Nations and the annual meetings of the Economic Summit (G-7), experts groups on crime prevention and on analyzing the gaps in the fight against international crime have been set up. In the war on drugs there is an agreement between the EU countries, Norway, the United States, Canada, Australia and Japan under the aegis of the so-called Dublin Group

---

<sup>11</sup> All EU countries, the Nordic countries and the CEE countries (except for Bosnia and Herzegovina, Croatia and the Trans-Caucasian Republics).

<sup>12</sup> A detailed account of the Schengen Agreements is in: Klaus-Peter Nanz, Schengener Übereinkommen und Personenfreizügigkeit [Schengen Agreements and Freedom of Movement], in: ZAR 3/1994, p. 99ff.

<sup>13</sup> Schengen Agreement of 14 June 1985 and Convention applying the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders, of 19 June 1990.

which deals with issues related to the illegal use of drugs. Here, too, the objective is to establish consultation fora in certain regions to support dialogue with the governments there. Parallel to that, a Task Force of the most important donors (European Union, United States, Canada) has been established to coordinate equipment and training assistance in Central and Eastern Europe; organizationally it is part of the UN Drug Control Programme (UNDCP) in Vienna.

This account of the European and international bodies which deal with the phenomenon of transborder organized crime shows that at the present time there is no forum tailored to the specific threat in Europe. The existing bodies are either still unable to accomplish the needed work of coordination ("third pillar" of the European Union) or there is no treaty basis for it (Schengen). In some cases it is limitations on the field of action (Dublin Group, UNDCP) and the nature of participation (G-7, Dublin Group, Council of Europe) which preclude a sufficiently broad European approach that would also involve the US, Canada and Russia. The question, therefore, is whether there is not an existing organization in Europe which on the basis of its membership and well-adjusted structure might make such an approach possible. In what follows we investigate whether the Organization for Security and Cooperation in Europe (OSCE) might be a suitable body for cooperation in the field of European internal security.

#### *The Organization for Security and Cooperation in Europe and Internal Security*

The decisions of the Budapest Summit do not explicitly provide for cooperation among the OSCE States in the field of internal security. Only point 6 of the Budapest Decisions on the strengthening of the OSCE<sup>14</sup> might be interpreted as offering a general basis for dealing with internal security. It gives the OSCE, on the basis of the consensus rule, the function of a forum for consultation, decision-making and cooperation in Europe. This, however, is not the place to explore that issue more deeply.

That internal security is not included in the OSCE's list of responsibilities can be explained by the mission of its predecessor, the CSCE, which was committed exclusively to the goal of external security and overcoming the conflict between East and West. Is it still opportune and appropriate to have such a limitation on the OSCE?

It is precisely the rapid pace of transition to market economies in the coun-

---

<sup>14</sup> Cf. CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p. 83.

tries of Eastern Europe which provides opportunities for international organized crime to get started. It is estimated that in some of them as much as 20 percent of GNP is created in connection with organized crime.<sup>15</sup> Organized crime in Russia, according to the Ministry of the Interior, represents a danger for reform policy. And in the other countries of Central and Eastern Europe one can see a steady growth of criminal organizations.

Transnational forms of organization play an increasingly important role, according to analyses of organized crime. They have, so to speak, become its most characteristic element. Crimes such as drug traffic, weapons dealing, and trafficking in stolen motor vehicles cannot be carried out without international connections. The illegal smuggling of persons inevitably has an international dimension. About two thirds of the investigations of organized crime analyzed by the *Bundeskriminalamt* (Federal Criminal Police Office) had, in this sense, been committed internationally.<sup>16</sup> World-wide, organized crime brings in huge profits. There are estimates that they run to hundreds of billions of US Dollars per year. The total cost to Germany for the year 1994, as calculated by the *Bundeskriminalamt*, was 3.5 billion DM.<sup>17</sup>

Along with illegal drugs, these criminal groups control the manufacture and distribution of counterfeit money and the illegal weapons trade. They have a dominant position in crimes against property and in the receiving of stolen goods. There is growing activity in fraudulent investments and other profitable forms of economic crime. These groups have recognized the opportunities that lie in the new markets of Eastern Europe. Profits from criminal activities throughout the world can be invested there, almost without any monitoring. As a practical matter, organized crime is succeeding in creating areas free of legal control. It is trying to establish a parallel society independent of law and order. The penetration of certain branches of the economy - large segments of the restaurant business, for example - by a system of extorting protection payments provides a good illustration. This creates a milieu in which state law has only limited applicability. A further risk lies in the influence which criminal elements can bring to bear on the decision-making bodies of the state and society through fraud, corruption, threats or extortion. All of these aspects of organized crime show that isolated steps taken by national prosecution authorities, by the control elements of individual states, are insufficient. Rather, there needs to be an overall European strategy for the fight against organized crime, a strategy in which the necessary measures of prevention and control are shared and coordinated between the responsible institutions and authorities of the states and societies.

---

<sup>15</sup> Wolfgang Heckenberger, *Organisierte Kriminalität - Ein Blick in die Welt* [Organized Crime - A Look at the World], in: *Kriminalistik* 4/1995, pp. 234-239.

<sup>16</sup> Cf. *Lagebild Organisierte Kriminalität*, cited above (Note 2).

<sup>17</sup> Cf. *ibid.*



One essential element of this overall strategy must be prevention, in both a technical and organizational sense, which has often been neglected in the past. New technologies such as the electronic anti-theft devices and the unforgeable credit card represent first steps but there is certainly much more that can be done. Such measures can only be fully successful when all European countries participate in them. Their effective use depends on exchanges of information and situation reports, measures coordinated between Western and Eastern Europe and, additionally, the inclusion of the United States, Canada and Russia.

Improved coordination would serve the cause of internal security in Europe and ultimately of stability in the entire OSCE area. For a variety of reasons existing fora are not able to fulfill this function. The OSCE, however, if used as a framework for exchange and coordination of ideas, could substantially enhance cooperation without duplicating the work of existing bodies.

#### *Including Internal Security in the Cooperative Work of the OSCE*

The inclusion of internal security matters in the OSCE would further develop the reorientation, already begun, of this framework for cooperation.<sup>18</sup> A new responsibility for combatting transborder international crime would be very much in line with the OSCE's own goals, especially given the dangers to young democracies and the potential threat to their external security. The OSCE's legally non-binding character would not be changed by such a step. Nor would the status of the OSCE as a regional arrangement under the terms of Article 52 of the UN Charter<sup>19</sup> be affected by the inclusion of internal security since Article 52 says nothing on this subject and the way in which it is formulated does not exclude additional responsibilities.<sup>20</sup>

---

<sup>18</sup> It is already involved in the fight against terrorism, preventing and combatting racism and xenophobia, and coordinating efforts related to migration, refugees and displaced persons. Cf. Fifth Meeting of the Council of Ministers, 7-8 December 1995, Budapest.

<sup>19</sup> For more on this, see: Herbert Honsowitz, "OSZE zuerst". Die Neugestaltung des Verhältnisses zwischen UN und OSZE [OSCE First. The Remodeling of the Relationship between the UN and the OSCE], in: Vereinte Nationen [United Nations] 2/1995, p. 49ff. By contrast: Hartmut Körbs, Ist die OSZE eine regionale Abmachung oder Einrichtung im Sinne des Kapitel VIII der UN-Charta? [Is the OSCE a Regional Agreement or Arrangement in the Sense of Chapter VIII of the UN Charter?], in: Archiv des Völkerrechts [Archive of International Law] 4/1995, p. 459ff.

<sup>20</sup> Cf. also the other responsibilities going beyond Article 52 of the UN Charter in the OAS, OAU, the Arab League and the ASEAN states: promotion of economic growth, cultural development and science; development bank; committee for legal questions. For detailed information, see Waldemar Hummer/Michael Schweitzer on Art. 52 margin note 64ff., in: Bruno Simma (Ed.), Charta der Vereinten Nationen [Charter of the United Nations], München 1991.

It would not be possible to include internal security in the work of the OSCE simply on the basis of an interpretation of the general clause in point 6 of the Budapest Decisions. It is clear from the list of subjects that follows that the participating States have reserved the right to have such enlargements of the catalogue of responsibilities done by unanimous vote. This could be seen in the case of economic issues and the fight against racism which were only made part of the catalogue through a decision of all participants. Thus it will require an expansion of the Budapest Decisions of December 1994 (at the next meeting of the Heads of State or Government in December 1996, for example) to include internal security in the catalogue of OSCE responsibilities.<sup>21</sup>

This would require no significant organizational changes in the work of the OSCE. Both the Permanent Council and the Senior Council, i.e. the Political Directors, would ensure continuity in the discussions. At the level of the Ministerial Council there would need to be an annual meeting of Ministers of the Interior which would merge into the bi-annual OSCE Summit Meeting (Heads of State or Government). The OSCE Secretariat in Vienna would as in the past take care of the necessary back-up tasks. Proximity would make possible close cooperation with the UNDCP Task Force for coordinating equipment assistance to Eastern Europe.

### *Outlook*

The threat which organized crime presents for the young democracies of eastern Central Europe and Eastern Europe will probably grow as a result of increasing democratization and focus on economic issues and hence the creation of additional maneuvering room. International transborder crime is dealt with in many fora but the UN conferences on crime-fighting in Cairo and Naples have shown that regional organizations are a necessity. Only through them can the work in specific subject areas be tailored to regional peculiarities. The OSCE is a logical forum for this important dialogue in Europe. Its structures (ministerial meetings, Secretariat) would provide the appropriate organizational framework.

The challenges to internal security call for a rapid response, not least in a continental framework. The OSCE can accept this challenge and provide assistance to the security organs. The opportunity should not be ignored.

---

<sup>21</sup> A new No. 12a in the Budapest Decisions might have the following wording: "The cooperation of the participating States in all areas of crime fighting, particularly in connection with transborder organized crime."

### III.

#### Organizational Aspects



## OSCE Institutions and Structures



## The OSCE Chairmanship: Development of an Institution<sup>1</sup>

### *Political Executive as the OSCE's Distinctive Feature*

The institution of the Chairmanship constitutes a central element of the OSCE's operational actions. The Chairman-in-Office (CiO) has the overall responsibility for executive action. He/she is not only the focal point of the consultation and decision-making process but also a channel for external contacts. The Chairmanship is also directly responsible for the implementation of decisions. This strengthens the link between policy decisions and their implementation and makes the OSCE more effective in this regard.

The OSCE Chairman-in-Office is the Foreign Minister of an OSCE country. The fact that the "head" of the Organization is a political personality ensures the primacy of a political approach in the activities of the Organization.

It keeps the Organization close to the participating States. It ensures political back-up to the activities of the OSCE, which is particularly engaged in conflict prevention and crisis management.

The Chairman-in-Office arranges for a specially assigned staff at his/her Foreign Ministry. His/her representatives chair the Senior Council and the Permanent Council. The Chairmanship staff in Vienna plays an important role in the day-to-day management of the OSCE.

The Chairman-in-Office is supported by the Secretary General in all aspects of his/her activities. The Secretariat and other OSCE institutions provide support to the Chair.

Like the OSCE itself, the institution of the Chairmanship has developed step-by-step, in a pragmatic manner, on the basis of experience and practical needs. It was not conceived on a drawing board but has grown in operative action.

### *Origins*

The roots of the Chairmanship as an institution can be traced back to the Charter of Paris of 1990. The Charter established the first permanent institutions of the then CSCE. Nonetheless, the Chairmanship as such was not

---

<sup>1</sup> This paper is based on an oral presentation delivered by the author at a seminar organized by the Technical University of Zurich on 19 June 1995.

among them. There are in the Paris Charter only two provisions referring to the Chairmanship:

- the Foreign Minister of the host country was to chair the Council Meetings,
- a representative of his/her country should chair the meetings of the Committee of Senior Officials (CSO; now: Senior Council).

In other words, the responsibilities of the Chair were very much seen in the traditional pre-Paris sense and continued to be concentrated on presiding over formal meetings. The Paris Charter, however, broke with the CSCE tradition of daily-rotating chairmen. Since all the meetings of the Council and the CSO between two regular Council Meetings were chaired by the same country, it gave a continuous responsibility to the Chair at least as a focal point for consultations when preparing the meetings.

During the period of the first CSCE Chairmanship held by Germany, two important developments took place which called for the strengthening of the Chairmanship:

- first cases of CSCE involvement in crisis situations;
- accession of new participating States.

The CSCE mechanism for emergency situations approved at the Council Meeting in Berlin in 1991 envisaged an important role for the CSO Chairman. He was responsible for receiving requests for action under the mechanism, for consulting States at different stages, for convening emergency meetings and for providing available documentation.

Just a few days after the adoption of these decisions the mechanism was already in use: early in July 1991 the CSO met to consider the situation in connection with the Yugoslav war. Several emergency CSO meetings followed. The dramatic events in Yugoslavia also consolidated the role of the Chairmanship as the instrument for taking initiatives and determining a possible common denominator of views.

Increased responsibilities for the Chair came also from the process of admitting new participating States. In June 1991 Albania joined the CSCE, in September 1991 the three Baltic states, in January 1992 ten "post-Soviet" states. All these decisions involved extensive political consultation and coordination (e.g. convening of an extra Ministerial Meeting in Moscow in September 1991).

Another new task for the Chair was that of operational action. The Chairmanship was responsible for sending the first CSCE fact-finding missions to new participating States (the first one was dispatched to Albania). In this context



closer links were established between the Chairmanship and the CSCE institutions (the Secretariat, the Conflict Prevention Centre/CPC, the Office for Free Elections).

#### *Chairman-in-Office as an Institution*

The Czechoslovak Chairmanship took over from Germany an agenda that was heavy enough. Rapporteur missions to the newly admitted States had to continue. In addition, the Chair had to cope with a rapidly expanding list of crisis management tasks. In March 1992, after exploratory missions, the CSCE became involved in mediating the Nagorno-Karabakh conflict. It was also involved in various aspects of the conflict in the former Yugoslavia which in the spring of 1992 fully spread to Bosnia and Herzegovina, threatening further spillover. In September the CSCE established its first long-term missions: to Kosovo, Sandjak and Vojvodina as well as to Skopje. The CSCE became involved in the peaceful settlement of the conflicts in Georgia (South Ossetia and Abkhazia).

Confirming the established role, the Helsinki 1992 Summit formally institutionalized the Chairmanship. The Chairman-in-Office was added as a separate entity to the list of institutions. The prerogatives of the Chairman-in-Office were codified as follows:

- to ensure coordination of and consultation on current CSCE business;
- to communicate Council/CSO decisions to CSCE institutions and to give them advice regarding those decisions;
- to serve as a channel for early warning and to coordinate CSCE conflict prevention and crisis management activities.

The latter function had already been initiated at the Prague Council Meeting in January 1992. However, whereas that decision gave the Chair a rather narrow mandate (he was to act with "precise mandate for action", provisions for reporting back, etc.), the Helsinki Document reflected growing confidence in the impartiality of the Chairmanship. The Chairman-in-Office enjoyed the right to "retain the freedom to determine how to proceed, with whom to consult, and the nature of any recommendations to be made".<sup>2</sup>

The Chairman-in-Office acquired, in particular, new and important prerogatives in the context of the newly established mandate for the CSCE to conduct peacekeeping operations. The CiO was entrusted with initiating a peace-

---

<sup>2</sup> CSCE Helsinki Document 1992, The Challenges of Change, in: Arie Bloed (Ed.), The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993, Dordrecht/Boston/London 1993, pp. 701-777, here: p. 724.

keeping operation, exercising overall political control and overall operational guidance of field operations, nominating the Head of Mission, determining the composition of a force, and keeping the UN Security Council informed about the conduct of operations.

The High Commissioner on National Minorities was requested to consult closely with the Chair on his activities.

The 1992 Helsinki Summit also introduced instruments of assistance to the CiO. They were:

- the Troika;
- ad hoc steering groups (The Minsk Group was largely modelled on this concept, but an attempt to form a steering group on former Yugoslavia ultimately failed);
- Personal Representatives.

The Helsinki Summit, while formalizing broad responsibilities of the CiO, did not offer solutions to two problems which were posed by increased operational involvement of the CSCE:

- how to ensure better continuity in view of the annually rotating Chairmanship;
- how to strengthen the link between the political executive (CiO) and administrative structures (institutions).

The Stockholm Council Meeting in December 1992 brought an answer by establishing the post of the Secretary General.

#### *The Chairmanship during the Period of Growth*

The year of 1993 was a period of rapid development of the CSCE's operational activities and of the establishment of a corresponding operational infrastructure.

The Swedish Chairmanship developed the potential of that function, concentrating its activities on the following priorities:

- *CSCE activities in the field*: it was at this time that the basic new form of the CSCE presence on the ground was established - the long-term missions. There were no rules and prescriptions in the CSCE documents on how to manage them. The Swedish Chairmanship developed a pattern of political management of the missions. It also had to organize, together

with the then weak CPC, the necessary patterns of organizational support.

- *Contacts with the United Nations and other international organizations:* as the CSCE became more involved in operational activities, in particular in conflict prevention and crisis management, close contacts and good co-operation were a matter of necessity. The Chairman-in-Office was designated by the Stockholm Council decision as the channel for these contacts. One of the most tangible results was the conclusion of the Framework Agreement between the CSCE and the United Nations in 1993.
- *Coordination of the political consultation process and preparation of decisions:* in 1993 political consultation in the CSCE acquired a permanent character. The so-called Vienna Group was established for this purpose under the CSCE Chairmanship guidance.
- *Integration of the newly admitted participating States:* the Swedish Chairmanship developed programs of integration, in particular for Central Asia. The CIO herself was directly involved, paying visits to Central Asia and Transcaucasia.

#### *The Overall Responsibility for Executive Action*

The Italian Chairmanship dealt in 1994 with a rapidly expanding CSCE agenda. In addition to the types of tasks taken over from the preceding Chair, such as conflict prevention and crisis management (new missions were established during the Italian Chairmanship), increased political coordination effort (the Vienna Group was replaced by the Permanent Committee) and related tasks, some new areas of responsibility emerged.

The Chair took the lead in making CSCE peacekeeping a realistic option, preparing the political and operational ground for an eventual deployment of a peacekeeping force, including collection of pledges from participating States to deliver a contingent.

The Chair presided over a major effort to find an acceptable formula for the concept of so-called third party peacekeeping (unfortunately without result).

The Italian Chairmanship took up the responsibility for increased contacts with non-participating States. Expanded forms of cooperation were introduced in that period with the Mediterranean states as well as with the Republic of Korea. The Chair also became more involved in the management of internal CSCE business. For example, the Rome Council in December 1993

assigned to the Chair the responsibility to decide on the appointment of the Heads of Department of the CSCE Secretariat.

The Budapest Summit drew upon the positive experience of the functioning of the institution of the Chairmanship. Reflecting the growth in responsibilities and functions of the Chair, the 1994 Budapest Summit assigned to it the "[o]verall responsibility for executive action".<sup>3</sup> The Hungarian Chairmanship undertook a successful attempt to make full use of the potential involved in these provisions. The beginning of its term was marked by a bold initiative to get the OSCE involved in the peace settlement process in Chechnya. In the context of that operation, the Chairmanship became *de facto* a free-standing crisis management mechanism (and not just an instrument). The action by the Chair successfully employed the invocation of existing formal conflict prevention and crisis management mechanisms. The Chair emphasized the cooperative approach to crisis resolution.

The end of the Hungarian term was marked by preparation for the implementation of the challenging tasks given by the Dayton Agreement to the OSCE in Bosnia and Herzegovina.

The Dayton Agreement itself directly envisages a role for the Chairman-in-Office (specifically, to appoint the Human Rights Ombudsman). It was thus noteworthy that instead of leaving to the OSCE itself who or what body should decide on a matter assigned to the OSCE, the Agreement made direct reference to the CiO. This reflected a recognition of the role played by the Chairmanship and confidence in its efficiency. The 1995 Budapest Decision on "OSCE Action for Peace, Democracy and Stability in Bosnia and Herzegovina" turned the Chairmanship into the central element of the implementation process. He was authorized together with the Secretary General under the Chairman's direction and other OSCE bodies and institutions "to take all necessary steps to ensure effective and timely implementation of the OSCE's tasks".

The Chair was authorized in particular to appoint a Head of Mission, to take decisions regarding conditions for and of the elections, to designate a Personal Representative for confidence-building and arms control negotiations. The assignment of these functions to the Chairman-in-Office further strengthened this institution.

The Swiss Chairmanship took up those tasks with vigor and creativity. To shorten the period of adapting to its new role, the formal takeover was preceded by careful preparations.

---

<sup>3</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p.84.

### *Lessons and Challenges*

The institution of the Chairmanship is a framework which is filled with substance by the initiative and creativity of the country holding it. It has as much weight and as much meaning as each individual holder puts into it.

Established patterns are of help, but due to the rapidly changing circumstances, the work of the Chairmanship has to be approached creatively. So far the OSCE has been lucky with the countries holding the Chairmanship. Each one has been able to give it a creative interpretation.

The OSCE needs political leadership, and developments have shown that the Chairmanship is precisely an agent of impartial leadership.

It remains, however, a challenge to use the weight of a State and the personality of an active statesman without being exposed to criticism of taking advantage of the Chair to pursue national interests. The experience so far has been positive. Countries holding the Chairmanship have been able to draw a clear line between their OSCE role and their national interests.

Another challenge is how to continue the short-term perspective of one-year terms of office of the Chair and the need to look at the Organization from a longer-term strategic perspective.



## Consultation and Political Dialogue in the Permanent Council

Hungary assumed the Chairmanship of the OSCE during a period characterized by the continued evolution of the Organization in both political and institutional terms. The more active involvement of the OSCE in early warning, conflict prevention, crisis management and post-conflict rehabilitation, the relatively rapid differentiation of OSCE participating States in the eastern half of Europe according to their different speeds of transition to democracy and a market economy, the ever-increasing need for closer coordination and cooperation with other organizations and institutions, as well as the continuing organizational and structural changes within the OSCE that have accompanied the aforementioned political processes have been posing a serious challenge to the Chairmanship of the Organization.

As to the political challenges, immediately after the Chairmanship was assumed by Hungary at the Budapest Summit Meeting, the OSCE became intensively involved in the Chechen crisis, which required prompt executive action by the Chair. At the end of the year, just a few weeks before Hungary relinquished its duties as Chairman-in-Office, the OSCE entered the phase of intensive preparations for the biggest mission in its history - in Bosnia and Herzegovina.

As far as the organizational changes are concerned, the Budapest Summit Meeting renamed the CSCE. The new name - Organization for Security and Cooperation in Europe - signalled the long obvious fact that the former conference had become a true international organization with a well established structure. Within that structure the Permanent Council (PC), which was created at the Budapest Summit as the regular consultative and decision-making body of the OSCE at the ambassadorial level, occupies a central place. The Council's weekly meetings serve as a venue for discussing major political events in the OSCE area, providing guidance to the OSCE's field missions and institutions, and adopting political, procedural and major financial and administrative decisions. In the remarks that follow, I shall try to summarize my experience as Chairman of the Permanent Council in 1995, the first year of its existence. I shall not attempt to draw any far-reaching conclusions or to offer a complete, detailed picture, since the Council, like the Organization itself, is continually evolving and adapting itself to new political challenges.

The OSCE, in the form of its Permanent Council meetings, has developed a unique method of consultation and decision-making, which is well suited to the consensus rule. The Council, presided over throughout the year by the Vienna Representative of the Chairman-in-Office, has created a number of subsidiary bodies and established various forms of decision-making.

Formal decisions are adopted by consensus, but in many cases other ways of expressing the opinions and common position of the participating States are used, thus extending the flexibility of the consensus-based decision-making mechanism. The form that has come to be most commonly used is a Chairman's statement (a statement either by the Chairman-in-Office or by the Chairman of the Permanent Council). A Chairman's statement occasionally resembles closely the "consensus-minus-one" practice, which has never been officially endorsed within the Organization (apart from cases of clear, gross and uncorrected violations of OSCE commitments in the field of human rights, democracy and the rule of law). Often a delegation is not in a position to give its consent to a decision, but does not object to the same language if presented as a Chairman's statement. This has been the case with draft decisions on regional conflicts on the territory of the former Soviet Union. Some of the proposed draft decisions were not acceptable to at least one delegation, but that delegation was able to accept the same language when it was read out as a Chairman's statement. An even weaker form for the expression of the position of the majority of delegations is a thorough discussion of an issue, followed by a Chairman's summary.

In addition to the Permanent Council's weekly plenary meetings, a number of regular and ad hoc informal and open-ended meetings are held to discuss specific issues (such as reports by Heads of Mission, the situation in certain regions of the OSCE area, or financial issues). These meetings often prepare decisions to be taken by the Council.

The agenda of Permanent Council meetings is proposed by the Vienna Representative of the Chairman-in-Office (Chairman of the Council) and, in the case of plenary meetings, is adopted by consensus. The weekly schedule of meetings - including the agenda - is circulated by the Chairmanship in advance. The drawing up of the agenda is probably one of the most important tools in the hands of the Chairman-in-Office for directing the work of the OSCE: by placing a particular issue on the Council's agenda he can signal its importance and topicality. For example, during the most intensive period of the Chechen crisis the Council discussed this issue on almost a weekly basis and as early as February 1995 took an important decision on it, which included a series of principles on which the solution of the crisis was to be based.



In 1995 the Hungarian Chairmanship established an intensive pattern of meetings. The Swiss Chairmanship in 1996 has for the most part preserved this working structure but has reduced slightly the number of ad hoc meetings. The weekly plenary meetings of the Permanent Council have a number of permanent and some ad hoc agenda items. The meeting usually starts with a report by the visiting Head of one of the OSCE's permanent missions. A schedule of visits to Vienna is established (usually for a six-month period) that brings every Head of Mission to OSCE Headquarters at least once every half of a year. These visits are used for reporting to the Council as well as for preparing decisions on possible extensions of the mission's mandate. Ad hoc or "emergency" visits by Heads of Mission are also organized if the political situation in the host country so requires. The High Commissioner on National Minorities and the Director of the Office for Democratic Institutions and Human Rights (ODIHR) reports to the Council at least once every quarter.

The next regular agenda item is the discussion of current issues. Under this item every delegation is free to make a statement on any political issue and propose it for discussion. This agenda item provides an opportunity for delegations to raise any question during Permanent Council meetings without previous consultation with the Chair and without securing the consent of each and every delegation to the Council (as is the case with independent agenda items). The effect of these discussions is to increase the flexibility of the Council and shorten its reaction time, since delegations can often avail themselves of this item to raise issues regarding events that are only a few days old.

The next regular agenda item - "Report by the Chairman-in-Office" - was made necessary by the growing room and demand for executive action by the Chairman-in-Office. As a way of "curing" the negative side-effects of the consensus rule, the Chairman-in-Office has been required with increasing frequency to exercise his broad mandate for "executive action", that is, for taking political steps without a previous decision or the authorization of the Permanent Council. (On the other hand, the Chairman-in-Office must be reasonably confident that any executive action he takes is, if not fully supported by every participating State, at least not opposed by any one of them.) Under the above agenda item the Chairman-in-Office informs the Council about his activities and, if any previous "executive action" has been taken, obtains its silent political approval. This item may also be used by the Chair to air the intentions and plans of the Chairman-in-Office so as to "take the temperature of the water", i.e., to determine whether there is any opposition to or criticism of his ideas.

The Permanent Council's next regular item - "Report by the Secretary General" - provides the Secretary General with the opportunity to inform the

Council about his activities, administrative and financial issues, operational problems facing the Organization (e.g., secondment of personnel to the missions) and other topics connected with the work of the Secretariat.

The last regular agenda item before the Permanent Council is a report on the work of the so-called "Watch Group", which is an open-ended ad hoc group that regularly monitors and discusses the situation in Kosovo, Sandjak and Vojvodina.

Ad hoc items on the agenda of the Permanent Council include statements by visiting foreign ministers and other dignitaries (such as the Assistant Secretary General of NATO, the President of the International Committee of the Red Cross, senior representatives of the European Union, the High Representative for Bosnia and Herzegovina, etc.). The Council also discusses important financial questions (such as the adoption of the OSCE's yearly budget and the budgets of the various missions) as well as organizational and personnel matters (e.g., increases in mission personnel strength, etc.).

#### *Subsidiary Bodies of the Permanent Council*

The Permanent Council is assisted by several permanent and ad hoc committees. The latter were established at different times as the result of a continuous process of development.

The Informal Financial Committee (IFC), which meets at least weekly, or more often if needed, discusses the financial implications of political decisions, prepares the financial decisions of the Council, provides guidance to the Secretariat on financial and procurement issues, and prepares the financial and staff regulations of the OSCE. It also supervises the preparation of the unified yearly budget. The IFC has traditionally been the object of some controversy, with some people arguing that in the Committee junior diplomats, who may lack a profound financial background, discuss and virtually decide on very complex financial issues. Others maintain that regular political control over the way the money of the participating States is spent by the Organization (through the Secretariat) is essential and helps to minimize costs and preserve the lean and efficient administrative structure of the Organization.

The so-called "Watch Group" was established following the expulsion of the OSCE's long-term missions from Kosovo, Sandjak and Vojvodina. At the Group's weekly meetings interested delegations can discuss the situation in these three regions of Yugoslavia. Information for this group is provided mainly by interested delegations, by a compilation of relevant articles and other publications regularly circulated by the Secretariat, and by the regular visits of the Belgrade-based diplomats of the OSCE Troika to the three re-

gions. The Chairman of the Watch Group regularly reports to the Permanent Council on the Group's discussions. Visiting diplomats of OSCE participating States from Belgrade provide useful first-hand information for the discussions.

Open-ended ad hoc groups, with the participation of Heads of various field missions, are regularly scheduled a day before the weekly meeting of the Permanent Council. The visiting Head of Mission usually delivers an oral report to the participants, after which he answers their questions and comments on their remarks. These ad hoc groups, which are conducted without interpretation and are not authorized to take decisions, provide an ideal forum for a free discussion of political issues brought to the attention of the OSCE by the missions or by interested delegations. These meetings lessen the burden on the Permanent Council, which usually has a crowded agenda, and provide a forum enabling interested delegations to engage in a much more detailed and far-reaching discussion of particular issues than would be possible and desirable at the Council's plenary meeting. Second, these discussions help to forge a consensus on issues on which the Council needs subsequently to take a decision, in addition to which they may even serve as drafting groups.

The discussion of the reports of the missions and, if warranted, the adoption of appropriate decisions is probably the most important form of political support for the field missions of the OSCE. As a rule, the missions monitor the situation in the host country and are in a position to make recommendations to the authorities. But they are not in a position to convey with any force the views and advice of the OSCE community on major issues covered by their mandate. It is the Permanent Council that provides political support to the missions by articulating the position of participating States or by taking a decision. For example, the decision regarding Russian military personnel whose continued sojourn in Latvia was not in accordance with the relevant bilateral agreements, or the December 1995 decision on the situation in Moldova (Trans-Dniester region) are two outstanding examples of how the Council can provide political support for the missions.

The Council may establish a working group to discuss a specific topic. For example, the Security Model Committee was established for a regular and structured discussion of this subject. In 1995 its weekly meetings laid the foundations for a Ministerial Decision in Budapest (December 1995), which has become the basis for the continued discussion of the Model in 1996.

#### *The Role of the Chairman*

The Chairman of the Permanent Council prepares the agenda for the plenary meetings and presides over them. It is his responsibility, therefore, to ensure

that the Council conducts its business in the most effective way. The most important guarantee of effectiveness lies in regular consultations with all interested delegations before an issue is placed on the agenda or a draft decision is proposed. Most delegations require instructions before they can express their position on political issues. This is even more true in the case of the European Union, which requires previous consultation before taking the floor with a common position. Accordingly, the Chairman must make sure that all interested delegations are aware of his intention to inscribe an item on the agenda of the Permanent Council at least one day in advance. Informal open-ended ad hoc meetings, which are usually scheduled one or two days before the Council plenary, can also perform this function.

It is more difficult to prepare a draft decision for adoption. All interested delegations have to be consulted in advance (on more difficult issues capitals are also involved through a demarche of a representative or bilateral envoy of the Chairman-in-Office or the members of the Troika). When a draft decision is put forward for consideration by the Council and adoption, the flexibility of interested delegations is very limited (since they have their instructions). The preparatory consultations provide an opportunity for the Chair to gauge exactly how much room for manoeuvre the most interested delegations have and, on that basis, to hammer out a draft decision that has a realistic chance of achieving consensus at the Council's next meeting. Last-minute consultations with interested delegations before the Council convenes may delay the beginning of the meeting by a few minutes, but they can spare the plenary long and usually unproductive formal discussions. In some cases a formal and in-depth discussion at ambassadorial level is unavoidable, but the Permanent Council's efficiency as a drafting body is usually rather low.

#### *Political Issues on the Agenda of the Permanent Council*

During the first months after the Council's inception at the Budapest Summit Meeting, its agenda was dominated by the Chechen crisis. The Personal Representative of the Chairman-in-Office, Ambassador Gyarmati, reported frequently to the plenary during the first quarter of that year. The Council took its first major decision on Chechnya on 2 February 1995. While reaffirming its support for the territorial integrity and constitution of the Russian Federation, that decision called for an immediate humanitarian ceasefire and a peaceful solution, and deplored the serious violations of human rights that had occurred. The Permanent Council also supported the continued involvement of the OSCE in the Chechen crisis, including the dispatch of a Personal Representative, a fact-finding mission and an expert group from ODIHR. That decision became the basis for further OSCE action in the region and

also for a decision in April establishing the OSCE Assistance Group in Grozny. It is interesting, however, to note that similar language was read out at the Council's 12 January plenary meeting as a Chairman's statement. The Council Chairman observed at that time that his statement was based on a consensus achieved in the Permanent Council. It took three weeks to get the green light from the most interested capital for the adoption of a decision along the same lines. Regular discussions in the Permanent Council (often followed by summaries by the Chair) continue to provide political support to the Assistance Group in Grozny. These decisions also send a strong signal to all parties to this conflict, urging them to find a peaceful solution and condemning grave violations of human rights.

The Permanent Council has also spent considerable time discussing the situation in other areas where OSCE missions are present. Tajikistan has regularly been discussed in the presence of Tajik representatives. The Council has expressed its support for a peaceful, negotiated solution of the Tajik conflict, on the one hand, while also strongly urging the Tajik authorities to further develop democratic institutions and practices (such as a commitment to free and fair elections), for example, in its 12 January decision on Tajikistan. It also decided on 6 July 1995, to establish three field offices of the Dushanbe Mission and later decided to assist the Tajik Government in the establishment of the institution of an ombudsman.

The situation in Georgia (South Ossetia and Abkhazia) and in Ukraine (the Crimea) has been regularly discussed, but no decision has been taken. The Permanent Council has also heard numerous reports on and discussed the situation of ethnic Russians in Latvia and Estonia. A decision was taken on 23 March 1995 urging a negotiated solution to the Russian-Latvian dispute concerning Russian military personnel remaining in Latvia not in accordance with the relevant bilateral agreements. The Council also established a regime for OSCE inspection of the "Implementation of the Agreement on the Legal Status of the Skrunda Radar Station during its Temporary Operation and Dismantling".

Soon after its establishment, the Permanent Council became actively involved in OSCE efforts aimed at a peaceful solution to the Nagorno-Karabakh conflict, which would involve a peacekeeping operation. The consultations and negotiations on this conflict have always been conducted within the framework of the Minsk Group, established specifically for this purpose (with the participation of nine countries). The Co-Chairmen of the Minsk Conference and the Minsk Group reported regularly to the Permanent Committee of the OSCE, but the latter refrained from becoming more deeply involved in the OSCE's efforts on Nagorno-Karabakh. This situation changed with the decision taken at the Budapest Summit Meeting. The Chairman-in-Office appointed the Head of the High-Level Planning Group (HLPG) and

provided the Group with a mandate. From the time of his appointment, the Head of the HLPG regularly reported to the Council on the preparations for a peacekeeping operation in Nagorno-Karabakh, and an ad hoc group was established to discuss the plans. By regularly discussing the state of the preparations for an OSCE peacekeeping operation in the region, the Permanent Council gave important political support to the Minsk Group, since it expressed in concrete terms the support of the OSCE community for a peaceful solution and its readiness to provide personnel and resources to an eventual peacekeeping operation.

The Trans-Dniester conflict has been a regular item on the agenda of the Permanent Council. An ad hoc working group has been established to discuss the situation in Moldova along with the possibility of a more active OSCE involvement in the search for a negotiated solution to the conflict, including the possible monitoring of the withdrawal of Russian troops, equipment and ammunition.

The reports of the Spillover Monitoring Mission to Skopje received particular attention in the Permanent Council during a short period of heightened tension between the Macedonian Government and the Albanian minority, which erupted in the form of demonstrations organized in connection with the unauthorized opening and subsequent closure of the Tetovo University.

In 1995 the Council, acting through a series of decisions, authorized the OSCE Mission to Sarajevo to open field offices in regional centres. This move increased the ability of the Mission to provide support to the three ombudsmen appointed by the Chairman-in-Office. In the autumn of that year, as the Dayton negotiations began to produce results, the Permanent Council intensified its consultations on Bosnia and Herzegovina. In October, at the Prague Meeting of the Senior Council, the Chairman-in-Office announced the establishment of a Task Force to prepare for a large-scale OSCE involvement in the region. Intensive work by the Task Force, headed by the Chairman of the Permanent Council, enabled the OSCE to dispatch a delegation to Sarajevo and Belgrade, just two days after the Agreement was signed, for the purpose of holding high-level talks on the Organization's involvement in the preparations for the elections, the monitoring of human rights and the negotiation of confidence- and security-building, as well as arms control arrangements.

### *The Future of the Permanent Council*

During its one-and-a-half years of existence the Permanent Council has become the central decision-making body of the OSCE. Following the Budapest Summit, the Senior Council was turned into a body whose task is to give

orientation and guidance to lower-level OSCE bodies. At the same time, this has meant that the Senior Council has lost its decision-making role; all decisions are now prepared and taken by the Permanent Council, with the exception of course of the decisions of the Ministerial Council and the Summit Meetings. An effectively functioning Permanent Council has reduced the need for long and costly preparatory meetings leading up to ministerial and summit-level events; for example, all the decisions of the 1995 Budapest Ministerial Council had been prepared by the Permanent Council and then formally adopted by the ministers.

It is likely that this trend will continue. The OSCE, which is proud of its lean, cost-effective and efficient Secretariat and organizational structure, will continue to concentrate political consultation and decision-making in the Permanent Council. Decisions that had earlier been taken by higher-level organs (e.g., the Committee of Senior Officials), such as the accession of new participating States as full members, are now taken by the Permanent Council (as in the case of Andorra and the former Yugoslav Republic of Macedonia). The permanent availability of this body (extraordinary meetings have been held even on weekends), its flexibility (different purpose-oriented groups, etc.) and its well-tried and efficient working methods (wide-ranging and regular consultations ahead of decision-making) have helped the OSCE to become a successful player within the network of mutually reinforcing institutions in Europe.





## The OSCE Parliamentary Assembly

*Origins, Functions, Method of Work and Constituent Bodies*

### *Early History and Founding Phase*

At the NATO Summit in July 1990 the US President, George Bush, suggested that a Parliamentary Assembly be created as part of the "institutionalization" of the CSCE and received the unanimous support of the Summit participants for this proposal. The initial plan was to tie the "new" CSCE Parliamentary Assembly to the already existing Parliamentary Assembly of the Council of Europe but this idea was ultimately abandoned, mainly because important participating States of the CSCE such as the United States, Canada and the Soviet Union were not or could not become members of the Council of Europe; it was decided instead to found a CSCE Parliamentary Assembly as an independent institution without ties to any previously existing inter-parliamentary bodies.

The Charter of Paris for a New Europe, which was signed by the Heads of State or Government of CSCE participating States on 21 November 1990, provided the first building block. The Charter states: "Recognizing the important role parliamentarians can play in the CSCE process, we call for greater parliamentary involvement in the CSCE, in particular through the creation of a CSCE parliamentary assembly, involving members of parliaments from all participating States. To this end, we urge that contacts be pursued at parliamentary level to discuss the field of activities, working methods and rules of procedure of such a CSCE parliamentary structure, drawing on existing experience and work already undertaken in this field."<sup>1</sup> Thus the Charter of Paris marked the hour of birth of the CSCE Parliamentary Assembly.

This was the background for an initiative of the Presidents of the Spanish House of Representatives and the Spanish Senate to convoke a meeting in Madrid of parliamentarians from all (at that time 34) CSCE participating States. The meeting took place from 1-3 April 1991 and decided unanimously to provide the CSCE with a Parliamentary Assembly which would meet once a year in plenary session. The date was to be chosen at a time when as many national parliaments as possible were not in session and thus in a position to

---

<sup>1</sup> Charter of Paris for a New Europe, Paris, 21 November 1990, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 537-550, here: p. 549.

send their presidents and other high-ranking and important members to the annual meetings of the CSCE Parliamentary Assembly. It was agreed that the first session of the new Assembly would take place at the beginning of July 1992 in Budapest and that preparations would be made by a Committee of Heads of Delegation, the predecessor of the Standing Committee.

This Committee, made up of one representative from each of the participating States, met on 13 January 1992 and again on 22 May 1992 to prepare the inaugural session of the CSCE Parliamentary Assembly and also to discuss basic organizational issues such as the rules of procedure, the budget, financial arrangements, distribution of seats, the secretariat, as well as other organs of the Assembly.

This preparatory work made it possible to hold the first meeting of the CSCE Parliamentary Assembly in Budapest from 3-5 July 1992, attended by delegations from almost all CSCE participating States. The meeting took place just a few days before the CSCE Summit of Heads of State or Government on 9-10 July 1992 in Helsinki. It was an important event, not least because it represented a further step on the path to institutionalizing and strengthening the CSCE process.

#### *Responsibilities of the Parliamentary Assembly*

The OSCE Parliamentary Assembly is the parliamentary forum of the Organization for Security and Cooperation in Europe whose job is to give critical advice in the development of the OSCE process and provide the OSCE executive with useful ideas from the parliamentary standpoint. At the present time it is made up of 317 parliamentarians from the 55 participating States of the OSCE. The number of seats per country ranges from 17 (United States of America) to two (Andorra, Liechtenstein, Monaco, San Marino); the Federal Republic of Germany, like France, Italy and Great Britain, has 13. The Parliamentary Assembly is thus a connecting link between the executive organs of the OSCE and the elected, democratically legitimated parliaments of the participating States. Its chief responsibility is to promote inter-parliamentary dialogue - an area which because of the growing internationalization of more and more aspects of national political life and the increasing interdependence between them has acquired ever greater importance. The responsibilities of the Parliamentary Assembly as listed in Article 2 of its Rules of Procedure are the following:

- to assess the implementation of the OSCE's objectives,
- to discuss the subjects which are dealt with at the meetings of the Minis-

- terial Council and the Summit Meetings of Heads of State or Government,
- to develop and promote mechanisms for conflict prevention and conflict management,
- to support the expansion and strengthening of democratic institutions in OSCE participating States, and
- to participate in developing the institutional structures of the OSCE as well as promoting cooperative relations between existing OSCE institutions.

#### *Organization and Working Methods of the Parliamentary Assembly*

At the first annual meeting of the Parliamentary Assembly, the Committee of Heads of Delegation met for a third time on 2 July 1992, following the two preparatory sessions already mentioned, and agreed on provisional Rules of Procedure. These stipulated that the plan of holding (only) one annual meeting should be retained, that the work of the Assembly should be divided between three Committees corresponding to the "three baskets" provided for in the Helsinki Final Act of 1975, and that the leadership of the Assembly should be vested in a President, to be elected at each year's meeting, who would be supported by five Vice-Presidents and a Treasurer. The Committee of Heads of Delegation was transformed into a Standing Committee as the decision-making body in whose membership the Heads of Delegation were joined by the President, the five Vice-Presidents, and the Treasurer. The work of each of the three Committees was assigned to a Chairman, to be elected anew every year, supported by a Vice-Chairman and a Rapporteur. Beyond that, decisions about the composition of the Committees and involvement in their work were to be left up to the Delegates at the annual meetings.

The President of the Finnish Parliament, Ilkka Suominen, was elected as first President of the CSCE Assembly at the start of its inaugural meeting in Budapest. The five Vice-Presidents came from Canada, Denmark, Hungary, Turkey and Russia. The British Delegate Sir Peter Emery was elected as Treasurer. In addition, the Committees for security, economic cooperation and the human dimension were established.

After the Budapest meeting the provisional Rules of Procedure were revised in light of the experience that this first session of the Parliamentary Assembly of the CSCE had provided. At its meeting on 15 January 1993 in Copenhagen the Standing Committee unanimously adopted new Rules of Procedure which implicitly altered the Madrid decision of April 1991 insofar as its provisions were no longer consistent.

The organization of the OSCE Parliamentary Assembly, based on these new Rules of Procedure, is as follows:

At the head of the Assembly is the President who is elected for one year and can be reelected once.<sup>2</sup> Nine Vice-Presidents support him, each of whom serves a three-year term and can be reelected once. To provide a certain continuity, three Vice-Presidents are elected each year.<sup>3</sup> In addition, the OSCE Parliamentary Assembly has a Treasurer who is elected for two years and can be reelected twice.<sup>4</sup>

President, Vice-Presidents and Treasurer are elected at the annual sessions by secret ballot. Together they constitute the Bureau which, in accordance with Article 6 of the Rules of Procedure, is responsible for ensuring that the decisions of the Standing Committee are carried out and that the Assembly is capable of functioning between meetings of the Standing Committee. The Bureau makes its decisions by majority vote.

The Standing Committee is the guiding organ of the Assembly. It is made up of the members of the Bureau supplemented by the Chairs of the General Committees and the Heads of the national delegations. According to Article 30 of the Rules of Procedure it prepares the work of the Assembly between sessions and takes such steps as it considers necessary to ensure the continuation of that work when the Assembly is out of session. The Standing Committee makes its decisions on the basis of "consensus minus one" with the proviso that this will be changed to the "consensus minus two" formula as soon as that arrangement has been adopted by the OSCE executive.

The substantive work of the Assembly is done according to specialties in the General Committees set up for that purpose, the most important being:

- the General Committee on Political Affairs and Security,
- the General Committee on Economic Affairs, Science, Technology and Environment, and
- the General Committee on Democracy, Human Rights and Humanitarian Questions.

Members of the General Committees are appointed by the national delegations, bearing in mind the need for a balanced composition.

---

<sup>2</sup> After Ilkka Suominen had served two terms as President, the President of the Belgian Senate, Frank Swaelen, was elected as his successor at the Third Annual Session of the CSCE Parliamentary Assembly in Vienna. And after he had been in office for two years, the Spanish Delegate Javier Ruperez was elected President at the Fifth Annual Session in July 1996 in Stockholm.

<sup>3</sup> The current Vice-Presidents are: Ivan Petrovich Rybkin (Russia), Willy Wimmer (Germany), Jacques Genton (France), Steny H. Hoyer (United States), Dr. Kazys J. Bobelis (Lithuania), Ms. Helle Degn (Denmark), András Bárony (Hungary), John English (Canada) and Wojtech Lamentowicz (Poland).

<sup>4</sup> The Treasurer of the Assembly is still Sir Peter Emery (Great Britain).

Every Committee has a Bureau made up of the Chair, the Vice-Chair and a Rapporteur. The members of the Bureau are elected by the members of each Committee for one year, but the Rules of Procedure put no limit on their reelection.<sup>5</sup>

In addition to the General Committees, the Standing Committee can also set up ad hoc committees for particular purposes, establishing at the same time the length of their mandate, their composition and their responsibilities. In 1995 and 1996 such a committee was formed to provide a draft "Code of Conduct on Politico-Democratic Aspects of Cooperation". This project goes back to an initiative of the President of the German *Bundestag* and Head of the German Delegation, Dr. Rita Süßmuth, who at the session of the Standing Committee in January 1995 had proposed a Code of Conduct of this kind to parallel and supplement the "Code of Conduct on Politico-Military Aspects of Security" which had been adopted by the OSCE executive. Ms. Süßmuth directed the ad hoc committee; its other members were from Denmark, Finland, France, the Netherlands, Poland and the United States. The text it worked out was adopted unanimously by the Assembly at its Fifth Annual Session in July 1996 in Stockholm.

Finally, the OSCE Parliamentary Assembly has an International Secretariat which is located in Copenhagen. At its head is the Secretary General, who is nominated by the Standing Committee on the recommendation of the Bureau; he has a five-year term of office which can be renewed by a majority decision of the Standing Committee.<sup>6</sup> He is supported by two Deputy Secretary Generals<sup>7</sup> of whom one is responsible for financial matters. The International Secretariat's job is to prepare and organize the various activities of the OSCE Parliamentary Assembly and to support its elected officials, both organizationally and substantively, in their work.

#### *Finances/Budget*

The OSCE Parliamentary Assembly works on the basis of annual budgets and it is the Treasurer's job, with the support of the Secretary General, to prepare the draft budget for the next fiscal year and to present it to the Standing Committee for discussion and for a decision. The fiscal year runs from 1

---

<sup>5</sup> To date, two Germans have served on the Bureaus of General Committees: The President of the German *Bundestag* and Head of the German Delegation, Dr. Rita Süßmuth, was in 1992 Rapporteur and in 1993 Chairwoman of the Committee on Economic Affairs, Science, Technology and Environment; Delegate Freimut Duve was elected Chairman of the Committee on Democracy, Human Rights and Humanitarian Questions in July 1995 in Ottawa.

<sup>6</sup> The American, R. Spencer Oliver, was appointed first Secretary General of the Assembly in January 1993.

<sup>7</sup> The Deputy Secretary Generals are the Finn, Pentti Väänänen, and the Russian, Vitaly Evseyev.

October until 30 September of the following year. The last budget, i.e. for the 1995/1996 fiscal year, totalled 9.4 million Danish Kroner (about 2.45 million DM). The budget for 1996/1997 was adopted at the Fifth Annual Session of the Assembly in Stockholm and amounts to 9.65 million Danish Kroner.

Referring back to the Madrid Resolution, the national contributions to the Assembly's budget are calculated according to the scale of distribution used at Government conferences of the OSCE. The six biggest contributors (France, Germany, Italy, Russia, Great Britain and the United States) account for nine percent of the total while the smallest participating States only pay 0.15 percent. The German *Bundestag* has posted its contribution share in its own section of the Federal budget.

#### *Past Annual Meetings of the OSCE Parliamentary Assembly*

Article 11 of the Rules of Procedure prescribes that the Assembly will hold a plenary annual session during the first ten days of July for a period of not more than five days. Thus there have so far been five sessions:

- the first from 3 to 5 July 1992 in Budapest,
- the second from 6 to 9 July 1993 in Helsinki,
- the third from 5 to 8 July 1994 in Vienna,
- the fourth from 4 to 8 July 1995 in Ottawa, and
- the fifth from 5 to 9 July 1996 in Stockholm.

As a rule these meetings are also attended by representatives of the Parliamentary Assembly of the Council of Europe, the Assembly of the WEU, the North Atlantic Assembly, the Inter-Parliamentary Union and the European Parliament, all of which have been given observer status by the Standing Committee.

At all of their annual sessions the parliamentarians have dealt with a broad range of issues from the CSCE/OSCE realm and in each case, by the time the meeting finished, produced a concluding document as well as a series of resolutions and recommendations based on their discussions.

In these documents they reaffirm the importance of common values such as democracy, pluralism, the rule of law, respect for human rights and the protection of minorities as the foundation of cooperation in the CSCE/OSCE.

In every case they devote a great deal of space to the subject of "The CSCE (or, after Ottawa, OSCE) and European Security", especially the role of the OSCE in a new European peace and security order.

The parliamentarians regard early identification of conflicts, early warning, conflict prevention and crisis management as being among the most important tasks of the OSCE. In this connection, they have spoken in favor of further development of the OSCE's mechanism for conflict prevention and securing peace; seeking the support of other regional organizations such as NATO and the WEU for peace missions; and transforming the OSCE into a regional security organization under the terms of Chapter VIII of the Charter of the United Nations, thus providing it with an appropriate legal basis. They agree that the role of the OSCE should be further strengthened in view of the many new regional and ethnic conflicts. It is their view, moreover, that the concept of security should no longer be understood in a purely politico-military sense; on the contrary, there needs to be an expanded security concept which takes account of economic, social and ecological factors and, in particular, politico-democratic cooperation.

With regard to the economic dimension the parliamentarians emphasize again and again the close reciprocal relationships between freedom, democracy, pluralism, market-economy structures and social justice. They point out that economic change must be brought about in a responsible and balanced way in the countries being in transition to market economies and that those countries need the economic, technical and financial assistance of the Western industrial countries in order to keep their substantial social and ecological risks at as low a level as possible.

With regard to the human dimension the parliamentarians point out that implementation of human rights and, in particular, the protection of minorities remain central objectives of the OSCE, just as in the past. For this reason, they favor sending OSCE observer missions to countries in which minority rights are being violated and they support the participation of members of the Parliamentary Assembly in such missions.

In addition to these three areas which are reflected in the General Committees, the parliamentarians, at all their annual sessions and at the meetings of the Standing Committee, have discussed other current problems and situations which they see as a threat to European security. For example, they have repeatedly preoccupied themselves with the situation in former Yugoslavia, especially the problems in Bosnia and Herzegovina, the Chechnya conflict, the situation in Nagorno-Karabakh and the human rights problems in Turkey, and have passed declarations on these subjects, either independently or as part of the concluding document.

Apart from the annual sessions, the activities of the Parliamentary Assembly of the OSCE focus in particular on the three programs it has set up to promote democracy and therewith to strengthen security: election monitoring, missions and the Democratic Assistance Programme.

The monitoring of parliamentary elections by parliamentarians who have been elected by the people in their own countries is of particular significance. If democratically experienced parliamentarians confirm that the parliament of a new democracy is the product of free and fair elections, then that parliament's position is strengthened both as a counter-weight to its own government and in its relations with the international community of states. An additional point is that election monitoring carried out by members of the OSCE Parliamentary Assembly is viewed as more critical and more objective than that of many other institutions, both because the parliamentarians are public office holders and because, as representatives of the people, they are independent of the government.

Since 1993 approximately 400 observers from 40 participating States have taken part in the monitoring of parliamentary elections in Armenia, Azerbaijan, Belarus, Croatia, Estonia, Georgia, Kazakhstan, Latvia, Macedonia, Moldova, Russia, the Ukraine and Uzbekistan. The most recent observations were carried out in Albania, Russia and Bosnia and Herzegovina.

In addition to election monitoring, the OSCE Parliamentary Assembly sends delegations of high ranking politicians to areas of tension and crisis in order to promote informal dialogue between parliamentarians of various participating States. Following these missions, which are meant to contribute to the protection of human rights and rule-of-law principles in the target countries, a report is submitted to the appropriate authorities and then discussed by all of the parliamentarians at the next annual session. The most striking example of such a mission so far is the one to Turkey in May 1995 under the leadership of the German Delegate and Vice-President of the Parliamentary Assembly, Willy Wimmer.

Election monitoring, particularly in the successor states of the former Soviet Union, has revealed many procedural weaknesses, most of which can be attributed to a lack of democratic tradition in these countries. As a consequence the OSCE Parliamentary Assembly has since 1995 been offering politicians in the new democracies training seminars which are conducted by experienced parliamentarians from other OSCE participating States. Their objective is to create stable political systems with effectively functioning parliaments and a strict separation of powers.



At their first meeting on 19-20 June 1991 in Berlin the Foreign Ministers of the CSCE participating States welcomed the creation of a CSCE Parliamentary Assembly which they deemed to be an important step toward greater involvement of parliamentary work in the CSCE. Reaffirming their commitment to strengthening democracy as the only form of government of their countries, they looked forward with keen anticipation to the collective expression of the views of the CSCE Parliamentary Assembly on security and cooperation in Europe and on the future development of the CSCE.

In the Prague Document on Further Development of CSCE Institutions and Structures, which was adopted at the second Meeting of the CSCE Council on 30-31 January 1992 in Prague, the Foreign Ministers again expressed their support for an active dialogue between the CSCE executive and the Parliamentary Assembly and announced their willingness to send the Chairman of the Council to the Assembly's Budapest Meeting in July 1992 so that he could report there on the work of the CSCE, answer questions from the parliamentarians in this regard and take note of their views, which he would then take back to the Council.

The Budapest Declaration of 1992, which was adopted at the First Annual Session of the Parliamentary Assembly of the CSCE in Budapest and directed to the Heads of State or Government, in fact marked the real beginning of reciprocal relations between the CSCE/OSCE Parliamentary Assembly and the CSCE/OSCE executive.

All declarations and reports adopted at the annual sessions of the Parliamentary Assembly along with all reports on election monitoring, missions and other activities of the Parliamentary Assembly are forwarded to the Chairman-in-Office of the OSCE as well as to other OSCE institutions. At the same time, representatives of the OSCE executive report regularly to the Parliamentary Assembly on their activities. Thus it has become a tradition since 1993 for the Chairman-in-Office of the OSCE to report personally to the Annual Session of the Assembly on the work and activities of the OSCE executive and to answer the parliamentarians' questions in this regard. The Chairmen of a number of other OSCE institutions generally take part in the meetings of the Standing Committee. Moreover, the Assembly is represented at every official OSCE meeting, including those of the Senior Council and Permanent Council and the annual meeting of the Ministerial Council, and it maintains close working relations both to the Chairman-in-Office and the Secretary General of the OSCE as well as to the other OSCE institutions in Vienna, Prague, Warsaw and The Hague.

That the OSCE executive has in two recent cases asked on its own initiative the Parliamentary Assembly for its contribution to two pending projects shows how much importance it has come to attach to cooperation with the Assembly. At issue were the development of a "Common and Comprehensive Security Model for Europe for the 21st Century" and, in the other case, the elections in Bosnia and Herzegovina, where the Dayton Peace Agreement assigns key functions to the OSCE in regard to preparation, execution and monitoring.

### *Outlook*

Considering this background, it is to be expected that the relations between the Parliamentary Assembly and the executive of the OSCE will further deepen and continue to provide a basis for fruitful cooperation to the benefit of all.

This is especially true because the involvement of parliamentarians in international affairs can help enormously to come to terms with the calls for democratization in this field which have increasingly been heard in recent years.

The diplomats who traditionally deal with foreign policy are public servants and as such have no direct democratic legitimation. Parliamentarians, on the other hand, are directly elected by the people and from that acquire both legitimation and responsibility. And while diplomats usually carry on their negotiations behind closed doors, the profession of a parliamentarian is characterized by an open, public and hence transparent exchange of opinions and counter-opinions, and also by the struggle for majorities. Thus parliamentary diplomacy in general and the involvement of delegates in inter-parliamentary assemblies in particular can help to overcome speechlessness and to build bridges of understanding in ways which official diplomacy is not and could not be capable of.

The OSCE, as an organization which strives to develop a common security space resting on a comprehensive and cooperative concept of indivisible security, could especially profit from this.

## The Activities of the OSCE High Commissioner on National Minorities in Conflict Prevention

In the second half of 1995 and the first eight months of 1996 the High Commissioner was again involved in minority questions in a great number of OSCE countries. In alphabetical order: Croatia, Estonia, the Former Yugoslav Republic of Macedonia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Romania, Slovakia and Ukraine. Inter-ethnic relations were very often the main topic of conversation. The issues discussed ranged from differences between national and regional authorities, to the prospects for the return of persons belonging to national minorities to areas they had previously inhabited, to problems related to the possibility to obtain citizenship. Also, subjects such as education in the mother tongue and the possibility to use the native language were often discussed.

The question is sometimes raised on what basis the HCNM selects the countries on which he concentrates his activities. The High Commissioner chooses to focus on certain countries when it is his view that they are facing especially difficult and complicated minority problems and because he hopes that his activities can be of some help in coping with them. In general one can say that the states concerned have understood and have accepted that this is the task the High Commissioner was given in the mandate which was agreed upon by all OSCE States during the Helsinki CSCE Summit of 1992. In this connection it is important to recall that it is not the HCNM's task to be just an advocate of minorities but that it is his duty to be an instrument of conflict prevention, to be active in trying to remove the danger of inter-ethnic conflict and to promote inter-ethnic harmony.

The importance of conflict prevention is immediately apparent if one looks at the origins of the conflict in what formerly was Yugoslavia. During the late eighties virtually all foreign observers had been reporting that the danger of an explosion was constantly growing. Still, no steps were undertaken to de-escalate the situation and the international community only came into action after the first shots had already been fired. The lesson the international community has to learn from this is that if the OSCE community of States wants to play a key role in conflict prevention, it has to come into action at a very early stage - as soon as there is a danger of serious tensions developing. Foreign ministers, busy as they are in coping with current crises, will also have to place the potential crises of tomorrow on their agenda. If the OSCE wants to be successful in conflict prevention, in the broadest sense of the ex-

pression, it has to concentrate on the elimination of the potential causes of conflict.

The *raison d'être* of the post of High Commissioner on National Minorities is the acknowledgement by OSCE participating States that problems involving national minorities, if neglected, could develop into violent conflict. In the more than three years of his activities, the High Commissioner has seen ample proof that this conclusion was justified. The problems involving minorities did not necessarily cause violent conflict in fact, but it was clear to all those directly involved that the potential for conflict was present, sometimes not even very far below the surface. At the same time, the High Commissioner also discovered that behind such tensions, there are often other, deeper causes of conflict. If people are unemployed, if they have few or no possibilities for education, if no decent housing is available, if the prospects for their children's future are gloomy, it is no wonder that they are dissatisfied. In many countries in the OSCE area this situation is exacerbated by the fundamental changes societies are going through. Frequently, people in these countries are faced with huge problems in their day-to-day lives, without it always being clear what the future has in store for them. Past ideologies have failed them and new ideologies with tailor-made answers are not at hand. Unfortunately, history teaches us that human nature is such that in a situation of discontent easy answers are sought and scapegoats are readily found. Nationalism then becomes the panacea for all problems. The High Commissioner strongly believes that it should be the task of the OSCE to identify the root causes of conflict and to help combat these, in order to ultimately prove that nationalism, xenophobia, racism and the portrayal of "others" as the enemy, are certainly not the answers to, but indeed part of, the problem.

The basis from which the High Commissioner operates are the values that are shared by all OSCE States. These values apply to all those who want to be part of the OSCE community; they are indivisible, non-negotiable and universal. They comprise the rule of law, democracy, human rights, including the rights of persons belonging to national minorities, pluriform society and the existence of market economy. It would be wrong to perceive these values as belonging solely to part of the OSCE area, or as religious dogmata some OSCE States want to impose on others. Rather, they are the core of the Helsinki process, which starts from a comprehensive concept of security which relates peace, security and prosperity directly to the sharing of the values. In other words, the Helsinki process has taught us that lasting peace and security are only possible in an environment where these values are shared. Thus, the observance of these values is no longer a matter of choice, but a political necessity.

The experience of the High Commissioner shows that, even if agreement is reached on the values that the OSCE States have in common, conflict pre-

vention is not an easy task. It is a tedious process requiring considerable investment over a long period of time. Such investment will have to include significant investment of financial capital, but no less political capital. Although considerable financial capital is needed, one should see this in its proper perspective. Annually, probably less than one percent of what OSCE States spend each year for defence and security would be needed. We are used to think of security in terms of protection against aggression from outside. But a post Cold War concept of European security has to take account of the fact that, as the Yugoslav drama has demonstrated, violent conflict *within* a state can now lead to a major threat for peace and security on this continent. Conversely, the timely provision of financial assistance can help considerably in promoting stability *within* a state. In this context, the HCNM has developed a number of activities in Ukraine, *inter alia* concerning the position of the Tatar population in the Autonomous Republic of Crimea. The Tatars, and other smaller population groups who have returned from their deportation to Central Asia, are faced with considerable difficulties in trying to build an existence for themselves and their families. There are very few jobs, almost no housing and few opportunities for education. If these problems are not tackled, Tatar discontent might destabilize the situation in this area, which in other political aspects has begun to show a remarkable improvement. But to remedy the situation, large investments are needed, for which the Ukrainian authorities lack the resources, which is understandable in the present economic situation. This means that the international community should be made aware of its responsibility and should step in with considerable financial means. So far, it has been very difficult to persuade a sufficient number of OSCE States of this necessity.

Through his activities, the High Commissioner has also become convinced of the importance of a clear political commitment to conflict prevention. The political message is that quick fixes for social, economic and political problems do not exist, that extremism is never an answer and that conflict prevention is a cause worth investing in. In the end, it is obvious that preventing conflict is cheaper than enforcing or keeping peace and rebuilding societies after a violent conflict. Above all, preventing conflict means that tens of thousands of human lives will not be needlessly sacrificed and that much human suffering can be avoided. Results in this area can only be achieved if activities such as those of the HCNM can count on the political support of the participating States. An important conclusion is that the challenges the OSCE community is facing today can only be tackled successfully if a joined effort is made. Although the problems sometimes seem almost impossible to overcome, especially in those parts of the OSCE that were hit by war, deep economic recession, or serious political conflict, the HCNM believes that if there is a basic willingness on the part of all parties involved to work towards

a peaceful and prosperous OSCE community, much can be achieved which otherwise might seem impossible.

## The Office for Democratic Institutions and Human Rights: OSCE's Response to the Challenges of Democratization\*

Although CSCE was best-known prior to 1990, at least in the West, for its human rights work, that side of its portfolio has received relatively less attention in its institutionalized phase. The Office for Democratic Institutions and Human Rights (ODIHR) is, compared to the Council of Europe or the UN human rights machinery, a tiny institution. It faces the further challenge of addressing the perspectives and needs of a diverse community of states - North American, European, and Eurasian. The ODIHR's location away from OSCE headquarters and international fascination with security-oriented conflict prevention and resolution have ensured its low profile. In 1994/95, however, its integration into OSCE activities improved dramatically, as it began to be included in the planning and execution of OSCE conflict resolution activities.

The ODIHR manages a large and flexible array of programs aimed at democratic institution-building and has built up considerable expertise in human rights implementation and local human rights monitoring activities throughout the OSCE region. Its place among the various organizations carrying out such programs in Central and Eastern Europe and the sheer depth of the human rights challenge in the region continue to leave its effectiveness open to question.

### *Formation of the ODIHR*

Shortly after its 1990 Copenhagen Document had placed it at the forefront of international standards for democratic institutions and the rule of law, OSCE first acquired a human-rights related institution.

In its original form a mechanism for participation of observers in national elections, the Office for Free Elections (OFE) was the human dimension component in the package of institutions negotiated for the 1990 Paris Summit of the CSCE. The Paris Summit as a whole, and in particular the conceptualization of CSCE institutions, was a response to the 1989 fall of the

---

\* First published in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH [Institute for Peace Research and Security Policy at the University of Hamburg] (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 277-285.

Berlin Wall and liberalizations across East-Central Europe. Enthusiasm for the Office was not universal; many perceived it as a transitional measure which would no longer be needed once the ex-Warsaw Pact states became more practiced in the mechanisms of democracy.<sup>1</sup> As a result, and in line with general Western reluctance to create extensive or intrusive CSCE bodies, the Office was established with a professional staff of two, to be seconded by CSCE States. It was lodged in Warsaw, a consolation for the Polish government which had hoped to receive the CSCE's Conflict Prevention Centre.

In its first year, the Office monitored elections in Bulgaria and Poland. It was challenged as well to move beyond its electoral mandate, first by supporting a rapporteur mission to Albania, only admitted to the CSCE in June 1991. 1991 also provided numerous indications that more "classic" human rights problems might not have been completely removed from the European scene. War broke out in Yugoslavia; the September Conference on Human Dimension of the CSCE in Moscow became a major event when it followed by days the unsuccessful coup attempt against Soviet President Gorbachev. Foreign Ministers met there to admit the Baltic states as independent participating States and hail the Soviet Union's continuing transition away from totalitarianism. The U.S. also broached the notion of expanding the Office to deal broadly with democratic institution-building, seen as a key challenge. In January 1992, this idea was adopted, with Norway presciently adding the notion of human rights to the office's title - Office for Democratic Institutions and Human Rights.

Since then, the ODIHR has continued to grow in size and responsibilities, as specified at CSCE's 1992 Helsinki Follow-up Meeting, subsequent meetings of its Council of Ministers, and most recently the 1994 Budapest Review Conference. Its Warsaw location remains controversial, with concern for the ODIHR's closer integration into OSCE activities (headquartered in Vienna) and desire in some states for closer supervision of the ODIHR countered by the wishes of Poland and the feeling of other states (chiefly the U.S.) that the ODIHR does better away from daily oversight.

Efforts to make it a human rights-monitoring body, with the ability to raise issues of concern with the OSCE States at the Permanent Council have foundered on states' reluctance to allow an independent capacity for implementation review and, implicitly, criticism.

---

<sup>1</sup> Staff of the Commission on Security and Cooperation in Europe, *Beyond Process: The CSCE's Institutional Development, 1990-92*, Washington D.C. 1992, p. 14.



The ODIHR is small even by OSCE standards; in 1995, its total staffing was 20. Of these, Director Audrey Glover and Deputy Director Gilles Breton are seconded by their respective countries (the U.K. and Canada); other staff is hired competitively. Its similarly small budget, approximately 21 million Austrian Schillings in 1994, is funded by OSCE's 53 participating States according to a previously-agreed payment scale. The ODIHR relies upon cooperation with host states, other intergovernmental and non-governmental organizations, and the volunteer services of experts to maximize its limited resources.

The ODIHR's activities fall into several categories: election observing; organizing seminars for the full OSCE as well as smaller meetings and training programs on issues related to democratic development; serving as a clearing-house for other democratic institution-building activities; housing and administering OSCE procedures for receiving information on and investigating human rights situations; and supporting other OSCE activities by providing human dimension expertise.

*Election monitoring* continues to be an important part of the ODIHR's activities. It attempts to send out preliminary missions or otherwise gather information to assist the planning of elections, if requested, and to determine whether preparations have been carried out in a manner conducive to a free and fair vote. On occasion, the ODIHR has declined to monitor elections that it or the OSCE Permanent Council has deemed undemocratically prepared.<sup>2</sup> During an election, the ODIHR representatives play a coordinating role among other international observers and monitor election proceedings, as well as events leading up to and following elections, as thoroughly as possible given limited resources (usually not more than two persons on the ground). The ODIHR issues statements following an election and is available for subsequent consultation with governments or to help provide appropriate outside expertise.<sup>3</sup>

The ODIHR was mandated to work more broadly on democracy-building in January 1992. Further specifications were made at the July 1992 Helsinki Summit, including a "Programme of Co-ordinated Support" for the emerging democracies, most importantly the countries of the former Soviet Union. Under this rubric, the ODIHR's Rule of Law Programme works with national authorities and non-governmental groups on legal, constitutional, judicial, media and human rights issues. The bulk of activities have been aimed at

---

<sup>2</sup> Most notably, the elections held in the Federal Republic of Yugoslavia in May 1992.  
<sup>3</sup> For statements on the various elections monitored (in 1995 including Kyrgyzstan, Moldova, Estonia, Uzbekistan, Belarus and Armenia) see reports in the ODIHR Bulletin, published four times a year by the Office in Warsaw.

constitution- and law-writing and training for lawyers, jurists and others. Recently-added activities include prison reform, with the Georgian government receiving assistance from Polish and British organizations, and cooperating with UNHCR on the 1996 UN conference on migration problems in the Commonwealth of Independent States.

As OSCE political bodies have found the ODIHR a good tool with which to respond to lower-level problems and challenges, its democratic institution-related activities have broadened. The ODIHR has monitored trials, notably the "Ilascu case" of a group of Moldovans tried on capital charges by the self-proclaimed authorities of the breakaway Moldovan Trans-Dniester region. Work on media issues has expanded to a planned series of regional seminars on print media management, developing its work with free media as a democratic institution. Sessions to train human rights ombudspersons for the Bosnian Federation were held in the context of an OSCE initiative to train and support the ombudsmen. Seminar sessions have been as large as the Warsaw Judicial Symposium of some 63 jurists from 18 countries, or as small as providing expert analysis of the draft Tajik constitution.

These small meetings are arranged by the ODIHR on its own authority, on request of an OSCE State or in conjunction with an outside organization. Additionally, OSCE mandates the ODIHR annually to hold two larger-scale seminars, with topics approved by the participating States, to which all participating States may send representatives. Some of these are held in Warsaw; others are hosted by participating States. These meetings, although rather formal in character, have been noteworthy for broad and full participation by non-governmental organizations, in contrast to other OSCE sessions and the practice of other organizations. The meetings cannot produce binding results; their reports and recommendations (generally drawn up by rapporteurs rather than by consensus) must be forwarded to the OSCE's Permanent Council for consideration and follow-up. In the first six months of 1995, a seminar entitled "Building Blocks for a Civil Society" was held in Warsaw; the second, on the Rule of Law, was planned for November 1995. An additional seminar to explore ways and means of building and sustaining tolerance, was co-sponsored with the government of Romania, the Council of Europe and UNESCO in Bucharest in May 1995. Such large sessions have, on the one hand, enabled participants from distant states and non-governmental bodies to meet experienced practitioners, advisers and experts, and to enjoy free-ranging formal and informal contacts. However, the large-group and national-delegation format most often results in days of formal speeches, with real exchanges left for the sidelines. With the conclusion that smaller, more focused and less-formal sessions are often more productive, the number of full-OSCE seminars has declined since the program's establishment in 1992, when three to four per year were foreseen.

The ODIHR's largest meeting, and also its central opportunity to pursue review of implementation of human dimension commitments, is the *Implementation Meeting on Human Dimension Issues*, held in Warsaw in alternate years.<sup>4</sup> This three-week conference gives states and non-governmental organizations the opportunity to raise questions of non-compliance with OSCE principles in any participating State; to discuss the functioning of OSCE institutions and procedures related to the human dimension; and to make recommendations (again, non-binding) to OSCE for improved or new commitments or activities.

The range of issues which the OSCE and the ODIHR treat under the rubric of "human dimension" is indicated by the agenda for these sessions: human rights and fundamental freedoms; rule of law and democratic institutions; tolerance and non-discrimination; treatment of citizens of other participating States; enhancing implementation of human dimension commitments, including OSCE human dimension procedures; ODIHR activities; seminars; the role of non-governmental organizations (NGOs); improvement of the ODIHR's involvement in OSCE activities; and cooperation with other international organizations.

The ODIHR's ability to monitor implementation beyond hosting meetings is rather limited. Efforts to give it an explicit obligation to bring violations to states' attention failed in 1992, 1993 and 1994. The most recent formulation, in "Towards A Genuine Partnership for a New Era", the document of the 1994 Budapest Review Conference, encourages the Chairman-in-Office to inform the Permanent Council of serious cases of alleged non-implementation of human dimension commitments, including on the basis of information from the ODIHR.<sup>5</sup>

The ODIHR may also, "acting in an advisory capacity, participate in discussions of the Senior Council and the Permanent Council, by reporting at regular intervals on its activities and providing information on implementation issues".<sup>6</sup>

*Support for the implementation of human dimension commitments* has also been used to describe the ODIHR's responsibilities in supporting other OSCE activities. The ODIHR is to be consulted when mission mandates are drawn up and often sends experts to participate on a short-term basis. It may itself be asked to manage missions by the OSCE States or the Chairman-in-Office. In the past, this responsibility has sent the ODIHR Director to Chechnya, and other ODIHR staff on war crimes investigations in former Yugoslavia, as well as more routine presences in the recently-admitted OSCE States.

---

<sup>4</sup> An OSCE-wide Review Conference is held every other year; a separate Human Dimension Review Meeting is not held in those years.

<sup>5</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: p. 96.

<sup>6</sup> Ibid., p. 97.

ODIHR has also sent longer-term members to and developed programs with OSCE conflict resolution missions in Moldova, Georgia and Tajikistan. Additionally, ODIHR manages OSCE's Human Dimension Mechanism, a procedure under which states may demand and receive explanations, bilateral meetings, or even missions to investigate and/or attempt to mediate cases which raise human dimension concerns. States may invoke the mechanism on themselves, requesting a mission to clarify some controversy; otherwise, mandatory missions may be dispatched by thirteen, or in an emergency ten, States to another OSCE participating State, which must accept the mission. The ODIHR is then charged with organizing the mission, drawing members from a list of pre-approved experts. Since the creation of the ODIHR, Moldova and Estonia have self-invoked missions to study aspects of their human rights policies and missions have been sent or attempted to investigate human rights charges in Croatia, Serbia and Bosnia and Herzegovina. ODIHR is mandated to support the Office of OSCE's High Commissioner on National Minorities; in fact, the latter has become a self-supporting entity located in The Hague, and is linked only consultatively with the ODIHR. Finally, the ODIHR has been requested to serve as a contact point and clearing-house among OSCE States, international and non-governmental organizations. Some clearing-house projects are OSCE-mandated: information on media issues in the region, the abolition of capital punishment and the status of Roma/Sinti peoples. Its capital punishment project remains basically un-implemented (as it was a compromise between states pressing for progress on abolition and others which retain or are expanding the practice). The Contact Point for Roma and Sinti Issues, however, has been active since its recent establishment (1994). Focusing on discrimination and violence against Roma and Sinti, the program has collected a great deal of documentation, keeps Roma issues before OSCE participating States, and hosts meetings or sidebar gatherings on Roma issues at other OSCE events. In addition, the ODIHR's clearing-house function extends assistance to non-governmental organizations, which may use its database of NGO activities to make contacts or investigate particular issues. NGOs also attend and speak at the ODIHR's smaller seminars and sessions of larger meetings classed as "open" without being required to obtain prior status. The only impediments to their participation in such sessions are a requirement of prior registration and a ban on entities which practice, promote or support terrorism. This openness - NGOs have also co-sponsored smaller meetings with the ODIHR - is unique among intergovernmental organizations and within the OSCE itself.<sup>7</sup>

<sup>7</sup>

The ODIHR Bulletin has regular features on NGO involvement in OSCE; for comparison with other organizations, see Rachel Brett, *The Contribution of NGOs to the Monitoring and Protection of Human Rights in Europe: An Analysis of the Role and Access of NGOs to the Inter-Governmental Organizations*, in: Arie Bloed et al. (Eds.), *Monitoring Human Rights in Europe: Comparing International Procedures and Mechanisms*, Dordrecht 1993.

While OSCE States remain interested in having a human rights arm and assisting national processes of democratic development, these issues have taken second place, in terms of interest and funding, to more immediate conflict resolution activities, often without a human rights focus.

As the length and difficulty of democratic transition has become evident across the OSCE region, some enthusiasm for support programs has fallen away. The difficulty in judging the success of judicial training programs, obtaining concrete results from discussion seminars, or presenting achievements derived from consultations with governments results in lower interest - and funding - from governments. The fact that small preventive initiatives, and the democracy-building field in general, are seldom considered worthy of high-level or media attention intensifies their disadvantage in the struggle for scarce resources. The lack of resources limits effectiveness, sparking a self-perpetuating cycle. It must also be said that neither in the OSCE nor elsewhere has a great deal of effort been put into evaluating programs. Very little can be said with confidence about the success or failure of international democracy-building projects generally.<sup>8</sup>

Nevertheless, the ODIHR has come to serve a useful role in providing low-key, low-commitment options for international responses to pre-conflict situations, when the international community wants to be seen to be involved. To the extent that human rights education and monitoring, as well as democratic institution-building, are perceived in national capitals as useful elements of conflict *prevention*, something the ODIHR itself has tried to encourage, the role of the ODIHR will grow.

Certainly, threats to democratic institutions do not seem to be on the decline. The ODIHR has reached a rough *modus vivendi* with the Council of Europe, which in the past regarded it as a competitor; enough problems exist to occupy both, particularly in those former Soviet republics which the Council has declined to consider as potential members. Its innovative contacts with non-governmental organizations, particularly national and local bodies which are on the "front lines" of human rights practice but seldom have the wherewithal to attempt to gain consultative status at the Council or the UN, are bounded only by some national concerns and the NGOs' ability to contribute and cooperate. The key question before the ODIHR, as a small but innovative human rights body, remains the interest of European states in allowing its experiment to continue.

<sup>8</sup>

The problems of evaluation have been laid out in Thomas Carothers, Recent U.S. Experience with Democracy Promotion, in: IDS Bulletin, April 1995, pp. 62-69, here: p. 64.



## External Relations and Influences





## The New Mediterranean Dimension of the OSCE

*From Helsinki 1975 to Budapest 1994*

The interest of the CSCE/OSCE in the Mediterranean area dates back to the Helsinki Final Act of 1975. The Act included a Declaration on the Mediterranean establishing a specific Mediterranean dimension. The Declaration proclaimed the principle of indivisibility of security in Europe and in the Mediterranean and the objective of a balanced development of cooperation in the two areas. To this end, a contribution by the Mediterranean countries to specific CSCE activities of mutual interest was foreseen.

Since then and up to the 1990 Paris Summit the Euro-Mediterranean relationship was confirmed on many occasions in the CSCE process, along with the need to intensify contacts and cooperation between the two areas.

Nevertheless, the profound changes of 1989-90 took their toll on the Euro-Mediterranean relationship. The pressing problems of transition caused the CSCE to concentrate on crises on the European continent. Most of these crises involved successor states of the former USSR, thereby attracting attention towards the easternmost parts of Europe and even the Asian regions. The increasing institutionalization of the CSCE was also designed to respond to these crises. All these developments tended to increase the Central and Eastern European dimension of the CSCE, while the Mediterranean one remained peripheral.

The Helsinki Document 1992<sup>2</sup> laid the foundations of a widened dialogue with the Mediterranean states through their participation in the CSCE Review Conferences, the intensification of contacts and the exchange of information. Some of the non-participating Mediterranean countries were showing a concrete interest in being more closely associated with the work of the CSCE, along with the intention to share, at least to a certain extent, its principles and values.

Building on these developments, the Rome Ministerial Council of 1993, with the statements of the Foreign Ministers of five of these countries (Algeria, Egypt, Israel, Morocco and Tunisia), represented a turning point towards a

---

<sup>1</sup> Ambassador, Head of the Italian Delegation to the OSCE. This article reflects the personal views of the author.

<sup>2</sup> 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 and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 701-777, esp. Chapter IV, para. 7 and 8 (p. 731), and Chapter X (p. 764).

qualitatively different dialogue between the CSCE and the "non-participating Mediterranean States".

During 1994 the Italian Chairmanship of the CSCE further developed the Rome conclusions by promoting a decision, formally taken in the Committee of Senior Officials (CSO; now: Senior Council) on 3 March 1994<sup>3</sup>, setting out the specific forms and modalities of a possible contribution by the five Mediterranean countries to the activities of the CSCE.

The Italian Chair also called a meeting in Vienna of the CSCE Troika and the five countries at the level of Senior Officials. The meeting resulted in an invitation being addressed by the CSCE to the five countries to participate in the Budapest Review Conference. Their participation in turn gave these countries an opportunity to voice their expectations concerning the evolution of the CSCE and their relationship with it.

Italian Foreign Minister Antonio Martino also chaired an unprecedented meeting of the Foreign Ministers of the five Mediterranean countries and of the CSCE Troika States, on the sidelines of the Budapest Summit. The meeting discussed further developments of the Mediterranean dimension of the CSCE, which the CSCE Troika could then propose for inclusion among the Budapest Summit Decisions. Ministers agreed that among the issues to be discussed in the CSCE-Mediterranean dialogue, priority should be given to the security issues. Following a reference to the CSCE in the recent agreement between Israel and Jordan, attention was drawn to the possibility of making use of some elements of the CSCE/OSCE experience (for instance the confidence-building measures) also for disputes or conflict situations in the Mediterranean area. Israeli Foreign Minister Shimon Peres proposed to enlarge the dialogue to include Jordan and even, in forms to be agreed, the Palestinians.

#### *The 1994 Budapest Summit and its Aftermath*

After prolonged discussions and negotiations at the Review Conference, the Budapest Summit (5-6 December 1994) took a specific decision on the strengthening of security and cooperation in the Mediterranean.

This decision<sup>4</sup> included a series of concrete measures. An informal contact group was established in Vienna in the framework of the Permanent Council. The group was to meet periodically to carry out a dialogue with the five Mediterranean States with a view to facilitating the exchange of information

---

<sup>3</sup> CSCE, 25th Meeting of the Committee of Senior Officials, Journal No. 2, Decision 5c, pp. 3-4.

<sup>4</sup> CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor 1/1995, pp. 79-106, here: Chapter X, pp. 104-105.

of mutual interest and the elaboration of ideas. Furthermore, it was decided in Budapest that a seminar on the CSCE experience in confidence-building measures would be organized in 1995 in Egypt, and that other seminars on topics of mutual interest could be organized in the future. The practice of high-level (Ministerial) consultations between the CSCE Troika, including the Secretary General, and the Mediterranean States was officially endorsed. Finally, representatives of the five States could be invited to meetings of the Permanent Council solely devoted to Mediterranean questions, or to Senior Council meetings dealing also with those questions. The same could be done in the meetings of the Forum for Security Cooperation.

The various points of the Budapest Decision have all been implemented. The *contact group* has met approximately once every two months during 1995 under the chairmanship of Italy as member of the OSCE Troika, representing the Chairman-in-Office.

The first meetings dealt essentially with organizational matters, namely the preparation and follow-up of the Meeting of Foreign Ministers of the OSCE Troika and of the five States, and the agenda and preparations of the Cairo Seminar on "The OSCE Experience in the Field of Confidence-Building" (26-28 September 1995). Soon, however, the contact group agenda became more structured. The first regular item became an information on an aspect of the life of the OSCE, in the form of a briefing given by the Secretary General or other OSCE dignitary. Furthermore, points of substance - such as "Security Risks in the Mediterranean" and "The Emerging Security Model and the Mediterranean" - were discussed. Points of view were exchanged and valuable proposals and recommendations presented, so that the contact group became more and more an active instrument of political dialogue with the Mediterranean countries.

Among the proposals submitted to the contact group, the "Preliminary Ideas on Future Cooperation between the OSCE and the Mediterranean Partners" submitted by Egypt stand out for their comprehensive and far-reaching nature. They include such areas as political cooperation, improved knowledge of the OSCE, a contribution to ongoing OSCE work on the Security Model for Europe for the 21st Century, economic cooperation, migration, disarmament and arms control, terrorism and organized crime, the environment, science and technology.

It was on the sidelines of the contact group activities and of this enhanced political dialogue that the question of a more positive and accurate *nomenclature* (instead of "non-participating Mediterranean States") was raised. This led to a recent decision by the Permanent Council to call the five States "Mediterranean Partners for Cooperation" (MPC), without altering their status within the OSCE.

A meeting at Ministerial level between the OSCE Troika and the Five took place on 13 July 1995. It was preceded by the preparation at expert level in Vienna of an "intelligent agenda" based on a discussion of the political and security situation in the Mediterranean and in the OSCE area and initiatives both by the OSCE and the Mediterranean States in some areas or key fields, as well as of a cooperation program between the OSCE and these States, including the development of principles, rules and mechanisms applicable among these States. The Ministerial meeting was well attended and the exchange of views which it produced further enhanced the dialogue.

Among other matters, Ministers reviewed preparations for the *Seminar* to be held in Cairo (according to the Budapest Decision) from 26-28 September 1995 on "The OSCE Experience in the Field of Confidence-Building". The Seminar demonstrated the usefulness of the "OSCE model" in the field of security and, at the same time, the need to respect the specificity of the region. As the Mediterranean States pointed out, there is a profound difference between the East-West relationship in the Cold War years and the situation on the Southern rim of the Mediterranean, characterized by acute military imbalances, geo-political fragmentation and consequent bilateral tensions and absence of dialogue, as well as cultural and religious diversity. This is why, rather than attempting to transpose directly the OSCE experience and methods, new solutions specifically adapted to the Mediterranean context should be worked out.

To this end, Israel has proposed the establishment of a "Joint Centre of Mediterranean Defence Studies", as well as an Economic and Technological Community in the Mediterranean.

Another initiative resulting from the Ministerial meeting was the *Information Visit to Vienna for Senior Officials* of the five States, which was organized from 8-10 November 1995. The Senior Officials were briefed at the OSCE Secretariat on the various aspects of the life and activities of the Organization. On this occasion a *Special Meeting of the Permanent Council* was organized on 8 November, to deal with Mediterranean issues (again, in compliance with an aspect of the Budapest Decision). The meeting dealt with proposals for future cooperation between the OSCE and the five States. At the meeting, Algeria, Egypt and Tunisia presented a "non paper" suggesting a study on terrorism, and even a declaration on terrorism to be adopted at the upcoming Budapest Ministerial Council. These suggestions are presently being examined in the contact group with a view to the Lisbon Summit.

In the last two years the dialogue and cooperation between the OSCE as a whole and the Mediterranean countries have been picking up speed. Further improvements can be made through a closer connection of the contact group with general OSCE activities, as well as through more regular reports by the chairman of the group to the Permanent Council. Much will depend on whether it will be possible for the contact group to work out a meaningful contribution to the ongoing OSCE work on the Security Model, in the perspective of the 1996 Lisbon Summit.

It is also conceivable that in the future the dialogue may extend to Jordan and the Palestinians, as proposed by Israel (Jordan already hinted at its interest in joining it), and, depending on developments in the Middle East, to other states as well. To some extent this may tend to shift the focus of the relationship from North Africa to the Middle East.

Nevertheless, further developments of the Mediterranean dimension of the OSCE will not be supported by those states (notably the US, but some Northern European states as well) which still regard the OSCE as predominantly an East-West affair and security in the OSCE area as being substantially menaced by East-West risks and challenges. The OSCE has also to find its modalities of action concerning the Mediterranean dimension. Clearly the "pedagogical role" of the OSCE towards the MPCs - that is, the presentation of the OSCE experience so that the MPCs can develop similar principles, rules, mechanisms and measures in their own area - cannot exhaust the dialogue: at the same time the OSCE has to take into account the need for close coordination of its own Mediterranean dimension with the activities carried out in other, more operational fora, such as the European Union's Forum for the Mediterranean (the "Barcelona process").

In my opinion, besides the "pedagogical role" of the OSCE, the two avenues that can usefully be pursued in the OSCE framework are, on one hand, the *definition of common principles* that could advance the progress of the MPCs towards OSCE values and standards; and, on the other hand, conceptual work leading to *greater political awareness* of the importance and root causes of problems - such as organized crime, terrorism and illegal migration - which affect the stability and security of both the MPCs and the OSCE area.



## The Relations of the OSCE to Other International Organizations

The Organization for Security and Cooperation in Europe is part of a "network of interlocking institutions"<sup>1</sup> which the countries participating in the OSCE, NATO and the WEU described as a necessary condition in order to guarantee security in Europe following the end of the East-West conflict. Additional elements of this network are the United Nations,<sup>2</sup> the Council of Europe and the European Union. The thought underlying this political goal is that a division of labor between the institutions would ideally lead to a more efficient international approach to dealing with problems of collective security. To achieve that the institutions would have to be used in ways appropriate to the problem and in accordance with their own comparative advantage and it would be important to avoid duplication of responsibilities and instruments, with the attendant waste of those scarce resources, time and money.

Despite the declared commonality of this goal the states perceive security problems in Europe from a variety of perspectives. Thus there are usually differing views on the appropriate response to collective challenges, e.g the question of which institution(s) and which means or instruments are most suitable in a given case. Moreover, preferences for the use or development of the various institutions will depend on the prospects a government sees for achieving its own objectives and serving its own values and interests through a given choice. As a result, the network of institutions does not develop according to the criterion of functionality in solving problems but by a process of international negotiations through which the different institutions (whose

---

<sup>1</sup> NATO Press Service, Ministerial Meeting of the North Atlantic Council in Copenhagen, Denmark, 6-7 June 1991, Final Communiqué, Press Communiqué M-1(91)40. Paragraph 3 of the Statement on Partnership with the Countries of Central and Eastern Europe states: "Our common security can best be safeguarded through the further development of a network of interlocking institutions and relationships, constituting a comprehensive architecture in which the Alliance, the process of European integration and the CSCE are key elements." NATO Press Service, Partnership with the Countries of Central and Eastern Europe, Statement issued by the North Atlantic Council meeting in Ministerial Session in Copenhagen on 6th and 7th June 1991, Press Communiqué M-1(91)42, p.2. See also: 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 and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 701-777, Para. 24, pp. 706-707.

<sup>2</sup> Belonging to it are a number of subsidiary organizations which are active in Europe, particularly the Economic Commission on Europe (ECE), the UN High Commissioner for Refugees (UNHCR) and the UN Commissioner for Human Rights (UNCHR).

memberships are in part identical) are assigned various fields of responsibility and given specific competences and decision-making structures as well as organs, instruments and resources.<sup>3</sup>

The range of traditional CSCE/OSCE responsibilities until 1990 included the formulation and support of basic principles of relations between states, military confidence- and security-building measures, promotion of economic relations and regulation of humanitarian matters and human rights questions. As a result of international upheavals the number of participants has grown since 1990 from 35 to 55 countries and the catalogue of responsibilities has been expanded to include: support for the democratization process in Central and Eastern European states (CEE states), protection of national minorities and efforts at conflict prevention and political crisis management. Nor is the OSCE any longer exclusively a pan-European forum for dialogue aimed at working out politically binding norms in the relevant fields of policy; it has, in addition, taken on responsibility for collective supervision of the way in which these norms are observed and for numerous operational measures designed to achieve the Organization's goals. The other European security institutions have also acquired new members and their fields of responsibility and competences have also, to varying degrees, been expanded. This development implies that there will be points of contact, overlapping or duplication both *horizontally*, i.e. between the various areas of responsibility, and *vertically*, in the sense of parallel or complementary competences within a single area of responsibility.

Within the framework established by political requirements, the organizations face the task (under the supervision and with the cooperation of the political level) of looking at the division of labor and the forms of cooperation between institutions that have resulted from explicit agreements or from parallel developments in the various institutions and further refining these through formal agreements or informal practices. At least three categories of inter-institutional cooperation can be distinguished: *consultations* in the sense of reciprocal provision of information on collective tasks as well as on the way in which a given institution is dealing with the problem (discussion, decisions, measures); *coordination* of decisions and actions to ensure a rational division of labor and to avoid overlapping or competition; *operational cooperation*, involving political, diplomatic or material support for decisions on operational measures taken by other institutions, and possibly including complementary measures or operational cooperation in jointly executed measures and programs.

<sup>3</sup>

Cf. Ingo Peters, Europäische Sicherheitsinstitutionen: Arbeitsteilung oder Konkurrenz? [European Security Institutions: Division of Labor or Competition?], in: Erhard Fomdrän/Hans-Dieter Lemke (Eds.), Sicherheitspolitik für Europa zwischen Konsens und Konflikt [Security Policy for Europe Between Consensus and Conflict], Baden-Baden 1995, pp. 277-304.



What sort of overlapping of responsibilities and competences exists between the OSCE and other European security organizations? What kind of formal or informal rules and practices have been developed between the OSCE and other international organizations (IOs) to govern consultations, coordination and operational cooperation between institutions? What weaknesses exist with regard to a functional and politically rational division of labor?

*Overlapping of Responsibilities and Competences in European Security Institutions*

The collective responsibilities that the participating States have given the OSCE are similar in their range (universal) to those of the UN so that there is a broad area of parallel competences in such fields as norm-setting, democratization, human rights and the rights of minorities, conflict prevention and crisis management, disarmament and arms control, economic cooperation and the peaceful settlement of disputes (the UN Court at The Hague and the OSCE Court in Geneva). As far as the OSCE is concerned, these competences are limited to the region of Europe ("from Vancouver to Vladivostok") and are in some respects different; for example, the CSCE deliberately chose not to undertake peaceenforcement measures at the behest of the UN and limited itself to peacekeeping. Moreover, the form and degree of institutionalization of the two organizations differ in the areas of overlap. The OSCE's norms on protection of minorities, for example, go beyond those of the UN, especially with regard to the explicit authority to involve itself in the internal conflicts of countries. In the High Commissioner on National Minorities (HCNM), as well, the OSCE has at its disposal an instrument which the UN does not have. The congruence of competences, based on a broad security concept, led the participating States at the Helsinki Follow-up Meeting in 1992 to declare the OSCE a "regional arrangement" in the sense of Chapter VIII of the UN Charter.<sup>4</sup> As a result, the OSCE was subordinated to the World Organization but at the same time became its agent in Europe.<sup>5</sup> There are additional overlaps of competence, in particular with the Council of Europe, when it comes to setting binding standards of political conduct for members or participating States in such areas as norm-setting, democratization and human and minority rights. The Council of Europe and the OSCE have at their disposal various mechanisms for supervising the observance of

---

<sup>4</sup> CSCE Helsinki Document 1992, cited above (Note 1), Para. 25, p. 707.

<sup>5</sup> The UN has since then issued principles to govern cooperation with regional organizations. Boutros Boutros-Ghali, Supplement to An Agenda for Peace 1995, Position paper of the Secretary-General on the occasion of the Fiftieth Anniversary of the United Nations, A/50/60-S/1995/1, 3 January 1995, Paragraph 88.

norms in these areas as well as a range of instruments for the peaceful settlement of disputes reaching all the way to courts. Many institutions - the Council of Europe, the EU (as part of its Common Foreign and Security Policy - CFSP), the European Parliament, the Parliamentary Assemblies of NATO and the WEU, the Parliamentary Assembly of the OSCE and the OSCE itself - have also assumed a responsibility for supporting and monitoring parliamentary elections in the new democracies and are active in this field. Through the North Atlantic Cooperation Council (NACC) NATO takes an interest in democratization in the Central and Eastern European partner states and discusses with them problems of democratic control of the armed forces. On the basis of the norms supplied by the UN, the OSCE and the Council of Europe there are also duplications with the Council of the Baltic Sea States which tries at a sub-regional level, and especially with an eye to the minority problems in the Baltic countries, to promote and monitor the development of democratic institutions and human and minority rights, using for this purpose among others the *Commissioner on Democratic Institutions and Human Rights, including the Rights of Persons belonging to Minorities*. During the East-West conflict the CSCE was the central forum for a pan-European dialogue on security, and this dialogue is still the basis for working out politically binding principles and norms and monitoring their implementation as well as the foundation of the OSCE's ability to promote security in Europe. Today this function is also served by other organizations - which, to be sure, have different memberships - such as NATO and the WEU with their off-shoots toward Central and Eastern Europe, the NACC and the Partnership for Peace program of NATO and the WEU's Associate Partnership which provide a framework for a broadly based dialogue on security policy issues, e.g. conversion, disarmament and arms control and reform of armed forces.

In the areas of conflict prevention and crisis management there are also numerous points of contact and overlap between other organizations and the OSCE's responsibilities. Within the limits of its exclusively *political* competences the OSCE has a wide range of diplomatic instruments at its disposal, up to and including the mandating of peacekeeping measures. It does not, however, have military units of its own to carry them out. The member countries of NATO and the WEU have extended the prerogatives of the Alliances beyond their own collective defense to include crisis management *outside the territory of their members* and are now in the process of developing the capabilities and instruments needed for this purpose.<sup>6</sup> It was in Bosnia and

---

<sup>6</sup> Cf. John Barrett, NATO Reform: Alliance Policy and Cooperative Security, in: Ingo Peters (Ed.), *New Security Challenges: the Adaptation of International Institutions. Reforming the UN, NATO, EU and CSCE since 1989*, Münster/New York 1996, pp. 123-152.

Herzegovina where, at the behest of the United Nations and in cooperation with Russia and other non-Alliance countries, they undertook the first such mission involving the use of force in August/September 1995 and, thereafter, in the implementation of the Dayton Agreement to make peace in Bosnia and Herzegovina.<sup>7</sup> In fact, the NATO and WEU countries, along with the Commonwealth of Independent States (CIS) had, as early as 1992, declared their willingness in principle and on a case-by-case basis to carry out peacekeeping measures under an OSCE mandate (or one of the UN). Joint peacekeeping measures by the Western Alliance states, including joint maneuvers, are among the concrete items of cooperation in the framework of the NACC, the Partnership for Peace, and the WEU Associated Membership program with the Central and Eastern European (CEE) countries.

As a part of its *Common Foreign and Security Policy* the European Union (EU) also involves itself in matters of conflict prevention and crisis management and is (or was) active in observer missions or providing mediation services in former Yugoslavia and in the Hungarian-Slovak conflict on the *Gabcikovo* power plant. At French initiative the EU was especially prominent in the negotiations on a *Pact on Stability*, which led to numerous related bilateral and multilateral agreements under international law on good-neighborly relations and minority and border issues between the Central European and the Baltic countries, all of which are seeking EU membership. The treaty package has been handed over to the OSCE for safe-keeping and monitoring.<sup>8</sup>

In the OSCE the work of "disarmament and arms control" is handled on a daily basis by the *Forum for Security Cooperation (FSC)* and has led to numerous agreements and declarations on military security- and confidence-building measures, principles governing the non-proliferation of nuclear weapons of mass destruction as well as principles governing conventional arms transfers. Here there are overlaps with the global activities of the UN but also on the sub-regional level to the extent that NATO and the NACC put these subjects on their agenda.

Economic issues, which traditionally belong to the "second basket" of the Helsinki Final Act of 1975 and tended to be rather neglected in the CSCE, are in today's OSCE discussed mainly in the annual *Economic Forum* at the

---

<sup>7</sup> Cf. General Framework Agreement for Peace in Bosnia and Herzegovina, initialled on 21 November 1995 in Dayton, Ohio (Dayton Agreement, for short), Annexes 3 (elections) and 6 (human rights), in: The Dayton Peace Accords, <http://www.state.gov/www/current/bosnia/bosagree.html>.

<sup>8</sup> Cf. Peters, Europäische Sicherheitsinstitutionen: Arbeitsteilung oder Konkurrenz?, cited above (Note 3), pp. 293-295. Florence Benoit-Rohmer/Hilde Hardeman, The Pact on Stability in Europe: A Joint Action of the Twelve in the Framework of the Common Foreign and Security Policy, in: Helsinki Monitor 4/1994, pp. 38-51. Pact on Stability for Europe, adopted on 20 March 1995 by the 52 States of the OSCE at the Concluding Conference on the Stability Pact for Europe in Paris.

level of the *Senior Council*. In this area of pan-European cooperation the European Union dominates owing to its indisputable advantage in competence. Given the desire of many CEE countries to join the Union and the substantial economic problems facing its eastern neighbors, with possible attendant security risks, these economic issues have been dealt with bilaterally between the EU and the CEE states within the framework of the Europe Agreements.<sup>9</sup> At a sub-regional level, the Council of the Baltic Sea States and, regionally, the UN ECE are also active in this field, along with the Organization for Economic Cooperation and Development (OECD) and the World Bank's European Bank for Reconstruction and Development (EBRD).

#### *Formal and Informal Consultations*

In view of the many areas in which responsibilities overlap, both horizontally and vertically, a dense network of informal and formal consultations between the OSCE and the other security institutions in Europe has grown up since 1990. In January 1992 the OSCE States urged that contacts, which had been sporadic until that time, and the exchange of information and documents with other organizations be intensified. The objective was to ensure that all sides were fully informed on the status of discussions, on decisions and measures both in general terms and in specific cases - missions to crisis areas, for example - on current projects and on available resources and instruments which might be important for the OSCE's work. In addition, arrangements were made for other organizations and institutions, including non-governmental organizations (NGOs), to be invited to specific CSCE/OSCE events and seminars relevant to their fields of expertise.<sup>10</sup>

Since that time, regular consultations have brought about an enduring intensification of cooperation. Initial meetings, usually between the Chairman-in-Office and/or the Secretary General of the OSCE and their counterparts in all important organizations have led to formal and informal agreements on regular consultations and, as necessary, ad hoc contacts as well. They take place

---

<sup>9</sup> Cf. Heinz Kramer, 'The European Community's Response to the 'New Eastern Europe'', in: *Journal of Common Market Studies* 2/1993, pp. 213-244 (226-229). Hans-Dieter Kuschel, 'Die Europa-Abkommen der EG mit Polen, Ungarn und der CSFR [The Europe Agreements of the EC with Poland, Hungary, and the Czechoslovak Federal Republic]', in: *Wirtschaftsdienst* 2/1991, pp. 93-100.

<sup>10</sup> Second meeting of the Council of Foreign Ministers of the CSCE, 30-31 January 1992, Prague Document on Further Development of CSCE Institutions and Structures, in: Bloed (Ed.) *The Conference on Security and Co-operation in Europe*, cited above (Note 1), pp. 821-839, (837), para. 43. CSCE Helsinki Document 1992, Helsinki Decisions, cited above (Note 1), p. 731, Chapter IV, paras. 4 and 5. On the political disputes over this issue, see: Peters, *Europäische Sicherheitsinstitutionen: Arbeitsteilung oder Konkurrenz?*, cited above (Note 3), p. 282.

on the political level, in the OSCE bodies in Vienna, Warsaw or The Hague which are concerned with "field" activities in a given case, and at the operational level between missions in the field and their local colleagues from other organizations. Agreements have been concluded with all organizations to permit their representatives to attend OSCE meetings at various levels; this applies to Summit or Ministerial Meetings, meetings of the Permanent Council in Vienna or meetings within individual OSCE bodies, e.g. the Office for Democratic Institutions and Human Rights (ODIHR), the Conflict Prevention Centre (CPC) or the FSC. All organizations which are of importance for the work of the OSCE have in the meantime made use of these opportunities, for example the UN through the High Commissioner for Refugees (UNHCR), Mrs. *Sadako Ogata*; the Council of Europe, represented by its Secretary General, *Daniel Tarschys*;<sup>11</sup> NATO, through its Deputy Secretary General and other representatives; the EU, to provide information on discussions concerning further development of the CFSP; and the WEU. In return the Chairman-in-Office and the Secretary General as well as their representatives and representatives of other OSCE organs take part in meetings of other organizations and there provide reports on the work of the OSCE generally or on special issues of mutual interest. For example, Secretary General *Wilhelm Höynck* attended NATO seminars on "crisis management" and the OSCE is represented at meetings of the NACC's *Ad Hoc Group on Cooperation in Peacekeeping*; a representative of the OSCE High Commissioner on National Minorities takes part in meetings of the Council of Europe's *Ad Hoc Committee for the Protection of National Minorities*; and the OSCE, on the invitation of the NACC, was represented at the Ministerial Meeting in Berlin in June 1996 by the Swiss Chair who also takes part in regular sessions of the NACC in Brussels at the ambassadorial level.

The CSCE and the UN were able to conclude a framework agreement on coordination and cooperation back in May 1993.<sup>12</sup> In addition, the Permanent Representation of the country holding the OSCE Chairmanship serves as a point of contact at the UN and as the Chairman-in-Office's representative to the UN Secretariat in New York and Geneva. The CSCE/OSCE has had observer status at the UN General Assembly since October 1993. The OSCE also participates in meetings between the UN and regional organizations which were first held in August 1994 and again in February 1996 to evaluate cooperation, particularly in the area of peacekeeping, and consider possibili-

<sup>11</sup> Cf. OSZE-Tätigkeitsbericht [OSCE Activity Report], in: Österreichische Militärische Zeitschrift [Austrian Military Magazine] (ÖMZ) 3/1996, p. 344. Sadako Ogata Stresses Importance of Co-operation Between UNHCR and OSCE, in: OSCE Newsletter 1/1996, p. 4.

<sup>12</sup> Framework for Cooperation and Coordination between the UN and CSCE, 26 May 1993, (GA/48/185). See also: Felice D. Gaer, The United Nations and the CSCE: Cooperation, Competition, or Confusion?, in: Michael R. Lucas (Ed.), The CSCE in the 1990s: Constructing European Security and Cooperation. Baden-Baden 1993, pp. 161-206.

ties for improvement.<sup>13</sup> The UN, in turn, takes part in the preparations for the OSCE peace mission in Nagorno-Karabakh and supports this mission consistently with its expertise.<sup>14</sup> Evaluation and coordination were also the purpose of an ad hoc meeting which the UN called to discuss minimum humanitarian standards with the OSCE States, OSCE partner countries, the International Committee of the Red Cross (ICRC), NGOs and representatives of academia.<sup>15</sup>

In 1993 the Council of Europe named a Special Adviser on CSCE Affairs and established a working group to improve relations with the OSCE; a bilateral agreement on regular contacts was drawn up. To coordinate activities with respect to human rights, minority rights and humanitarian issues in the various crisis areas of Europe there are both regular and ad hoc trilateral consultations between the OSCE - represented by members of the Troika, the HCNM, the Director of the ODIHR and the Director of the CPC - the Council of Europe and the UN Offices in Geneva (UNHCR, UNCHR), to which the ICRC is generally also invited.<sup>16</sup>

Initial arrangements for an exchange of information with NATO were made through an exchange of letters in April 1992. The Alliance, like other organizations,<sup>17</sup> was represented at the Follow-up Meeting in Helsinki in 1992 and at the Budapest Review Conference 1994 by a Deputy Secretary General. NATO also participates and makes contributions of its own to OSCE seminars, e.g. on such subjects as "early warning", "peacekeeping" or the "Security Model for the 21st Century". OSCE representatives, in turn, take part as observers in the peacekeeping exercises which are part of the Partnership for Peace program. With the WEU, on the other hand, a "case-by-case" exchange of information has been agreed upon (as has also been done with the CIS) while regular contacts are maintained chiefly with the WEU Institute for Security Studies in Paris.

There have traditionally been close contacts with the EC/EU. These were symbolized at the signature of the Helsinki Final Act of 1975 which Aldo

---

<sup>13</sup> Cf. OSZE-Tätigkeitsbericht, in: ÖMZ, cited above (Note 11), p. 349. Not only those IO's which are officially recognized as "regional arrangements" or "regional organizations" of the UN under Chapter VIII of the UN Charter participated in these meetings but all which have shown interest in cooperation with the UN. The meeting in August 1994, for example, was attended by representatives of the CIS, the Commonwealth Secretariat, the EU, the Arab League, NATO, the OAU, the OAS, the Organization of the Islamic Conference and the WEU - in addition to the representatives from the OSCE.

<sup>14</sup> Cf. Ingo Peters, CSCE and Peacekeeping: An Institution and its Instrument as "Victims" of Conflicting State Interests, in: David Haglund/Hans-Georg Ehrhart (Eds.), *The New Peacekeeping and European Security: German and Canadian Interests and Issues*, Baden-Baden 1995, pp. 107-126.

<sup>15</sup> Cf. OSZE-Tätigkeitsbericht, in: ÖMZ, cited above (Note 11), p. 349.

<sup>16</sup> Cf. OSCE, The Secretary General, Annual Report 1995 on OSCE Activities, reprinted in this volume, pp. 483-516, Chapter IV, pp. 512-513.

<sup>17</sup> Cf. Ministerial Council Reviews. Work in Progress, in: OSCE Review 4/1995, p. 3.

Moro signed in his capacity as Italian Foreign Minister and at the same time as incumbent President of the Council of the European Communities. Since then the EC/EU, through numerous Community initiatives and proposals, has played a decisive role in the CSCE process and its development into an Organization. At the same time the CSCE served as a vehicle for demonstrating and promoting commonality in foreign policy, first in connection with European Political Cooperation (EPC) and now in the area of "joint action" of the CFSP.<sup>18</sup> Exchange of information and consultation requirements are taken care of at OSCE meetings and also, at the inter-governmental level of the Council, by the OSCE delegation of the country holding the EU Presidency; since the experts' meeting on environmental issues in Sofia in November 1989 this has been indicated by a special name plate for that delegation (combined with the incumbent Presidency). The representative of the EU Commission to the OSCE is responsible for that Commission's contacts to the Organization and at the same time directs the OSCE Department in Directorate General I.A in Brussels.

### *Coordination and Operational Cooperation*

Since 1990 the OSCE has acquired a number of executive and operational competences and instruments for monitoring the observance and improving implementation of OSCE principles, norms and rules. Operational activities of the OSCE now include such varied things as seminars, active support for democratization processes, travelling and visiting diplomacy carried on by the High Commissioner on National Minorities and the OSCE missions to European crisis areas which, because of the many different security problems, have different mandates. The sheer variety of these OSCE operations is reflected in a wide range of coordination and cooperation relationships with other international organizations and NGOs.

Seminars on specific aspects of European security help to promote the goals and principles worked out by OSCE participating States under everyday political conditions by publicizing them and by an open exchange of views on their implementation or related problems at various levels. In addition to the seminars put on by the OSCE alone there have been joint events put on in cooperation with the parliaments of certain countries or with NGOs, e.g. journalists' associations. And there have been joint seminars with other international organizations; for example the ODIHR and the Council of Europe put on a seminar in September 1994 in Warsaw on problems of the Sinti and

---

<sup>18</sup> Cf. Heinrich Schneider, Zwischen Helsinki und Budapest - Der KSZE-Prozeß als Interaktionsfeld der Europäischen Union [Between Helsinki and Budapest - The CSCE Process as a Field of Interaction for the European Union], in: *Integration* 3/1995, pp. 144-156.

Roma and another one, on tolerance, with the Council of Europe and UNESCO in May 1995 in Bucharest. In September 1995, together with UNESCO, it organized a seminar on print media management in Bishkek (Kyrgyzstan).<sup>19</sup> For its public relations work and dissemination of information the OSCE has worked out arrangements, for a limited time, to use the NATO Integrated Data Service (NIDS) free of charge.

The OSCE promotes democratization mainly through support for the preparation and carrying out of elections in the new democracies of Central and Eastern Europe, along with monitoring them to make sure that democratic standards are upheld. Other organizations besides the OSCE<sup>20</sup> which monitor parliamentary elections are the Council of Europe, the UN and, in particular, the European Parliament; the Parliamentary Assemblies of NATO, the WEU and the OSCE<sup>21</sup> have also been involved so that there is a large and varied area of overlap. For that reason the OSCE States, at the Budapest Summit Meeting of December 1994, tasked the ODIHR to draft a framework agreement for cooperation with other IOs in the field of election monitoring. This was successfully tested for the first time by joint operations of the OSCE and UN at the parliamentary elections in Armenia in July 1995 and at elections in Azerbaijan in 1996 with the result that the activities of the various IOs can be better coordinated and that additional joint operations can most likely be carried out.

The travelling diplomacy of the High Commissioner on National Minorities as an instrument for early warning and preventing the violent escalation of conflicts over minority issues<sup>22</sup> also calls for coordination and cooperation with other international organizations. The HCNM himself is not authorized to enter into formal agreements with other IOs on the division of labor or coordination of activities but in concrete crisis situations he takes up informal contact with other institutions and within the limits of his mandate works with them, especially the Secretariat of the Council of Europe, the UNHCR and (at the sub-regional level) the Commissioner on Democratic Institutions and Human Rights including the Rights of Persons belonging to Minorities of the Council of the Baltic Sea States (with particular regard to the problems of minorities in the Baltic States).<sup>23</sup>

---

<sup>19</sup> Cf. Annual Report 1995, cited above (Note 16), pp. 504-505.

<sup>20</sup> OSCE election monitoring was done in 1995 in Kyrgyzstan, Estonia, Belarus, Armenia, Latvia, Croatia, and Russia; in 1996 again in Russia and in local referenda/elections in Moldova. Cf. *ibid.*, pp. 501-504.

<sup>21</sup> Between April 1995 and April 1996 the OSCE Parliamentary Assembly was present at parliamentary elections in nine countries; about 250 observers from 28 participating States were involved. Cf. OSCE PA to Monitor Elections in Albania and Russia, in: OSCE Newsletter 4/1996, p. 6.

<sup>22</sup> Cf. Annual Report 1995, cited above (Note 16), pp. 498-501.

<sup>23</sup> Cf. The Role of the High Commissioner on National Minorities in OSCE Conflict Prevention. A Report prepared by the office of the OSCE-HCNM, compiled and edited by Rob Zaagman (Adviser to the High Commissioner), The Hague, 30 June 1995 (manuscript), p. 37.



The dispatch of missions is a differentiated instrument of the OSCE for conflict prevention and political crisis management which - adjusted to the circumstances of each conflict and its development phase - can assist in observation, fact-finding and mediation between the parties to the dispute, or in international monitoring of compliance with agreements between the parties.<sup>24</sup> In planning and carrying out peacekeeping missions the OSCE can call on the technical assistance and expertise of the UN, in accordance with the framework agreement of May 1993. So far this has only been done in a significant way in connection with the planned peacekeeping activities of the OSCE in Nagorno-Karabakh and in practical cooperation with the UN on preparations for the work of the Minsk Group.<sup>25</sup> The OSCE and the UN have agreed on a division of labor with regard to the various areas of crisis in Europe for which both organizations are, in principle, responsible. The agreement stipulates that the UN will take the lead in political crisis management in Tajikistan and Abkhazia/Georgia while the OSCE does so in Nagorno-Karabakh, Moldova and South Ossetia/Georgia, each Organization sending an observer to the other's missions.<sup>26</sup>

In addition to the minimal consultations between missions of different organizations in the same region of conflict, local cooperation between the missions is varied in form and contents. In Abkhazia, for example, the OSCE and the UN monitor the human rights situation together and are planning to open a joint office in Sukhumi. In Tajikistan, for which the UN is actually responsible, the OSCE has, at the behest of UNHCR, taken over certain tasks related to the return of refugees. The OSCE Mission in Sarajevo to install and support ombudsmen and -women for the Republic of Bosnia and Herzegovina has also been working closely since 1994 with UNHCR and with UNPROFOR (the United Nations Protection Force) as well as IFOR (Implementation Force), which protect the Mission and supply it with logistical support.

Cooperation with the European Union was particularly evident in connection with the Sanction Assistance Missions (SAMs), seven Missions to the neighboring states of Serbia/Montenegro (Albania, Bulgaria, Croatia, Hungary, the former Yugoslav Republic of Macedonia, Romania and the Ukraine) to support these states in the implementation of UN sanctions against rump Yugoslavia. The operational headquarter of the SAMs was the SAM Communication Centre (SAMCOMM) which, partially financed and staffed by the EU,

---

<sup>24</sup> On the OSCE missions in 1995 see: Annual Report 1995, cited above (Note 16), pp. 487-496.

<sup>25</sup> Cf. Peters, *The CSCE and Peacekeeping*, cited above (Note 14), p. 119ff.

<sup>26</sup> Cf. Cooperation between the UN and the CSCE, Report of the UN SG, 2 November 1993, GA/48/549, para. 9, p. 3.

was located in Brussels and had the job of assuring communication and co-ordination between the Missions and their host countries as well as monitoring the effectiveness of the sanctions. The OSCE and EU provided a joint Sanctions Coordinator to oversee the entire operation and try to coordinate the actions of all who were participating in the sanctions.<sup>27</sup>

The role assigned to the OSCE in connection with the Dayton Peace Agreement for Bosnia and Herzegovina of November 1995 presents a special challenge to the Organization with regard to its own operational capabilities and also the requirement for cooperation with other IOs and NGOs. For one thing, it charges the OSCE with missions and activities in several different problem areas at the same time; and, secondly, other IOs are also active in some of these. The OSCE's charge<sup>28</sup> includes: a) supporting the Parties in their negotiations on arms control and confidence- and security-building measures; b) monitoring human rights in all of Bosnia and Herzegovina and appointing an international Human Rights Ombudsperson; c) supervising the preparation, conduct, and monitoring of elections in Bosnia and Herzegovina and certifying whether conditions are present under which elections can be held.

It was under the auspices of the OSCE's Forum for Security Cooperation that negotiations on confidence- and security-building measures and arms control agreements<sup>29</sup> were held, negotiations which have in the meantime been successfully concluded. Intensive cooperation with IFOR, NATO and the UN was indispensable in this process. For monitoring human rights, UN subsidiary organizations, the OSCE, the International Tribunal and other organizations were all given unrestricted access so that the job could be done properly.<sup>30</sup> The OSCE, however, was given the special task of appointing a Human Rights Ombudsperson. For the interlocking of institutions it is of particular interest that Swiss Ambassador Gret Haller, who has now been named for this job, used to represent Switzerland in the Council of Europe.<sup>31</sup>

The OSCE has been given a central role in the preparation of the elections.<sup>32</sup> Thus the Chairman-in-Office, immediately after the mandate was received in November 1995, undertook preliminary coordination efforts with the UN, the

---

<sup>27</sup> With the exception of personnel costs for border and customs officials and other experts, which are borne by the sending States, SAMs operations were covered by the OSCE budget. Cf. Annual Report 1995, cited above (Note 16) pp. 497-498.

<sup>28</sup> Cf. Dayton Agreement, cited above (Note 7). Fifth meeting of the Council of Foreign Ministers of the OSCE participating States on 7 and 8 December 1995 in Budapest.

<sup>29</sup> Cf. Dayton Agreement, cited above (Note 7), Annex 1-B: Agreement on Regional Stabilization, particularly Art. II, IV, V.

<sup>30</sup> Cf. *ibid.*, Annex 6, especially Art. IV.2, XIII.2.4.

<sup>31</sup> Cf. OSCE Chairman Appoints Human Rights Ombudsman for Bosnia and Herzegovina, in: OSCE Newsletter 1/1996, p. 3 ff.

<sup>32</sup> Cf. Dayton Agreement, cited above (Note 7) Annex 3, especially Art. II, III.3.

UNPROFOR and the UNHCR on organizational arrangements.<sup>33</sup> Cooperation with UNHCR was particularly important for the registration of refugees and displaced persons who were eligible to vote. The OSCE's goal is to set up a framework structure for all IOs involved in the electoral process so as to coordinate their various activities. In accordance with the Dayton Agreement the OSCE also had to establish a Provisional Election Commission (PEC) to supervise all aspects of the electoral process and to lay down rules and regulations for the conduct of the electoral campaign and the elections themselves. An OSCE Mission under the direction of the American Ambassador Robert Frowick was sent to Bosnia and Herzegovina to create the social and political conditions for free and fair elections. This Mission will consist of about 250 people and include personnel from the European Community Monitor Mission (ECMM). Ambassador Frowick has already set up an OSCE Coordination Group to coordinate between representatives of the OSCE, NGOs, other IOs and IFOR. The OSCE has likewise established liaison with the IFOR Command whose support will be essential in the complex business of preparing and conducting elections. And the OSCE, as a regular observer at meetings of the Joint Military Commission, is in close contact with military authorities.<sup>34</sup> All in all, the variety of work and the large number of international organizations (and NGOs) involved in the peace process in Bosnia and Herzegovina provide a good impression of the complexities of post-conflict rehabilitation and peace-building which make substantial demands on the practical abilities of all IOs when it comes to coordinating their work and, to the extent possible, engaging in operational cooperation.

*An Interim Appraisal: A Network with "Knots" and "Holes"*

In view of the substantial overlaps, both horizontal and vertical, in responsibilities and competences of European security institutions, consultation between institutions is a minimum requirement; coordination or operational cooperation are the desirable and appropriate ways for institutions to work together and meet their collective challenges effectively and efficiently. Indeed, this review of the OSCE's relations to other IOs has shown that an impressive network of consultations, coordination efforts and operational cooperation has already come into being. Even so, what we have scarcely meets the ideal of a network of interlocking, mutually reinforcing institutions;

---

<sup>33</sup> Cf. Dayton Peace Agreement Foresees Important OSCE Role, in: OSCE Newsletter 11/1995, pp. 1 and 3.

<sup>34</sup> Cf. OSCE Mission to Bosnia and Herzegovina Begins Work Toward Election Goals, in: OSCE Newsletter 1/1996, pp. 3 and 8.

rather, it has resulted in numerous duplications and overlaps in areas of responsibility, competences and instruments. There are, to be sure, significant variations in the quality of the network, depending on what responsibilities or competences are involved and on the individual case of inter-institutional cooperation one is looking at. Although division of labor occasionally succeeds, successful efforts of institutions to work together are often overlooked. The successes are most often accepted as a matter of course and attract little attention while problems and failures occupy the centre of political and public interest and, in one way or another, are used against the institution in question. Still, the overall impression one gets of the network of European security institutions is doubtless one of institutional competition and inadequate coordination and cooperation between them and, as a result, of insufficiency in achieving the common goals of the international community as well as inefficiency in the tools and instruments used. The evidence has been provided by our practical experience, e.g. with regard to the role of international institutions in conflict prevention and crisis management in former Yugoslavia or in the successor states to the Soviet Union. Moreover, the documents produced by the various institutions contain repeated confessions of the urgent need to improve coordination and cooperation between them; these too point to existing weaknesses.

This bad impression of the European institutional network is essentially a result of the competing preferences of the member States or participating States that support them. In some cases competing interests or positions on the part of the organizations themselves are involved. But these mainly are not supranational and autonomous organizations functioning as sovereign players within the state system or in their relations with the states; they are inter-state institutions and calls for an improvement of the situation must be addressed first of all to national governments. At the international level, the future quality of the network will depend, on the one hand, on negotiations and decisions on the future development of the individual institutions. On the other hand, a discussion on a "Security Model for the 21st Century"<sup>35</sup> has been under way in the OSCE since the beginning of 1995 - a discussion in which governments air their different ideas as to how the institutions can be better integrated and made mutually reinforcing and how the network as a whole can be improved. But it will be up to the organizations themselves to fill out the political framework negotiated by the states with concrete agreements and informal practices aimed at making their work more effective and efficient.

This is a big order when one considers the large number and variety of organizations and the (horizontal and vertical) overlap of responsibilities and competences. It will put significant demands on their personnel and financial

---

<sup>35</sup> Cf. Defining the 21st Century Security Model, in: OSCE Review 4/1995, p. 4.

resources to carry out effectively the consultations, coordination work and operational cooperation which are a necessary, if not sufficient, condition for coming to terms with their collective responsibilities. The network of inter-institutional cooperation that the OSCE has developed does have a number of "knots" - read "identifiable focal points" of the mesh (with the UN, for example) - and a number of "holes" - read "underdeveloped strands" of the mesh - so that further improvements are possible and necessary. But considering the OSCE's modest budget and small staff<sup>36</sup> in comparison with other organizations, its cooperative practices have so far been impressive.

---

<sup>36</sup> Cf. Annual Report 1995, cited above (Note 16), pp. 515-516.



## The Continuing Challenge of the International Helsinki Federation for Human Rights (IHF)

The ambiguity in the title of this report is no mistake or accident of language, but is meant to suggest that the International Helsinki Federation for Human Rights, or "IHF", still confronts not only the problem of violations of the Final Act of Helsinki and its Follow-up Documents, but the paradoxical challenge of its own existence. If the "community of values" aspired to by the OSCE participating States is to mean anything at all, then civil groups dedicated to upholding the Helsinki principles, and transcending national "interests", must work together in harmony.

The IHF was founded in 1982 to support and provide liaison among the Helsinki monitoring committees which, following the pattern established by the Moscow Helsinki Group, took up the challenge of reporting on compliance with the "human dimension" commitments undertaken in the Conference on Security and Cooperation in Europe (CSCE). Support was solicited for the "project" of constructing a federation of independent human rights organizations bridging both sides of the Iron Curtain. The IHF had the original task of "coordinating" the Helsinki committees and providing a framework for cooperation by which more solidarity could be achieved, since the Helsinki monitoring committees in the Warsaw Pact countries were under pressures and threats that membership in an international alliance helped mitigate.

Obviously, the character of that project has changed, yet in some ways it has remained the same. The IHF has grown and developed in the period since the Soviet bloc communist regimes fell from power. In 1989 there were 17 member Helsinki committees. Today there are 30, and the IHF is cooperating with numerous other organizations, particularly in the former Soviet republics and also in Turkey. There are member Helsinki committees in all of the successor states to the former Yugoslavia as well as in Kosovo and Montenegro. There is considerable variety respecting the problems upon which these groups focus and in the methods they employ. Obviously, the Helsinki committees no longer confront the massive common enemy of the Soviet Union's ideological, hegemonic denial of human rights. In its absence, the sympathetic bond that linked the Helsinki committees in the West with those in the East has changed. The Helsinki committees, combating the main problems caused by ethnic nationalism, find themselves walking the narrow - sometimes non-existent - line between human rights and politics, since many seek to become voices of reason, of tolerance, of humanity, and to provide help to the disadvantaged in societies whose moral compass is distorted by the bitterness

of past bondage and by the temptations of freedom, and whose institutional systems cannot change fast enough to deal with new problems. The human rights movement, which was once focused on the massive injustices of totalitarian regimes, has become more differentiated, more complex, and more diffuse. The IHF has therefore itself become a more complex, multidimensional project.

We are the only international, non-governmental organization focusing specifically on monitoring compliance with the human rights commitments made by the States in the Helsinki Final Act and its Follow-up Documents. Those human rights commitments have become extensive and elaborated: thanks in part to our own recommendations made to the Follow-up and Review Meetings of the OSCE, in which we have advocated for stronger standards, the framework of commitments is larger and more differentiated, and thus the IHF and the other groups monitoring and promoting compliance have a firmer basis to do so. The OSCE has opened itself more to the IHF and other non-governmental organizations.

The startling political changes that have occurred in Europe and the hope for more widespread acceptance of basic human rights principles notwithstanding, most of the main problems we confronted in the 1970s are still problems and some are in fact much worse: to appreciate the enduring relevance of the original Helsinki agreements, one ought to read commentaries by the IHF on the CSCE documents before 1989. They deal with threats to the rights of minorities; with torture and death in police detention; with restrictions by states on free expression and free media; with the intimidation of political opposition groups by state authorities. Some of the human rights defenders in our family of organizations are still under severe pressure and even physically threatened.

But, whereas they were once threatened mainly by totalitarian states, they are now often threatened by nationalistic or racist forces, sometimes with the tacit acquiescence of governmental authorities. The governments in our territory that were once relatively monolithic are now more polyphonic, although the separation of powers leaves much to be desired in many of the formerly communist countries. And the problem in confronting human rights violations thus becomes as complex as it is in developed democracies where "the State" means several kinds of authority, operating simultaneously, and sometimes at cross-purposes. Formerly one-party, totalitarian states, which are now nominally democratic and theoretically committed to the rule of law, now often identify themselves as "national states". Ruling parties, having won elections, at times consider it their right and obligation to control every aspect of society. But when international pressure grows about human rights violations, the governments excuse themselves as having no control over, for



example, the judiciary, although all the judges may be political appointees and are indeed controlled by the party.

As the countries in the Helsinki territory struggle to achieve common human rights standards, the work of our Federation should no longer be characterized by a pattern of Western groups helping those in the East, but by a new dedication to ensure that all OSCE participating States take their human rights commitments seriously. If our Federation and indeed the OSCE itself is to function with integrity, the Western European countries and their human rights organizations need to address the issues like police brutality, citizenship, and the rights of refugees and asylum seekers. They should do so with the assistance of human rights experts from the former Eastern bloc. The human rights movement, in other words, must move west as well as east.

Furthermore, our Federation must prepare itself to deal with massive violations of humanitarian law, anticipating more wars like those in Bosnia and Chechnya. As the program of the IHF which follows shows, it is especially important to strengthen our activities in the former USSR: to work with partners there; to increase the flow of accurate reports; and thus to assist the affected groups to work together on the very difficult task of integrating the distant regions in the OSCE, within the community of human rights values.

### *The Programs of the Helsinki Committees*

Given the factors we have mentioned above, the work of the Helsinki committees is thus of necessity more multi-faceted, more differentiated, than when those groups could hold totalitarian states solely responsible for violations of the CSCE agreements. The Helsinki committees now function in the realm of "civil society" and have as one of their tasks the expansion of civil society.

We take the term "civil society" to mean the part of society not under the control or ideological domination of the government. Helsinki committees, which have as their primary goal, monitoring their government's human rights record, are quintessentially parts of civil society, because to work with the integrity necessary to their success, they must be independent.

The main categories of work undertaken by the Helsinki committees in cooperation with the IHF Secretariat thus include:

### *Monitoring and Reporting on Human Rights Violations*

All the Helsinki committees concern themselves with monitoring human rights violations and providing information to their national authorities and,

via the IHF Secretariat, to the OSCE. Some examples of recent work by the committees include the Croatian and Slovenian Helsinki Committees' reports on illegal evictions; the Danish Helsinki Committee's reports on human rights problems in Turkey and Macedonia; the Bulgarian and Romanian Helsinki Committee's work on police brutality, and the Norwegian Helsinki Committee's reports on Albania, Kosovo, and Northern Ireland. Of course, Human Rights Watch/Helsinki, which is the US-affiliate of the IHF, issues thorough reports on many OSCE States each year.

These reports by Helsinki committees are distributed by the IHF Secretariat to international governmental organizations (the OSCE, UN, Council of Europe) and among the affiliates of the IHF, who in turn use them in advocacy to their governments and distribute them to local media. They form the basis for reports the IHF (with a number of individual Helsinki committees participating) makes to the OSCE on an ongoing basis and to the Human Dimension Implementation Meeting, as well as the annual reports of the individual Helsinki committees that are also incorporated into the Annual Report of the IHF as a whole. In the pattern established by the Moscow Group twenty years ago, these reports refer to specific human dimension commitments made in the Helsinki process, but they also refer to legally-binding treaties and national constitutions and legislation. In most of the cases the reports include recommendations, on how national policies and practices can be brought into conformity with specific international human rights standards.

### *Missions*

The Helsinki committees, singly or in groups, collect information, either about ongoing abuses of human rights or in the contexts of specific situations. The IHF has always used such missions to call attention to human rights violations. For example, numerous Helsinki committees and the Secretariat organized a series of missions to Kosovo beginning in 1989. IHF made the first mission of a human rights organization to Albania in 1991. More recently, an IHF mission in cooperation with the Croatian and the Norwegian Helsinki Committees gathered information about atrocities committed by the Croatian Army during "Operation Storm" in the Krajina, and presented a report to the OSCE several days later. The Norwegian Helsinki Committee organized a mission to investigate conditions for the election in Georgia in the fall of 1995. Human Rights Watch/Helsinki organized several missions to Chechnya in 1995, which were the source of written reports and an OSCE briefing in Vienna.

Another form of mission is for the purpose of meetings with government officials. A small IHF delegation met with leaders of the Turkish government

in the fall of 1995, raising a number of issues including torture in detention and continuing restriction on the freedom of expression.

*Forming and Strengthening Helsinki Committees, Building and Supporting Networks of Human Rights Groups*

As in the past, a major activity of a number of Helsinki committees is rendering support for other human rights groups. Large parts of the programs of e.g. the Norwegian and Swedish Helsinki Committees is devoted to assisting our affiliates in the Balkan countries, for example. The Netherlands, Finnish and Polish Helsinki Committees have worked together along with the IHF Secretariat on constructing an "In-Service Training Program," holding a number of seminars for Helsinki Committees. In addition, the IHF published a "Handbook for Helsinki Committees" which includes both practical and theoretical information.

*Human Rights Documentation Centers and Libraries*

A number of Helsinki Committees, e.g. the Bulgarian, Czech, Romanian and Polish affiliates, have established libraries and documentation centers that are substantial resources for their local communities and for the transnational human rights community. The Netherlands Committee has been especially active in helping found these institutions, and is working on creating new ones in e.g. the Ukraine, Latvia, Estonia and Hungary. The Netherlands and Norwegian Committees have worked together on a new Human Rights Documentation Center in Tirana, Albania.

*Human Rights Education*

A number of our affiliates have established pathbreaking human rights education projects, most notably the Polish Helsinki Committee's Human Rights Summer School and programs for journalists and judges, and the numerous programs of the Netherlands Helsinki Committee to train lawyers, judges, and others whose understanding of human rights principles is essential to the implementation of human dimension commitments. The Norwegian Committee has been active in training primary school teachers and assisting in curriculum reform e.g. in Albania. The Czech, Hungarian and Slovak Committees have worked with the IHF to provide training to human rights lawyers and others in that country. The Macedonian Helsinki Committee plans an initiative on human rights education. Indeed, a great many of the Helsinki Committees engage in human rights education, broadly conceived.

### *Access to Legal Defense*

In the new situation of the post-totalitarian countries, the realization of human rights is often possible only after presentation of a legal case, which requires professional assistance. The Bulgarian, Romanian, Czech, Croatian, Serbian, Slovak, Hungarian and other Helsinki Committees have worked hard in recent years to address this situation, creating programs by which legal counseling is available through their organizations. Some committees focus on the needs of specific groups, e.g. asylum seekers, refugees, Roma and foreigners.

### *The Programs Organized by the IHF Secretariat in Vienna*

The centrally organized and administered projects of the IHF can be understood in several broad categories, under which are found not only our actual, running projects but those we are planning and for which we have solicited financial assistance:

#### *I. Strengthening Civil Human Rights Organizations and Their International Contacts*

##### *a. Human Rights Groups in the Russian Federation*

In partnership with the Moscow-based Human Rights Research Center, the IHF has participated in building a "network" of Russian non-governmental organizations (NGOs) devoted to monitoring human rights. The project has been supported by the TACIS Programme of the European Union. The IHF is now working with a number of Russian organizations which are providing data that are incorporated to IHF reports to the international community, in particular, the OSCE. These groups include Memorial, the Glasnost Defense Foundation, and the Soldiers Mothers, in addition to the formal IHF affiliate, the Moscow Helsinki Group.

The IHF tries to assist these and other organizations to become stronger and more efficient, and to improve through joint missions the flow of reports on concrete human rights violations to the OSCE.

##### *b. Human Rights, Fundamental Freedoms and the Rule of Law in Belarus, Moldova and the Ukraine: A Cooperative Program with Human Rights NGOs*

The project will consist of training programs, local seminars, study visits, fact-finding missions and research, analysis of legislation, advocacy in international bodies, and publications.

*c. Strengthening Human Rights Activity in the Caucasus: A Program of Cooperation with NGOs in Georgia, Armenia and Azerbaijan*

The project will consist of training programs, internships in European human rights organizations, fact finding missions and research, analysis of legislation, a conference on "human rights and regional security," advocacy in international bodies, and publications.

*d. Strengthening Human Rights Activity on Kazakhstan, Tajikistan and Uzbekistan*

The project is organized in cooperation with the IHF's Almaty affiliate, and will consist of training programs, internships in European human rights organizations, fact finding missions and research, analysis of legislation, a conference on "human rights and regional security," advocacy in international bodies, and publications.

*II. The Promotion and Implementation of Human Rights Standards in Regional and Thematic Projects*

*a. European and International Human Rights Standards and Their Implementation in the Baltic States*

The project includes a program of seminars for NGO representatives, officials, parliamentarians and members of international organizations on specific implementation issues, including inter alia children's rights, minority rights, and citizenship issues; it includes research undertaken by the local partners in each of the three Baltic states. The project has been co-financed by the PHARE Democracy Programme. The project ended in June 1996.

*b. Strengthening Legal Representation and Tolerance in the Czech Republic, Slovakia and Hungary*

The project includes a series of actions to encourage members of the legal profession in the respective countries to engage in human rights work, and in particular to assist minority defendants. It has been co-financed by the PHARE Democracy Programme. The project ended in June 1996.

*c. Human Rights and Regional Security in Southeast Europe*

The project has provided a framework for analysis of the relationship between human rights and regional security, considered within specific foci, e.g. the transborder identification of human rights problems; adverse effects of efforts to achieve security by the consolidation of state structures; and the indivisibility of security at the international level and the universality of human rights. Concretely it has included a series of workshops and conferences, and associated research papers, and will result in a number of recommen-

dations to the OSCE. Funding has been provided by the PHARE Democracy Programme and the Open Society Institute. The project ended in June 1996.

*d. Media Freedoms and Hate Speech in Southeast Europe and Former Yugoslavia*

This project has allowed the IHF to monitor "hate speech" in the electronic and print media in Southeast Europe and the successor states of Yugoslavia, including Kosovo and Montenegro. The regular reports of monitors in the respective countries and provinces are being collected and edited in a final report which will be used to increase awareness of the nature and consequences of hate speech among journalists and the public. The project has been funded by the PHARE Democracy Programme, the Council of Europe, the Austrian Federal Chancellor's Office, the Open Society Institute, and the US Institute of Peace. It is due to end in June 1996.

*e. Human Rights Monitoring and Training Program for Bosnia and Herzegovina*

This project is undertaken by the IHF in cooperation with the Helsinki Committee of Bosnia and Herzegovina and with financial support from the EU, the Council of Europe and the Open Society Institute. By this project the human rights provisions of the Dayton Agreement can be monitored and promoted through fact-finding missions, reports to the OSCE and Council of Europe, and the UN, public meetings, and human rights education activities. The project will extend into the summer of 1997.

*f. European and International Human Rights Standards and Their Implementation in Albania and Macedonia*

The project includes a program of seminars for NGO representatives, officials, parliamentarians and members of international organizations on specific implementation issues, including inter alia children's rights, inter-ethnic relations, police standards and other domestic human rights legislation; it includes research undertaken by local partners in the respective countries.

*III. The IHF in the OSCE, the Council of Europe and the UN*

This project allows the IHF to promote human rights in international organizations. This includes supporting participation by Helsinki committees and other human rights organizations in seminars and meetings of the OSCE; making fact-finding missions and reports; providing a major report at the semi-annual Human Dimension Implementation Meeting organized by the OSCE's Office for Democratic Institutions and Human Rights; and carrying

on an ongoing "lobbying" program, meeting OSCE delegations in Vienna and elsewhere, and informing them of human rights violations in specific areas.

In the future we intend to expand this lobbying work in a more comprehensive advocacy effort in the OSCE, the Council of Europe and the United Nations, and efforts relevant to compliance with the human rights commitments supported by all three IGOs.

This program will be realized inter alia through:

- a) participation in OSCE meetings and seminars;
- b) advocacy and consultation in Vienna and Warsaw OSCE institutions;
- c) organization of presentations to OSCE delegations in Vienna;
- d) organization of NGO missions and contributions to OSCE missions, in the priority areas identified by the IHF, such as Russia, Turkey, Central Asia, Bosnia and Herzegovina, the Caucasus and Slovakia;
- e) preparation of reports to the OSCE, the Council of Europe and the UN;
- f) participation in public sessions of the various UN Committees and of the Commission on Human Rights;
- g) preparation of reports for the International Criminal Tribunal for former Yugoslavia.

#### *IV. Publishing Projects of the IHF*

The IHF's regular publishing program consists of:

- a. The *Annual Report*, a comprehensive report on human rights in the OSCE participating States, based on annual reports of the national Helsinki committees and other human rights organizations. The 1996 Annual Report covering the period of 1995 and the beginning of 1996 is now under preparation.
- b. The IHF Newsletter, *Human Rights and Civil Society*, is published quarterly with partial financing by the PHARE Democracy Programme.
- c. The IHF "*FAX-Bulletin*" is the Helsinki Federation's monthly internal newsletter, a vehicle for information exchange, coordination, and planning for the 30 Helsinki committees.
- d. *Helsinki Monitor - Quarterly on Security and Cooperation in Europe* is a journal published by the IHF and the Netherlands Helsinki Committee, which, for many years, has reported on the OSCE process.
- e. *Handbook for Helsinki Committees*. This publication has been widely distributed for training human rights NGOs in Eastern Europe and the former USSR. It has been translated into Albanian, Slovak and Russian. A revised edition is planned.

Other publications of the Federation include periodic reports, statements and appeals to the OSCE and other international bodies, open letters to national and international officials, etc. Of course, many Helsinki committees publish newsletters, journals, and books.

### *Conclusion*

A federation is no easily understood form of organization. But a human rights federation is appropriate because it is structured to support "grass-roots" activity: the formation and strengthening of civil institutions, which share a common set of values, and which come together across borders as a transnational family.

Like any federation, there are sometimes overlapping and conflicting interests at play. But the potential for meaningful collaboration is high because of the freedom and flexibility of our system. The experience of the past years, since the hegemony of the Soviet bloc has crumbled apart, confirms the continuing need for an international federation of human rights organizations in the OSCE participating States. The challenge of the IHF is thus a relevant and compelling challenge.



## The Legal Significance of CSCE/OSCE Documents

### *Distinction between Agreements under International Law and Non-legal International Agreements*

#### *Categories of International Agreements*

Not all agreements between states or other subjects of international law are concluded as *legally binding treaties under international law*. Along with these there are *Gentlemen's Agreements* which were originally understood to be agreements reached between statesmen or diplomats in which they committed themselves personally and politically only.<sup>1</sup> The basis of such agreements is not law but trust in one's partner. Such personal agreements of large political consequence have become rare with the diminishing power of ambassadors to influence events and the frequent changes of government in democratic and republican times.<sup>2</sup>

However, the term "Gentlemen's Agreement" has in the meantime also come to be used for agreements through which the participants want to bind their countries politically.<sup>3</sup> These instruments are also called "*non-binding*" *agreements* or, better, "*non-legal*" *agreements* since a binding effect, even if only a political one, is desired. We will need to come back to the various consequences. Some authors even term treaties as "non-binding agreements" when, owing to the vagueness of their contents, no concrete obligations can be derived from them<sup>4</sup> as when, for example, a commitment to cooperation is given no concrete form. This, however, confuses the two issues of contents and legal category, which from the viewpoint of legal theory does not make sense.

---

<sup>1</sup> Wilfried Fiedler, Gentlemen's agreement, in: Rudolf Bernhardt (Ed.), *Encyclopedia of Public International Law*, Volume II, Amsterdam 1995, pp. 546-548.

<sup>2</sup> One example is the Atlantic Charter which was signed by Roosevelt and Churchill in 1941.

<sup>3</sup> P.M. Eisemann, Le Gentlemen's agreement comme source du droit international, in: *Clunet*, Volume 106 (1979), pp. 326-348.

<sup>4</sup> Fritz Münch, Non-binding agreements, in: Rudolf Bernhardt, *Encyclopedia of Public International Law*, Instalment 7 (1984), pp. 353-358.

According to Article 2 of the Vienna Convention on the Law of Treaties<sup>5</sup> an international agreement between states is only a treaty under international law if it is governed by international law. Whether this is the case or not depends on the *will of the parties*. It lies with them to determine the legal or non-legal status of an agreement. However, this intention is rarely made explicit; usually it has to be deduced from the circumstances.

Thus the *name* of the document only tends towards an answer but gives no definite one. If it is called a "pact", "treaty" or "agreement" it will usually be categorized as a legal document while a "joint declaration" or "communiqué" usually creates no legal ties but is intended to announce political judgements and intentions. Along with these, there are many other terms whose meaning is less clear, but it should be pointed out that they usually describe the political value of an agreement rather than making a statement about its legal status.

One clear expression of the will of the parties as to an agreement's legal status is its *registration in accordance with Article 102 of the UN Charter*.<sup>6</sup> Only those agreements which are under international law may be and - according to Article 102 of the UN Charter, Article 80 of the Vienna Convention on the Law of Treaties and Article 81 of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations<sup>7</sup> - indeed must be registered.<sup>8</sup> If an agreement is not registered, however, one may not necessarily conclude that it is non-legal in character. The only sanction for violation of the obligation to register is that one may not invoke that treaty or agreement before any organ of the United Nations, including the International Court of Justice. Non-registration does not put into question its validity under international law (so far this is desired) or its observance and application by state authorities, other international organizations, courts or courts of arbitration.

*The formal participation of parliaments* in the conclusion of a treaty provides another indication of its character as an agreement under international law. But, again, if the legislative organs did not formally approve the treaty no compelling conclusions may be drawn. Their participation is only prescribed for certain treaties - in Germany only for those which regulate the political relations or relate to matters of federal legislation (Article 59, Para. 2 of the German Basic Law).<sup>9</sup> Only in the case of states based on the rule of law

---

<sup>5</sup> Convention of 23 May 1969 (UNTS 1155, p. 331).

<sup>6</sup> UNCIO Vol. XV, p. 335.

<sup>7</sup> International Legal Materials 1986, p. 543.

<sup>8</sup> Ursula Knapp, Commentary on Article 102, margin Nos. 6, 26, in: Bruno Simma (Ed.), Charter of the United Nations, Oxford 1994.

<sup>9</sup> On the concepts of the "treaties which regulate political relations" and "treaties which re

where constitutionally appropriate behaviour can be assumed and of agreements which - according to the constitution of that state - must be approved by the parliament because of its content, if they were treaties under international law, one may conclude that the absence of parliamentary participation means there was no intent to make an agreement legally binding. Neither does *publication* or non-publication of a document in *law gazettes* provide a dependable indication. For one thing, by no means all legally binding agreements are so printed. On the other hand, documents which are clearly not treaties under international law occasionally find their way into such publications. In France, for example, the General Declaration on Human Rights<sup>10</sup> was put into the *Journal Officiel*.<sup>11</sup> Conclusions about the will of the parties as to the character of an agreement can also be drawn from the way the text is formulated, the persons who have signed it, the signature formula, accompanying statements, etc.

#### *Classification of CSCE/OSCE Documents*

A number of *treaties* which clearly have the character of agreements *under international law* have been concluded in or in connection with the CSCE. They are the *Convention on Conciliation and Arbitration within the CSCE*,<sup>12</sup> the *Treaty on Conventional Armed Forces in Europe*<sup>13</sup> along with its modifying agreements<sup>14</sup>, and the *Treaty on Open Skies*.<sup>15</sup> All of them provide for ratification<sup>16</sup> and thus for a legally formal treaty conclusion.

---

late to matters of legislation" see: Ulrich Fastenrath, *Kompetenzverteilung im Bereich der auswärtigen Gewalt* [Division of Competences in Foreign Affairs], München 1986, pp. 217-230.

<sup>10</sup> Resolution 217 (III) of the General Assembly of the United Nations of 10 December 1948, General Assembly, Official Records, 3rd Session, Resolutions pt. 1, p.71.

<sup>11</sup> See Christoph Schreuer, *Die Behandlung internationaler Organakte durch staatliche Gerichte* [The Treatment of Acts of International Institutions by National Courts], Berlin 1977, p. 223.

<sup>12</sup> Stockholm Meeting of the CSCE Council, Stockholm, 15 December 1992, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 845-899, here: *Convention on Conciliation and Arbitration within the CSCE*, pp. 870-888.

<sup>13</sup> *Treaty on Conventional Armed Forces in Europe*, Paris, 19 November 1990, in: *Ibid.*, pp. 1223-1253.

<sup>14</sup> Final Document of the Extraordinary Conference of the States Parties to the CFE Treaty (Oslo Document), in: Stockholm International Peace Research Institute, *SIPRI Yearbook 1993, World Armaments and Disarmament*, Oxford 1993, pp. 677-682, and Document of the States Parties to the Treaty on Conventional Armed Forces in Europe, in: The Netherlands Ministry of Foreign Affairs, Arms Control Section, *Treaty on Conventional Armed Forces in Europe and Related Documents*, May 1996, pp. 164-170.

<sup>15</sup> *Treaty on Open Skies*, Helsinki, 24 March 1992, in: Bloed (Ed.), cited above (Note 12), pp. 1271-1311.

<sup>16</sup> Article 33 of the *Convention on Conciliation and Arbitration within the CSCE*; Article XXII of the *Treaty on Conventional Armed Forces in Europe*; Article XVII of the *Treaty on Open Skies*.

Moreover, they were subject to the domestic procedures for the confirmation of treaties.<sup>17</sup>

It is likewise clear and, by now, undisputed that *the rest of the documents* of the CSCE/OSCE process must be called *non-legal*.<sup>18</sup> It is true that terms such as "Final Act" and "Charter" (of Paris) are quite ambivalent and can also be used in treaties under international law. The same is true of the "decisions" (of Ministerial Council meetings) and the "documents" (of the follow-up meetings, the meetings on the human dimension and the negotiations on Confidence and Security-Building Measures); agreements under international law occasionally even are called "declarations" (of Summit Meetings). Nor do the texts of such documents permit confident conclusions. Along with rather loose statements of intent there are formulations which establish precisely defined commitments, as in the Catalogue of Principles of the Final Act,<sup>19</sup> the Vienna Documents on Confidence- and Security-Building Measures<sup>20</sup> or in the Copenhagen<sup>21</sup> and Moscow Documents<sup>22</sup> on the Human Dimension.

Nevertheless, the clause which appears in the Final Act,<sup>23</sup> the Charter of Paris,<sup>24</sup> the Summit Declarations,<sup>25</sup> the Concluding Act of the Negotiations

<sup>17</sup> See German Federal Law Gazette 1994 II, p. 1326 (Conciliation and Arbitration Convention); 1991 II, p. 1154 (CFE Treaty); 1992 II, p. 1037 and 1994 II, p. 406 (Agreements Modifying the CFE Treaty); 1993 II, p. 2046 (Treaty on Open Skies).

<sup>18</sup> Cf. Jens Bortloff, *Die Organisation für Sicherheit und Zusammenarbeit in Europa: Eine völkerrechtliche Bestandsaufnahme* [The Organization for Security and Cooperation in Europe: An Inventory of International Law Aspects], Berlin 1996, pp. 327-329; Massimo Coccia, *Helsinki Conference and Final Act on Security and Cooperation in Europe*, in: Bernhardt (Ed.), cited above (Note 1) pp. 693-705, esp. pp. 694-695; Jost Delbrück, *Die völkerrechtliche Bedeutung der Schlußakte der Konferenz über Sicherheit und Zusammenarbeit in Europa* [The Significance under International Law of the Final Act of the Conference on Security and Cooperation in Europe], in: Rudolf Bernhardt/Ingo von Münch/Walter Rudolf (Eds.), *Drittes deutsch-polnisches Juristen-Kolloquium* [Third Colloquium of German and Polish Legal Experts], Volume 1: KSZE-Schlußakte [CSCE Final Act], Baden-Baden 1977, pp. 31-50, esp. 39-42; Krzysztof Skubiszewski, *Der Rechtscharakter der KSZE-Schlußakte* [The Legal Character of the CSCE Final Act], *ibid.*, pp. 13-30; Theodor Schweisfurth, *Zur Frage der Rechtsnatur, Verbindlichkeit und völkerrechtlichen Relevanz der KSZE-Schlußakte* [On the Question of the Legal Character, Binding Quality and Relevance under International Law of the CSCE Final Act], *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* [Heidelberg Journal of International Law] 36 (1976), pp. 681-725.

<sup>19</sup> Final Act of Helsinki, Helsinki, 1 August 1975, in: Bloed (Ed.), cited above (Note 12), pp. 141-217, here: pp. 143-149.

<sup>20</sup> Vienna Document 1990 and Vienna Document 1992, in: *Ibid.*, pp. 489-532 and pp. 645-699. For the Vienna Document 1994 see in this volume pp. 431-482.

<sup>21</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Bloed (Ed.), cited above (Note 12), pp. 439-465.

<sup>22</sup> Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: *Ibid.*, pp. 605-629.

<sup>23</sup> Final Act of Helsinki, cited above (Note 19), p. 210.

<sup>24</sup> Charter of Paris for a New Europe, Paris 21 November 1990, in: Bloed (Ed.), cited above (Note 12), pp. 537-566, here: p. 550.

on Personnel Strength of Conventional Armed Forces in Europe<sup>26</sup> and the Joint Declaration of 22 States of 19 November 1990<sup>27</sup> as to the non-reg-  
isterability of the documents in accordance with Article 102 of the UN Char-  
ter can hardly mean anything else than that a binding character under interna-  
tional law was not wanted. The clauses must thus be understood as a *legal  
disclaimer*. This view is supported by the statement of Aldo Moro, at the  
time Italian Prime Minister and holding the EC Presidency, at the Conference  
of Heads of State or Government in Helsinki on the occasion of the signing  
of the Final Act:

*"Although these obligations have no legal character, they are nevertheless  
founded on political and moral responsibility and must, above all, be under-  
taken in good faith and without reservation."*<sup>28</sup>

On the same occasion the then Chancellor of the Federal Republic of Germa-  
ny, Helmut Schmidt, said:

*"This Conference has created no new international law for Europe. But we  
have established common rules for the way in which we want to deal with  
each other and live together in Europe."*<sup>29</sup>

It should be added that there is no reason to think that the participating States  
wanted to neglect their registration obligations under the UN Charter and the  
Vienna Convention on the Law of Treaties. More likely is that they were  
concerned about domestic legislative procedures which at the very least  
would have caused substantial delays in the Helsinki Final Act's entry into  
force, if they would even have caused it to fail.<sup>30</sup> Still, it may be doubted  
whether it should be so easy, in domestic law, to evade parliamentary proce-

---

<sup>25</sup> CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in:  
Ibid., pp. 701-777, here: p. 710 (Para. 46 of the Summit Declaration); CSCE Budapest  
Document 1994, Towards a Genuine Partnership in a New Era, in: Helsinki Monitor  
1/1995, pp. 79-106, here: p. 81 (Para. 22 of the Summit Declaration).

<sup>26</sup> Section VIII, Para. 1, of the Concluding Act of the Negotiations on Personnel Strength of  
Conventional Armed Forces in Europe, in: Bloed (Ed.), cited above (Note 12), pp. 1255-  
1269, p. 1269; likewise: Para. 6 of the Document of the Participating States of the Con-  
cluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in  
Europe of 5 February 1993, in: The Netherlands Ministry of Foreign Affairs, cited above  
(Note 14), pp. 170-172, p. 172.

<sup>27</sup> Cf. US Policy Information and Texts, 20 November 1990, pp. 17-19.

<sup>28</sup> Europa-Archiv 1975, p. D 546 (German translation); see also the letter with which the  
Finnish Foreign Minister transmitted the Final Act to the Secretary General of the United  
Nations, *ibid.*, p. D 574.

<sup>29</sup> *Ibid.* p. D 551 (in German).

<sup>30</sup> On this and also on motivations in relation to other CSCE/OSCE documents, see Bortloff,  
cited above (Note 18), p. 346f. and 351.

dures simply by assigning the agreement in question to the non-legal sphere.<sup>31</sup>

In the Stockholm<sup>32</sup> and Vienna Documents on Confidence and Security-Building Measures,<sup>33</sup> the Agreement on the Global Exchange of Military Information<sup>34</sup> and the Concluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in Europe<sup>35</sup> the political character of the agreements is explicitly stressed, in some cases accompanied by the statement that they are not subject to registration in accordance with Article 102 of the UN Charter.

For the remaining documents it is clear from the text, from the composition and from the mandate of the delegations, as well as from their overall relationship to the CSCE Final Act and the documents of the follow-up meetings and/or the Summit and Council Meetings at which specialized meetings were decided upon or proposed, that they are only of a political character, not a legal one. The organs of the OSCE are charged only with carrying on political consultations.<sup>36</sup> They may and indeed should make decisions; but because the OSCE was not established in legal form with appropriate rules in a constituent treaty, these decisions do not in themselves have any legal force. As to the experts' meetings and seminars, there is no mandate to negotiate binding conclusions at all. As a consequence their texts contain only observations, options for action and ideas. Even after their results have later been approved by the Ministerial Council<sup>37</sup> their legal status has been changed in no way. Of late the seminars and the Senior Council no longer adopt negotiated texts;<sup>38</sup> instead of this they end with a summary of the chairman or of the chairmen of the individual working groups. Such a result, even as regards form, no longer constitutes an agreement.

---

<sup>31</sup> On this, see Fastenrath, cited above (Note 9), pp. 104-105.

<sup>32</sup> Document of the Stockholm Conference, Stockholm, 19 September 1986, in: Bloed (Ed.), cited above (Note 12), pp. 297-326, here: p. 317 (Para. 101 of the the Document).

<sup>33</sup> Vienna Document 1990, cited above (Note 20), p. 521 (Para. 157 of the document); Vienna Document 1992, cited above (Note 20), p. 686 (Para. 156 of the document); Vienna Document 1994, cited above (Note 20), p. 474 (Para. 150 of the document).

<sup>34</sup> CSCE Forum for Security Co-operation, Global Exchange of Military Information, reprinted in this volume, pp. 479-482, here: p. 482.

<sup>35</sup> Section VIII, Para. 1 of the Concluding Act, cited above (Note 26), and Para. 6 of the Document of the Participating States of the Concluding Act, cited above (Note 26).

<sup>36</sup> Charter of Paris, cited above (Note 24), Section "New Structures and Institutions of the CSCE Process", pp. 548-549, Supplementary Document to Give Effect to Certain Provisions Contained in the Charter of Paris for a New Europe, Section I.A, pp 551; CSCE Budapest Document 1994, cited above (Note 25), here: Budapest Decisions, Section I, Para. 17, p. 84.

<sup>37</sup> As in Para. 16 of the Conclusions of the Prague Meeting of the CSCE Council (Bloed [Ed.], cited above [Note 12], pp. 821-839, here: p. 826) with respect to the Geneva Meeting of Experts on National Minorities (ibid., pp. 593-604) and the Oslo Seminar of Experts on Democratic Institutions (ibid., pp. 631-644).

<sup>38</sup> With regard to the seminars in the area of the human dimension this emerges from Section VI, Para. 20, of the Helsinki Document, cited above (Note 25), p. 747.

All CSCE/OSCE documents speak invariably of the participating States undertaking certain (political) commitments or aiming at certain goals, never of the statesmen or diplomats who were involved. The signature formulas used also show that the documents in question are not Gentlemen's Agreements entailing a merely personal relationship but non-legal agreements (with the exception of the few treaties concluded under international law). The (negotiated) documents are invariably signed by the participants in the name of their country with the incumbent Chairman of the Council of the European Union also always signing in this capacity.

*Inclusion of Non-legal CSCE/OSCE Documents in Treaties under International Law*

The distinction between legal and non-legal international instruments has been confused in recent times when certain treaties under international law have referred to CSCE/OSCE documents and taken their political obligations over into the legally binding treaty. This happened, for example, with the German-Soviet Treaty on Good Neighborly Relations, Partnership and Cooperation of 9 November 1990,<sup>39</sup> the German-Czechoslovakian Treaty on Good Neighborly Relations and Friendly Cooperation of 27 February 1992<sup>40</sup> and the German-Romanian Treaty on Friendly Cooperation and Partnership in Europe of 21 April 1992,<sup>41</sup> all of which contain a general reference to the Helsinki Final Act and succeeding documents. A number of these treaties, e.g. the German-Romanian one (Article 15), the German-Czechoslovakian one (Article 20) and the German-Hungarian Treaty of Friendship of 6 February 1992<sup>42</sup> (Article 19) also explicitly incorporate the commitments on the protection of national minorities contained in CSCE documents, especially the Copenhagen Document<sup>43</sup>, and call for use of the OSCE's procedures for settling disputes when there are differences regarding interpretation or implementation of the agreed forms of protection. The result of such references is that political obligations are transformed into legal ones; indeed, if a formulation incorporating a dynamic reference is used, future changes or amplifications of the OSCE commitments may be included. To be sure, this transformation into obligations under international law applies only to relations between states which have concluded these treaties.

OSCE commitments can also be made binding by decisions of the Security Council of the United Nations. Examples are Resolutions 740 of 7 February

---

<sup>39</sup> German Federal Law Gazette 1991 II, p. 702.

<sup>40</sup> German Federal Law Gazette 1992 II, p. 463.

<sup>41</sup> German Federal Law Gazette 1993 II, p. 1775.

<sup>42</sup> German Federal Law Gazette 1992 II, p. 475.

<sup>43</sup> See Note 21.

1992 and 743 of 21 February 1992<sup>44</sup> on the conflict in Yugoslavia which, however, only call on the parties to the dispute to make use of the Yugoslavia Conference to reach a settlement in accordance with CSCE principles.

*The Relevance of Distinguishing between Agreements under International Law and Non-legal Agreements*

The distinction which has hitherto been made between treaties under international law and non-legal agreements ensues from the doctrine of the sources of international law. According to this doctrine norms are legally valid, if they proceed from a recognized source; in other words, no further justification is required when claims and obligations are based on them in legal proceedings. However, the only genuine legal proceedings are those that take place in courts, which are rarely used on the international level. Even in conciliation proceedings it is possible to use other rules or to introduce political considerations. This also applies to the CSCE Court. In arbitration proceedings it makes its decisions, in conformity with Article 30 of the Convention on Conciliation and Arbitration within the CSCE<sup>45</sup>, solely on the basis of international law; in conciliation proceedings CSCE commitments are also to be taken into consideration, in accordance with Article 24. Whether or not a norm is part of international law also plays a role in the admissibility of reprisals. These, as a limited departure from obligations under international law, are only permissible if the opposing side has also violated such obligations. Again, the use of reprisals on an international basis is relatively rare. More commonly, generally permissible forms of pressure are applied to get other states to change their behaviour (retorsion).

Even though the internationally legal character of a norm may support the position of a state in non-legal disputes it is customary to introduce other considerations into such disputes. The CSCE process, in particular, has shown that this can be extraordinarily effective. Commitments from the Helsinki Final Act, and from the follow-up and review meetings provided for there, played a substantial role in the final phase of the East-West conflict.<sup>46</sup> What was important was not the legal or non-legal character of the norms but the ability, by referring to agreed rules, to put one's point of view across in proceedings from which the opposing side could not withdraw without suffering great political damage. Thus the distinction between legal and non-legal agreements - which for the most part are functionally equivalent<sup>47</sup> -

<sup>44</sup> See Supplements to the Official Records of the Security Council 1992.

<sup>45</sup> Convention on Conciliation and Arbitration within the CSCE, cited above (Note 12), here: p. 884.

<sup>46</sup> See Bortloff, cited above (Note 18), pp. 60-64.

<sup>47</sup> On this, see Edda Blenk-Knocke, *Zu den soziologischen Bedingungen völkerrechtlicher Normbefolgung* [On the Sociological Conditions for Following International Legal Norms], Ebelsbach 1979, pp. 54-56.



may not be meaningless in diplomatic intercourse but is of subordinate significance.

And it is not only in politics and political science that this distinction fades, but in the law itself. The sources of international law include, in addition to international treaties, both customary law and general legal principles.<sup>48</sup> Its norms develop in a non-formal way, as the result of a process consisting of a number of components. These components can be non-legal agreements or the resolutions of international organizations. Moreover, they can have an influence on the way in which treaties under international law are understood and interpreted. Because of these effects on the law it is reasonable to regard them as part of the law and to characterize them accordingly. In contrast to "hard law", a concept which refers to the validity of norms, one can also speak of "soft law", which is not legally valid in itself but influences the content of the law.

*Effects of Soft Law and, particularly, of CSCE/OSCE Documents on International Law*

If one distinguishes hard law and soft law, as we have done here, according to the criterion of legal validity then the concept of soft law - in contrast to a definition which is occasionally heard<sup>49</sup> - does not include especially "softly" formulated international law treaties with scant normative content. Rather, it is reserved for "rules of behaviour which come into existence in forms other than those canonized in Article 38 of the ICJ Statute" and do not in fact constitute "international law in the sense of the traditional doctrine on sources".<sup>50</sup> International soft law, understood in this way, can be described as having norm-generating, norm-regulating and norm-legitimizing (or delegitimizing) functions.

---

<sup>48</sup> Cf. Article 38 of the Statute of the International Court of Justice (UNCIO Vol. XV, p. 355). It has come to be recognized that this catalogue of sources is incomplete, see: Ulrich Fastenrath, *Lücken im Völkerrecht: Zu Rechtscharakter, Quellen, Systemzusammenhang, Methodenlehre und Funktionen des Völkerrechts* [Lacunae in International Law: On the Legal Character, Sources, Systemic Cohesion, Methodology and Functions of International Law], Berlin 1991, pp. 81-145.

<sup>49</sup> Cf. R.R. Baxter, *International Law in "Her Infinite Variety"*, in: *International and Comparative Law Quarterly* 29 (1980), pp. 549-566; Wolfgang Heusel, "Weiches" Völkerrecht: Eine vergleichende Untersuchung typischer Erscheinungsformen ["Soft" International Law: A Comparative Investigation of Typical Manifestations], Baden-Baden 1991, pp. 235-259.

<sup>50</sup> Alfred Verdross/Bruno Simma, *Universelles Völkerrecht* [Universal International Law], 3rd ed. 1984, § 654.

At conferences between states and, more frequently, in international organizations political ideas, standards and programs are developed which have not yet proceeded far enough to fix them in a binding treaty or which must first be tested as to their practicability. Only after they have passed this test treaties or agreements incorporating them will be negotiated. Rules which are not binding under international law have frequently taken on this "advance party" function in the areas of human rights and environmental protection, law of the sea and of outer space, and in the efforts to develop a new international economic system. The term "soft law" admittedly seems inappropriate to the extent that such rules are not really law at all but only a preliminary stage. It might make more sense to talk about *pré-droit* but that is not a very fortunate choice either. For it is impossible to say in advance which non-legal rules are going to find entry into treaties under international law. The "pre-legal" character of a rule only becomes evident when it is being replaced by a legal rule and thus becomes superfluous.

A rather untypical example of this function of soft law is provided by the rules in CSCE/OSCE documents on the protection of minorities<sup>51</sup> which, as already mentioned, have been incorporated *in toto* into treaties between individual states and thus made binding under international law. The individual documents retain their old status but the commitments they contain have acquired a different legal character in the relations between the states involved. To be sure, the efforts of the OSCE in regard to the protection of minorities need to be seen in the broader context of similar efforts on the part of the United Nations and the Council of Europe. The OSCE is providing some building blocks, still of a pre-legal kind, to this legal development.

*Soft Law as an Expression of "Opinio Juris" and its Influence on the Contents of International Legal Norms*

In its norm regulating function soft law determines what rules should become law or how existing or future norms of international law are to be interpreted. But distinctions have to be made, depending on the specific source of international law.

(i) In *treaties under international law* the question of validity is decided. Soft law is not able to influence it. But it can influence the contents of norms. Like all linguistic concepts and sentences, the legal concepts and provisions of

---

<sup>51</sup> Especially the Document of the Copenhagen Meeting of the Conference on the Human Dimension, cited above (Note 21), Paras. 30-39, pp. 456-459; Geneva Report of the CSCE Meeting of Experts on National Minorities, cited above (Note 37); Helsinki Document, cited above (Note 25), Decisions VI, Paras. 23 to 27, p. 748.

treaties do not have a precisely defined meaning. Rather, they can be and need to be interpreted. This is particularly true of treaties under international law for which there are usually a number of equally authentic versions in different languages. If the range of meaning of expressions in a single language is never once and for all established, it varies even more when several languages are involved. If we are to presume, in accordance with Article 33 of the Vienna Convention on the Law of Treaties, that the expressions in all authentic texts have the same meaning, then additional interpretative help is needed. This is to some extent available in the world-wide discourse between international law experts, which serves to create specialized terminology. But what they can accomplish should not be rated too highly owing to the barriers of language and the significant differences in legal thinking which are formed by a variety of national legal systems.

However, soft law makes a significant contribution to the development of international linguistic conventions.<sup>52</sup> The concepts in treaties under international law can be defined or at least put into concrete terms for certain applications. Even when there is no explicit reference to specific legal concepts or international law treaties, the commitments and evaluations of soft law documents can be viewed in relationship to existing treaties under international law and the provisions of these treaties can be interpreted in a way to make them consistent with the goals, standards of conduct and judgements contained in the non-legal instruments.<sup>53</sup> The extent to which the understanding of treaty norms is influenced by soft law depends on the authority of the latter.<sup>54</sup> It is in the nature of things that global organizations and regional organizations, within their region, have an outstanding ability to influence language.

These consequences of non-legal consensus-building for the law, which are generally overlooked by legal experts, are acknowledged at least partially by Article 31, Para. 3(a) of the Vienna Convention on the Law of Treaties. It stipulates that all understandings between the parties to a treaty on its interpretation and application are to be taken into account in the interpretation of

---

<sup>52</sup> For a detailed treatment of what follows, see Fastenrath, cited above (Note 48), pp. 176-199; id., *Relative Normativity in International Law*, in: *European Journal of International Law* 4 (1993), pp. 305-340, esp. pp. 312-315.

<sup>53</sup> Rejected without sufficient justification by Bortloff, cited above (Note 18), p. 361.

<sup>54</sup> Detailed views on this in Herbert Miehsler, *Zur Autorität von Beschlüssen internationaler Institutionen* [On the Authority of the Decisions of International Institutions], in: Christoph Schreuer (Ed.), *Autorität und internationale Ordnung* [Authority and International Order], Berlin 1979, pp. 35-61; Rosalynn Higgins, *Compliance with United Nations Decisions on Peace and Security and Human Rights Questions*, in: Stephen M. Schwebel (Ed.), *The Effectiveness of International Decisions*, Leyden 1971, pp. 32-50; Oscar Schachter, *Theory of International Obligation*, in: *Virginia Journal of International Law* 8 (1968), pp. 300-322.

the treaty. True, what usually is involved here is only the special use of language by the parties in a particular treaty on which agreement has been reached, not the development of international usage of specialized terms.

There is, in the CSCE/OSCE documents, a definite elaboration of treaty law, especially with regard to human rights. The Copenhagen and Moscow Documents of the Conference on the Human Dimension<sup>55</sup> outline some rights much clearer than the European Convention for the Protection of Human Rights and Fundamental Freedoms did.<sup>56</sup> To give just two examples, one only needs to compare the rules on freedom of association in Article 11 of the European Human Rights Convention with those in paragraphs 9.3, 10.3 and 10.4 of the Copenhagen Document, or the rules on free elections in Article 3 of the Protocol No. 1 to the European Human Rights Convention<sup>57</sup> with paragraphs 5.1, 6 and 7 of the Copenhagen Document. Nevertheless, the guarantees in the Human Rights treaties are formulated so broadly that they could be interpreted as including the more concrete guarantees of the CSCE text. This kind of harmonization by interpretation is, to be sure, only possible when the parties to the treaty are also parties to the non-legal agreement. With regard to both of the United Nations Covenants on Human Rights<sup>58</sup> this method fails wherever, in other parts of the world, there is no comparable understanding of the law or no indication has been given of agreement with the CSCE/OSCE documents or the relevant provisions contained therein.

(ii) The non-legal agreements and decisions of international conferences or international organizations can also reflect the legal convictions of the participating states. The *opinio juris*, along with the practice which will usually follow once an international consensus has been reached, is an essential component of *international customary law*. Thus non-legal instruments can contribute doubly to the formation of customary law: as an expression of *opinio juris* and at the same time as a stimulus for uniform behaviour on the part of states. In the process, they can take on a character similar to legal provisions and of course also contribute to the further development of customary law or refine certain aspects of it.<sup>59</sup> In the Nicaragua case<sup>60</sup>, for example, the International Court of Justice did not hesitate to have recourse to the Friendly

---

<sup>55</sup> See Note 21 and Note 22.

<sup>56</sup> Treaty of 4 November 1950 (UNTS Vol. 213, p. 221).

<sup>57</sup> UNTS Vol. 213, p.262.

<sup>58</sup> International Covenant on Civil and Political Rights of 19 December 1966 (UNTS Vol. 993, p. 171) and International Covenant on Economic, Social and Cultural Rights of 19 December 1966 (UNTS Vol. 993, p. 3).

<sup>59</sup> More detail on this in René Jean Dupuy, *Declaratory Law and Programmatic Law: From Revolutionary Custom to "Soft Law"*, in: *Declarations on Principles, A Quest for Universal Peace*, Leyden 1977, pp. 247-257; Fastenrath, cited above (Note 48), pp. 203-208.

<sup>60</sup> ICJ Reports 1986, p. 14, esp. p. 99f.

Relations Declaration<sup>61</sup> in order to define the normative content of the prohibition of the use of force and to find in it - as also in the Decalogue of Principles from the Helsinki Final Act<sup>62</sup> - the expression of an existing *opinio juris*. Caution is certainly advisable. When states conclude a non-legal agreement rather than a treaty under international law they generally want to avoid legal obligations. There have to be special reasons for it to be different in an individual case. They usually can be found in the way in which it is formulated. For example, the Preamble to the Decalogue of Principles of the Helsinki Final Act<sup>63</sup> emphasizes that the principles which follow are in conformity with the Charter of the United Nations and thus reproduce valid international law.<sup>64</sup> In the Charter of Paris and the Copenhagen and Moscow Documents on the Human Dimension fundamental freedoms are characterized as rights and reference is made to their inalienability.<sup>65</sup> According to the Helsinki Summit Declaration human rights, including the rights of persons belonging to national minorities, democracy and the rule of law are immutable.<sup>66</sup> This shows clearly that there was an intention to fix certain things in law, an intention which - with regard to the demand for democracy, separation of powers, the rule of law and procedural rights in court - goes substantially beyond existing international law. The CSCE/OSCE documents express an *opinio juris* which, together with the ensuing practice, could provide the starting point for new regional international customary law.<sup>67</sup>

(iii) Soft law instruments can also play a role as *general principles of law* in the meaning of Article 38 of the Statute of the International Court of Justice now that the Court has derived these principles in its judgements on delimitation of the continental shelf not just from a comparison of national legal provisions but directly from considerations of equity and justice.<sup>68</sup> This revives some of the old thoughts on natural law which were presented when the Statute for the Permanent International Court of Justice was being worked

<sup>61</sup> Resolution 2625 (XXV) of 24 October 1970.

<sup>62</sup> Final Act of Helsinki, cited above (Note 23), pp. 143-149.

<sup>63</sup> Ibid., p. 143; similarly, the Charter of Paris, cited above (Note 36), p. 539.

<sup>64</sup> For a comparison of the Decalogue of Principles with valid international law, see Bortloff, cited above (Note 18), pp. 176-300.

<sup>65</sup> Charter of Paris, cited above (Note 36), p. 537; Copenhagen Document, cited above (Note 21); Moscow Document, cited above (Note 22), in which, along with guarantees of rights, there are also numerous "best endeavour" commitments.

<sup>66</sup> Para. 6 of the Helsinki Summit Declaration, Helsinki Document 1992, cited above (Note 25), pp. 701-702.

<sup>67</sup> See Thomas M. Franck, The Emerging Right to Democratic Governance, in: American Journal of International Law 1992, pp. 46-91, esp. p. 67.

<sup>68</sup> Cf. ICJ Reports 1969, p. 3, and esp. p. 47 (North Sea Continental Shelf); Reports 1982, p. 18, esp. p. 60 (Continental Shelf Tunisia/Libyan Arab Jamahiriya); Reports 1984, p. 246, esp. 278, 290 (Gulf of Maine); Reports 1985, p. 13, esp. p. 39 (Continental Shelf Libyan Arab Jamahiriya/Malta).

out.<sup>69</sup> Thus soft law serves to give form to equitable criteria and derive normative precepts from the concept of justice. This is precisely what happens in the Copenhagen Document of the Conference on the Human Dimension in which the participating States declare solemnly (under Para. 5) "that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and unalienable rights of all human beings are the following: (...) [there follows a detailed description of democratic principles and principles governing the rule of law, human rights and guarantees of procedural rights, especially in criminal court proceedings]"<sup>70</sup>.

In addition, soft law instruments have been regarded as providing international recognition of general principles of law so that international law can directly be created through such an instrument.<sup>71</sup> Here, however, one must examine carefully whether what was wanted by the states was a legal principle or merely a political one.

#### *Soft Law which Strengthens and Soft Law which Weakens International Law*

The non-legal agreements or decisions of international organizations can, finally, have the effect of legitimating the norms of international law or depriving them of legitimacy by either confirming existing legal rules or undermining them with substantial deviations or by calling them completely into question. From the standpoint of legal positivism this need have no effect on international law. But it is impossible to view law, and international law in particular, solely in positivistic terms. Moreover, there are now alternative legal theories being presented all over the world according to which the normative strength of rules is a matter of degree.<sup>72</sup> To that extent, the confirmation or disapproval of legal norms does have significance.

---

<sup>69</sup> On this see Fastenrath, cited above (Note 48), pp. 100-104.

<sup>70</sup> Copenhagen Document, cited above (Note 21), pp. 441-444.

<sup>71</sup> Alfred Verdross, Les principes généraux de droit dans le système des sources du droit international public, in: Recueil d'études de droit international, Mélanges à Paul Guggenheim, Geneva 1968, pp. 521-530; Jochen A. Frowein, Der Beitrag der internationalen Organisationen zur Entwicklung des Völkerrechts [The Contribution of International Organizations to the Development of International Law], Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 36 (1976), pp. 147-167; Blaine Sloan, General Assembly Resolutions Revisited (Forty Years Later), British Yearbook of International Law 58 (1987), pp. 39-150, esp. p. 80; Verdross/Simma, cited above (Note 50), §§ 606, 639.

<sup>72</sup> For a detailed discussion see Fastenrath, Relative Normativity in International Law 4 (1993), in: European Journal of International Law, pp. 305-340.

The Decalogue of Principles in the Helsinki Final Act, for example, has a confirmatory effect,<sup>73</sup> as does the merely demonstrative list of individual human rights in the Charter of Paris.<sup>74</sup>

### *Significance of CSCE/OSCE Documents for the Application of International Law*

#### *Effects on the Implementation of Rules*

As a rule international legal norms leave open a large number of options for action, all of which are legally permitted. Non-legal agreements can narrow this range of options by calling for very specific actions. Conversely, they may require the use of all options, thus disallowing self-imposed limits. In this way, non-legal agreements create a state of affairs based on trust. The principle of good faith, which applies to international law<sup>75</sup> as it does to all legal systems, provides legal protection in this case, but only to an extent that other states, in the expectation that the agreement will function, have let themselves be induced into a form of action that would be damaging to them if the agreement were not observed.<sup>76</sup> This will not always be the case. Any farther-reaching tie to non-legal agreements, for which a case is sometimes made<sup>77</sup>, would ultimately be a legal tie by way of the "back door".<sup>78</sup>

Conversely, any state which observes a non-legal agreement can in good faith expect other states not to take any actions that would force it to abandon this behaviour. Those other states are estopped to act in this way - a principle, which is recognized in decisions of the International Court of Justice<sup>79</sup>. This can only hold true, however, to the extent that the non-legal agreement is consistent with obligations contained in valid treaties under international law. This limitation is established by the Helsinki Final Act itself, in its Principle X, where the fulfillment of obligations under international law is given priority over the Final Act, whose provisions are only to be given appropriate consideration in the exercise of sovereign rights, leaving obligations under international law explicitly unaffected by the Final Act. Hungary's refusal in 1989, based on the Final Act of Helsinki and other CSCE documents, to meet

---

<sup>73</sup> The conformity with valid international law is emphasized right in the Preamble of the Decalogue, Final Act of Helsinki, cited above (Note 23), p. 143.

<sup>74</sup> Charter of Paris, cited above (Note 24), pp. 537-538.

<sup>75</sup> Cf. Principle X of the Decalogue, Final Act of Helsinki, cited above (Note 19), p. 148.

<sup>76</sup> Cf. Verdross/Simma, cited above (Note 50), § 615.

<sup>77</sup> Schweisfurth, cited above (Note 18), p. 721ff.

<sup>78</sup> Cf. Heusel, cited above (Note 49), pp. 276-279; Skubiszewski, cited above (Note 18), p. 49.

<sup>79</sup> ICJ Reports 1962, p. 39ff. (Temple of Preah Vihear).

its obligation under a bilateral treaty to stop the flight of GDR citizens<sup>80</sup> can only be justified by regarding the treaty as invalid on the grounds that it violated fundamental human rights and was thus contrary to *jus cogens*. Another conceivable approach might be to interpret the non-legal CSCE/OSCE documents as a waiver, binding in good faith, of the rights established under international law. But this cannot generally be assumed, owing to the clarity with which the Final Act states that obligations under international law remain unaffected; only in case of special circumstances the opposite conclusion may result.

### *Effects on the Applicability of Rules*

The customary law prohibition against intervention stipulates that states may not intervene in matters which are essentially within the domestic jurisdiction of another state. But the area thus reserved to the states has not been defined conclusively or in a generally valid way. Internationalized, and thus removed from the exclusive domestic jurisdiction of states are, first, all matters regulated by international law. Thus the scope of the *domaine réservé* of states varies, depending on treaty ties of a bilateral and multilateral kind, and it has been especially eroded by the international protection of human rights. But it is not just through rules of international law that matters are internationalized. Non-legal agreements and other international soft law can accomplish this as well. It was in this sense that the Foreign Minister of the Federal Republic of Germany pointed out that "applying pressure to ensure that the commitments taken over from the Final Act of Helsinki are observed does not constitute intervention in the internal affairs of another state".<sup>81</sup> Thus it is no longer an intervention when the participating States of the OSCE deal with the constitutional order of other participating States, which traditionally belongs to the core elements of state's sovereignty. Starting with the Conference on the Human Dimension and the Charter of Paris, democracy, the separation of powers and the rule of law have become international matters, subject to international control through the Moscow Mechanism<sup>82</sup> and the implementation meetings on human dimension issues.<sup>83</sup>

<sup>80</sup> See Thomas Buergethal, CSCE Human Dimension: The Birth of a System, in: Collected Courses of the Academy of European Law 1990, Vol. I/2, pp. 165-209, esp. p. 203.

<sup>81</sup> Bulletin des Presse- und Informationsamts der Bundesregierung [Bulletin of the Press and Information Office of the German Federal Government] 1978, p. 872 (in German).

<sup>82</sup> Paras. 1-16 of the Moscow Document, cited above (Note 22), p. 607-611.

<sup>83</sup> Helsinki Document, cited above (Note 25), Decisions VI, Paras. 9-16, pp. 745-746. On this see also Louis Henkin, Human Rights and "Domestic Jurisdiction", in: Thomas Buergethal (Ed.), Human Rights, International Law and the Helsinki Accord, Montclair (N.Y.) 1977, pp. 21-40, esp. p. 34ff.; Gaetano Arangio-Ruiz, Human Rights and Non-Intervention in the Helsinki Final Act, in: Recueil des Cours de l'Académie de Droit international de la Haye, Vol. 157 (1977 IV), pp. 192-332, esp. p. 288ff.



Personnel strengths of armed forces, the deployment of weapons and equipment, and the holding of maneuvers of substantial size have likewise become international matters.<sup>84</sup> OSCE mechanisms are also available to provide information on unusual military activities and hazardous incidents.<sup>85</sup>

### *The Effects of International Soft Law on Domestic Law*

International agreements are fully binding on the participating states and all of their organs. But that does not mean that domestic law could not allow them to deviate from the requirements of such an agreement. International and national law are separate spheres. A violation of international law does not have to be a violation of domestic law.

It is particularly true of non-legal international agreements that they cannot create obligations or rights under domestic law. The competent authorities must first see to it that they are transformed into national law before they can have legal effect. But even here the dividing line between the law and the non-legal sphere is not particularly sharp. CSCE/OSCE documents can, for example, be consulted in the interpretation of laws. And it is conceivable that administrative bodies might be required to take non-legal agreements into account in making discretionary decisions.<sup>86</sup> These would then have a function similar to that of administrative regulations - which at the same time shows the problematic character of the situation. The non-legal agreements can only achieve this effect if the central authorities are entitled to prescribe administrative activity through administrative regulations; but the competences for doing that do not necessarily correspond to the competence for acting in the international sphere. The CSCE/OSCE documents, for their part, can to a large extent be interpreted as a manifestation of views, prevailing in all participating States, on what is right - views which as a consequence have a decisive influence on the interpretation and the application of domestic law.

---

<sup>84</sup> Cf. Concluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in Europe, cited above (Note 26), Treaty on Conventional Armed Forces in Europe, cited above (Note 13), Vienna Document 1994, cited above (Note 20), Chaps. IV and V, pp. 451-458.

<sup>85</sup> Ibid., Chap. II of the Document, pp. 443-445.

<sup>86</sup> Thus the *Bundesverwaltungsgericht* [Federal Administrative Court], in: *Neue Juristische Wochenschrift* 1982, p. 1958ff., esp. p. 1960.



## Annex



# Vienna Document 1994

## of the Negotiations on Confidence- and Security-Building Measures

- (1) Representatives of the participating States of the Conference on Security and Co-operation in Europe (CSCE), Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan and Yugoslavia<sup>1</sup>, met in Vienna in accordance with the provisions relating to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe contained in the Concluding Documents of the Madrid, Vienna and Helsinki Follow-up Meetings of the CSCE. The delegation of the former Yugoslav Republic of Macedonia attended the meetings as an observer as from 1993.
- (2) The Negotiations were conducted from 1989 to 1994.
- (3) The participating States recalled that the aim of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe is, as a substantial and integral part of the multilateral process initiated by the Conference on Security and Co-operation in Europe, to undertake, in stages, new, effective and concrete actions designed to make progress in strengthening confidence and security and in achieving disarmament, so as to give effect and expression to the duty of States to refrain from the threat or use of force in their mutual relations as well as in their international relations in general.
- (4) The participating States recognized that the mutually complementary confidence- and security-building measures which are adopted in the present document and which are in accordance with the mandates of the Madrid<sup>2</sup>, Vienna and Helsinki Follow-up Meetings of the CSCE serve by their scope and nature and by their implementation to strengthen confidence and security among the participating States.
- (5) The participating States recalled the declaration on Refraining from

---

<sup>1</sup> On 13 December 1992 the CSCE Committee of Senior Officials agreed to maintain in force its decision of 8 July 1992 to suspend the participation of Yugoslavia in the CSCE and review it as appropriate.

<sup>2</sup> The zone of application for CSBMs under the terms of the Madrid mandate is set out in Annex I.

the Threat or Use of Force contained in paragraphs (9) to (27) of the Document of the Stockholm Conference and stressed its continuing validity as seen in the light of the Charter of Paris for a New Europe.

- (6) On 17 November 1990, the participating States adopted the Vienna Document 1990, which built upon and added to the confidence- and security-building measures contained in the Document of the Stockholm Conference 1986. On 4 March 1992, the participating States adopted the Vienna Document 1992, which built upon and added to the confidence- and security-building measures contained in the Vienna Document 1990.
- (7) In fulfilment of the Charter of Paris for a New Europe of November 1990 and the Programme for Immediate Action, set out in the Helsinki Document 1992, they continued the CSBM negotiations under the same mandate, and have adopted the present document which integrates a set of new confidence- and security-building measures with measures previously adopted.
- (8) The participating States have adopted the following:

#### *I. Annual exchange of military information*

##### *Information on military forces*

- (9) The participating States will exchange annually information on their military forces concerning the military organization, manpower and major weapon and equipment systems, as specified below, in the zone of application for confidence- and security-building measures (CSBMs). Participating States which have no military forces to be reported will so inform all other participating States.
- (10) The information will be provided in an agreed format to all other participating States not later than 15 December of each year. It will be valid as of 1 January of the following year and will include:
  - (10.1) 1. Information on the command organization of those military forces referred to under points 2 and 3 specifying the designation and subordination of all formations<sup>3</sup> and units<sup>4</sup> at each level of command down to and including brigade/regiment or

---

<sup>3</sup> In this context, formations are armies, corps and divisions and their equivalents.

<sup>4</sup> In this context, units are brigades, regiments and their equivalents.

- equivalent level. The information will be designed in such a way as to distinguish units from formations.
- (10.1.1) Each participating State providing information on military forces will include a statement indicating the total number of units contained therein and the resultant annual evaluation quota as provided for in paragraph (107).
- (10.2) 2. For each formation and combat unit<sup>5</sup> of land forces down to and including brigade/regiment or equivalent level the information will indicate:
- (10.2.1) - the designation and subordination;
- (10.2.2) - whether it is active or non-active;<sup>6</sup>
- (10.2.3) - the normal peacetime location of its headquarters indicated by exact geographic terms and/or co-ordinates;
- (10.2.4) - the peacetime authorized personnel strength;
- (10.2.5) - the major organic weapon and equipment systems, specifying the numbers of each type of:
- (10.2.5.1) - battle tanks;
- (10.2.5.2) - helicopters;
- (10.2.5.3) - armoured combat vehicles (armoured personnel carriers, armoured infantry fighting vehicles, heavy armament combat vehicles);
- (10.2.5.4) - armoured personnel carrier look-alikes and armoured infantry fighting vehicle look-alikes;
- (10.2.5.5) - anti-tank guided missile launchers permanently/integrally mounted on armoured vehicles;
- (10.2.5.6) - self-propelled and towed artillery pieces, mortars and multiple rocket launchers (100 mm calibre and above);
- (10.2.5.7) - armoured vehicle launched bridges.
- (10.3.1) For planned increases in personnel strength above that reported under paragraph (10.2.4) for more than 21 days by more than 1,500 troops for each active combat unit and by more than 5,000 troops for each active formation, excluding personnel increases in the formation's subordinate formations and/or combat units subject to separate reporting under paragraph (10.2); as well as
- (10.3.2) for each non-active formation and non-active combat unit which is planned to be temporarily activated for routine military activities or for any other purpose with more than 2,000

<sup>5</sup> In this context, combat units are infantry, armoured, mechanized, motorized rifle, artillery, combat engineer and army aviation units. Those combat units which are airmobile or airborne will also be included.

<sup>6</sup> In this context, non-active formations or combat units are those manned from zero to fifteen percent of their authorized combat strength. This term includes low strength formations and units.

- troops for more than 21 days
- (10.3.3) the following additional information will be provided in the annual exchange of military information:
- (10.3.3.1) - designation and subordination of the formation or combat unit;
- (10.3.3.2) - purpose of the increase or activation;
- (10.3.3.3) - for active formations and combat units the planned number of troops exceeding the personnel strength indicated under paragraph (10.2.4) or for non-active formations and combat units the number of troops involved during the period of activation;
- (10.3.3.4) - start and end dates of the envisaged increase in personnel strength or activation;
- (10.3.3.5) - planned location/area of activation;
- (10.3.3.6) - the numbers of each type of the major weapon and equipment systems as listed in paragraphs (10.2.5.1) to (10.2.5.7) which are planned to be used during the period of the personnel increase or activation.
- (10.3.4) - In cases where the information required under paragraphs (10.3.1) to (10.3.3.6) cannot be provided in the annual exchange of military information, or in cases of changes in the information already provided, the required information will be communicated at least 42 days prior to such a personnel increase or temporary activation taking effect or, in cases when the personnel increase or temporary activation is carried out without advance notice to the troops involved, at the latest at the time the increase or the activation has taken effect.
- (10.4) For each amphibious formation and amphibious combat unit<sup>7</sup> permanently located in the zone of application down to and including brigade/regiment or equivalent level, the information will include the items as set out above.
- (10.5) 3. For each air formation and air combat unit<sup>8</sup> of the air forces, air defence aviation and of naval aviation permanently based on land down to and including wing/air regiment or equivalent level the information will include:
- (10.5.1) - the designation and subordination;
- (10.5.2) - the normal peacetime location of the headquarters indicated by exact geographic terms and/or co-ordinates;
- (10.5.3) - the normal peacetime location of the unit indicated by the air base or military airfield on which the unit is based, specify-

---

<sup>7</sup> Combat units as defined above.

<sup>8</sup> In this context, air combat units are units, the majority of whose organic aircraft are combat aircraft.



- ing:
  - (10.5.3.1) - the designation or, if applicable, name of the air base or military airfield and
  - (10.5.3.2) - its location indicated by exact geographic terms and/or co-ordinates;
  - (10.5.4) - the peacetime authorized personnel strength<sup>9</sup>;
  - (10.5.5) - the numbers of each type of:
  - (10.5.5.1) - combat aircraft;
  - (10.5.5.2) - helicopters
- organic to the formation or unit.

*Data relating to major weapon and equipment systems*

- (11) The participating States will exchange data relating to their major weapon and equipment systems as specified in the provisions on Information on Military Forces within the zone of application for CSBMs.
- (11.1) Data on existing weapon and equipment systems, if not already provided, will be provided once to all other participating States not later than 15 December 1995.
- (11.2) Data on new types or versions of major weapon and equipment systems will be provided by each State when its deployment plans for the systems concerned are provided for the first time in accordance with paragraphs (13) and (14) below or, at the latest, when it deploys the systems concerned for the first time in the zone of application for CSBMs. If a participating State has already provided data on the same new type or version, other participating States may, if appropriate, certify the validity of those data as far as their system is concerned.
- (12) The following data will be provided for each type or version of major weapon and equipment systems:
- (12.1) *Battle tanks*
- (12.1.1) Type
- (12.1.2) National Nomenclature/Name
- (12.1.3) Main Gun Calibre
- (12.1.4) Unladen Weight
- (12.1.5) Data on new types or versions will, in addition, include:
- (12.1.5.1) Night Vision Capability      yes/no
- (12.1.5.2) Additional Armour              yes/no
- (12.1.5.3) Track Width                      cm

---

<sup>9</sup> As an exception, this information need not be provided on air defence aviation units.

- (12.1.5.4) Floating Capabilities            yes/no
- (12.1.5.5) Snorkelling Equipment        yes/no
  
- (12.2)            *Armoured combat vehicles*
  
- (12.2.1)        Armoured Personnel Carriers
  
- (12.2.1.1)      Type
- (12.2.1.2)      National Nomenclature/Name
- (12.2.1.3)      Type and Calibre of Armaments, if any
- (12.2.1.4)      Data on new types or versions will, in addition, include:
- (12.2.1.4.1)    Night Vision Capability            yes/no
- (12.2.1.4.2)    Seating Capacity
- (12.2.1.4.3)    Floating Capability                yes/no
- (12.2.1.4.4)    Snorkelling Equipment            yes/no
  
- (12.2.2)        Armoured Infantry Fighting Vehicles
  
- (12.2.2.1)      Type
- (12.2.2.2)      National Nomenclature/Name
- (12.2.2.3)      Type and Calibre of Armaments
- (12.2.2.4)      Data on new types or versions will, in addition, include:
- (12.2.2.4.1)    Night Vision Capability            yes/no
- (12.2.2.4.2)    Additional Armour                yes/no
- (12.2.2.4.3)    Floating Capability                yes/no
- (12.2.2.4.4)    Snorkelling Equipment            yes/no
  
- (12.2.3)        Heavy Armament Combat Vehicles
  
- (12.2.3.1)      Type
- (12.2.3.2)      National Nomenclature/Name
- (12.2.3.3)      Main Gun Calibre
- (12.2.3.4)      Unladen Weight
- (12.2.3.5)      Data on new types or versions will, in addition, include:
- (12.2.3.5.1)    Night Vision Capability            yes/no
- (12.2.3.5.2)    Additional Armour                yes/no
- (12.2.3.5.3)    Floating Capability                yes/no
- (12.2.3.5.4)    Snorkelling Equipment            yes/no
- (12.3)           *Armoured personnel carrier look-alikes and armoured infantry fighting vehicle look-alikes*
  
- (12.3.1)        Armoured Personnel Carrier Look-Alikes
  
- (12.3.1.1)      Type

- (12.3.1.2) National Nomenclature/Name
- (12.3.1.3) Type and Calibre of Armaments, if any
- (12.3.2) Armoured Infantry Fighting Vehicle Look-Alikes
- (12.3.2.1) Type
- (12.3.2.2) National Nomenclature/Name
- (12.3.2.3) Type and Calibre of Armaments, if any
- (12.4) *Anti-tank guided missile launchers permanently/integrally mounted on armoured vehicles*
- (12.4.1) Type
- (12.4.2) National Nomenclature/Name
- (12.5) *Self-propelled and towed artillery pieces, mortars and multiple rocket launchers (100 mm calibre and above)*
- (12.5.1) Artillery pieces
- (12.5.1.1) Type
- (12.5.1.2) National Nomenclature/Name
- (12.5.1.3) Calibre
- (12.5.2) Mortars
- (12.5.2.1) Type
- (12.5.2.2) National Nomenclature/Name
- (12.5.2.3) Calibre
- (12.5.3) Multiple Launch Rocket Systems
- (12.5.3.1) Type
- (12.5.3.2) National Nomenclature/Name
- (12.5.3.3) Calibre

- (12.5.3.4) Data on new types or versions will, in addition, include:
- (12.5.3.4.1) Number of Tubes
  
- (12.6) *Armoured vehicle launched bridges*
  
- (12.6.1) Type
- (12.6.2) National Nomenclature/Name
- (12.6.3) Data on new types or versions will, in addition, include:
- (12.6.3.1) Span of the Bridge \_m
- (12.6.3.2) Carrying Capacity/Load Classification \_metric tons
  
- (12.7) *Combat aircraft*
  
- (12.7.1) Type
- (12.7.2) National Nomenclature/Name
- (12.7.3) Data on new types or versions will, in addition, include:
- (12.7.3.1) Type of Integrally Mounted Armaments, if any
  
- (12.8) *Helicopters*
  
- (12.8.1) Type
- (12.8.2) National Nomenclature/Name
- (12.8.3) Data on new types or versions will, in addition, include:
- (12.8.3.1) Primary Role (e.g. specialized attack, multi-purpose attack, combat support, transport)
- (12.8.3.2) Type of Integrally Mounted Armaments, if any
- (12.9) Each participating State will, at the time the data are presented, ensure that other participating States are provided with photographs presenting the right or left side, top and front views for each of the types of major weapon and equipment systems concerned.
- (12.10) Photographs of armoured personnel carrier look-alikes and armoured infantry fighting vehicle look-alikes will include a view of such vehicles so as to show clearly their internal configuration illustrating the specific characteristic which distinguishes each particular vehicle as a look-alike.
- (12.11) The photographs of each type will be accompanied by a note giving the type designation and national nomenclature for all models and versions of the type which the photographs represent. The photographs of a type will contain an annotation of the data for that type.
  
- Information on plans for the deployment of major weapon and equipment systems*

- (13) The participating States will exchange annually information on their plans for the deployment of major weapon and equipment systems as specified in the provisions on Information on Military Forces within the zone of application for CSBMs.
- (14) The information will be provided in an agreed format to all other participating States not later than 15 December of each year. It will cover plans for the following year and will include:
  - (14.1) - the type and name of the weapon/equipment systems to be deployed;
  - (14.2) - the total number of each weapon/equipment system;
  - (14.3) - whenever possible, the number of each weapon/equipment system planned to be allocated to each formation or unit;
  - (14.4) - the extent to which the deployment will add to or replace existing weapon/equipment systems.

*Defence planning*<sup>10</sup>

*Exchange of information*

- (15) General provisions  
The participating States will exchange annually information as specified below in paragraphs (15.1) to (15.4), to provide transparency about each CSCE participating State's intentions in the medium to long term as regards size, structure, training and equipment of its armed forces, as well as defence policy, doctrines and budgets related thereto, based on their national practice and providing the background for a dialogue among the participating States. The information will be provided to all other participating States not later than two months after the military budget, referred to in paragraph (15.4.1), has been approved by the competent national authorities.
- (15.1) *Defence policy and doctrine*  
In a written statement participating States will address:
  - (15.1.1) their defence policy, including military strategy/doctrine as well as changes occurring thereto;
  - (15.1.2) their national procedures for defence planning, including the stages of defence planning, the institutions involved in the

---

<sup>10</sup> The application of the measures relating to defence planning is not restricted by the zone of application for CSBMs as set out in Annex I.

- (15.1.3) decision-making process as well as changes occurring thereto; their current personnel policy and the most substantial changes in it.  
If the information under this point has remained the same, participating States may refer to the previously exchanged information.
- (15.2) *Force planning*
- In a written statement participating States will address in the form of a general description:
- (15.2.1) the size, structure, personnel, major weapon and equipment systems and deployment of their armed forces and the envisaged changes thereto. In view of the reorganization of the defence structure in a number of participating States, similar information will be provided on other forces, including paramilitary forces, on a voluntary basis and as appropriate. The scope and the status of the information on such forces will be reviewed after their status has been further defined, in the process of reorganization;
- (15.2.2) the training programmes for their armed forces and planned changes thereto in the forthcoming years;
- (15.2.3) the procurement of major equipment and major military construction programmes on the basis of the categories as set out in the United Nations Instrument mentioned in paragraph (15.3), either ongoing or starting in the forthcoming years, if planned, and the implications of such projects, accompanied by explanations, where appropriate;
- (15.2.4) the realization of the intentions previously reported under this paragraph.
- In order to facilitate the understanding of the information provided, the participating States are encouraged to use illustrative charts and maps, wherever applicable.

(15.3) *Information on previous expenditures*

Participating States will report their defence expenditures of the preceding fiscal year on the basis of the categories as set out in the United Nations "Instrument for Standardized International Reporting of Military Expenditures" adopted on 12 December 1980.

They will provide, in addition, any appropriate clarification, if necessary, as to possible discrepancies between expenditures and previously reported budgets.

(15.4) *Information on budgets*

The written statement will be supplemented with the following information, where available:

(15.4.1) On the forthcoming fiscal year

(15.4.1.1) budget figures on the basis of the categories as set out in the United Nations Instrument mentioned in paragraph (15.3);

(15.4.1.2) status of budget figures.

The participating States will furthermore provide the following information in as far as available:

(15.4.2) On the two fiscal years following the forthcoming fiscal year

(15.4.2.1) the best estimates itemizing defence expenditures on the basis of the categories as set out in the United Nations Instrument mentioned in paragraph (15.3);

(15.4.2.2) status of these estimates.

(15.4.3) On the last two years of the forthcoming five fiscal years

(15.4.3.1) the best estimates specifying the total and figures for the following three main categories:

- operating costs,
- procurement and construction,
- research and development;

(15.4.3.2) status of these estimates.

(15.4.4) Explanatory data

(15.4.4.1) an indication of the year which has been used as the basis for any extrapolation;

(15.4.4.2) clarifications of the data as specified in paragraphs (15.3) and (15.4), especially with regard to inflation.

*Clarification, review and dialogue*

(15.5) *Request for clarification*

To increase transparency, each participating State may ask any other participating State for clarification of the information provided. Questions should be submitted within a period of two months following the receipt of a participating State's information. Participating States will make every effort to answer such questions fully and promptly. It should be understood that these exchanges are informational only. The questions and replies may be transmitted to all other participating States.

(15.6) *Annual discussion meetings*

Without prejudice to the possibility of having ad hoc discussions on the information and clarification provided, the participating States will hold each year a meeting for a focused and structured dialogue to discuss the issues relating to defence planning. The Annual Implementation Assessment Meeting as foreseen in Chapter X of the Vienna Document 1994 could be used for the purpose. Such discussions may extend to the methodology of defence planning and the implications originating from the information provided.

(15.7) *Study visits*

To increase knowledge of national defence planning procedures and promote dialogue, each participating State may arrange study visits for representatives of other CSCE participating States to meet with officials at the institutions involved in defence planning and appropriate bodies such as government agencies (planning, finance, economy), ministry of defence, general staff and relevant parliamentary committees. Such exchanges could be organized within the framework of military contacts and co-operation.



*Possible additional information*

- (15.8) Participating States are encouraged to provide any other factual and documentary information relating to their defence planning. This may include:
  - (15.8.1) the list and, if possible, the texts of major publicly available documents, in any of the CSCE working languages, reflecting their defence policy, military strategies and doctrines;
  - (15.8.2) any other publicly available documentary reference material on their plans relating to paragraphs (15.1) and (15.2), e.g. military documents and/or "white papers".
- (15.9) This documentary information may be provided to the CPC Secretariat, which will distribute lists of received information and make it available upon request.

*II. Risk reduction*

*Mechanism for consultation and co-operation as regards unusual military activities*

- (16) Participating States will, in accordance with the following provisions, consult and co-operate with each other about any unusual and unscheduled activities of their military forces outside their normal peacetime locations which are militarily significant, within the zone of application for CSBMs and about which a participating State expresses its security concern.
  - (16.1) The participating State which has concerns about such an activity may transmit a request for an explanation to another participating State where the activity is taking place.
    - (16.1.1) The request will state the cause, or causes, of the concern and, to the extent possible, the type and location, or area, of the activity.
    - (16.1.2) The reply will be transmitted within not more than 48 hours.
    - (16.1.3) The reply will give answers to questions raised, as well as any other relevant information which might help to clarify the activity giving rise to concern.
    - (16.1.4) The request and the reply will be transmitted to all other participating States without delay.
  - (16.2) The requesting State, after considering the reply provided, may then request a meeting to discuss the matter.
    - (16.2.1) The requesting State may ask for a meeting with the responding State.

- (16.2.1.1) Such a meeting will be convened within not more than 48 hours.
- (16.2.1.2) The request for such a meeting will be transmitted to all participating States without delay.
- (16.2.1.3) The responding State is entitled to ask other interested participating States, in particular those which might be involved in the activity, to participate in the meeting.
- (16.2.1.4) Such a meeting will be held at a venue to be mutually agreed upon by the requesting and the responding States. If there is no agreement, the meeting will be held at the Conflict Prevention Centre.
- (16.2.1.5) The requesting and responding States will, jointly or separately, transmit a report of the meeting to all other participating States without delay.
- (16.2.2) The requesting State may ask for a meeting of all participating States.
- (16.2.2.1) Such a meeting will be convened within not more than 48 hours.
- (16.2.2.2) The Permanent Committee will serve as the forum for such a meeting.
- (16.2.2.3) Participating States involved in the matter to be discussed undertake to be represented at such a meeting.
- (16.2.2.4) In the light of its assessment of the situation, the Permanent Committee will use all its competences to contribute to a solution.

*Co-operation as regards hazardous incidents of a military nature*

- (17) Participating States will co-operate by reporting and clarifying hazardous incidents of a military nature within the zone of application for CSBMs in order to prevent possible misunderstandings and mitigate the effects on another participating State.
- (17.1) Each participating State will designate a point to contact in case of such hazardous incidents and will so inform all other participating States. A list of such points will be kept available at the Conflict Prevention Centre.
- (17.2) In the event of such a hazardous incident the participating State whose military forces are involved in the incident should provide the information available to other participating States in an expeditious manner. Any participating State affected by such an incident may also request clarification as appropriate. Such requests will receive a prompt response.

- (17.3) Matters relating to information about such hazardous incidents may be discussed by participating States at the Special Committee of the FSC, or at the annual implementation assessment meeting.
- (17.4) These provisions will not affect the rights and obligations of participating States under any international agreement concerning hazardous incidents, nor will they preclude additional methods of reporting and clarifying hazardous incidents.

*Voluntary hosting of visits to dispel concerns about military activities*

- (18) In order to help to dispel concerns about military activities in the zone of application for CSBMs, participating States are encouraged to invite other participating States to take part in visits to areas on the territory of the host State in which there may be cause for such concerns. Such invitations will be without prejudice to any action taken under paragraphs (16) to (16.2).
- (18.1) States invited to participate in such visits will include those which are understood to have concerns. At the time invitations are issued, the host State will communicate to all other participating States its intention to conduct the visit, indicating the reasons for the visit, the area to be visited, the States invited and the general arrangements to be adopted.
- (18.2) Arrangements for such visits, including the number of the representatives from other participating States to be invited, will be at the discretion of the host State, which will bear the in-country costs. However, the host State should take appropriate account of the need to ensure the effectiveness of the visit, the maximum amount of openness and transparency and the safety and security of the invited representatives. It should also take account, as far as practicable, of the wishes of visiting representatives as regards the itinerary of the visit. The host State and the States which provide visiting personnel may circulate joint or individual comments on the visit to all other participating States.

### *III. Contacts*

#### *Visits to air bases*

- (19) Each participating State with air combat units reported under paragraph (10) will arrange visits for representatives of all other participating States to one of its normal peacetime air bases<sup>11</sup> on which such units are located in order to provide the visitors with the opportunity to view activity at the air base, including preparations to carry out the functions of the air base, and to gain an impression of the approximate number of air sorties and type of missions being flown.
- (20) No participating State will be obliged to arrange more than one such visit in any five-year period. Prior indications given by participating States of forthcoming schedules for such visits for the subsequent year(s) may be discussed at the annual implementation assessment meetings.
- (21) As a rule, up to two visitors from each participating State will be invited.
- (22) When the air base to be visited is located on the territory of another participating State, the invitations will be issued by the participating State on whose territory the air base is located (host State). In such cases, the responsibilities as host delegated by this State to the participating State arranging the visit will be specified in the invitation.
- (23) The State arranging the visit will determine the programme for the visit in co-ordination with the host State, if appropriate. The visitors will follow the instructions issued by the State arranging the visit in accordance with the provisions set out in this document.
- (24) The modalities regarding visits to air bases will conform to the provisions in Annex II.
- (25) The invited State may decide whether to send military and/or civilian visitors, including personnel accredited to the host State. Military visitors will normally wear their uniforms and insignia during the visit.
- (26) The visit to the air base will last for a minimum of 24 hours.

---

<sup>11</sup> In this context, the term normal peacetime air base is understood to mean the normal peacetime location of the air combat unit indicated by the air base or military airfield on which the unit is based.

- (27) In the course of the visit, the visitors will be given a briefing on the purpose and functions of the air base and on its current activities, including appropriate information on the air force structure and operations so as to explain the specific role and subordination of the air base. The State arranging the visit will provide the visitors with the opportunity to view routine activities at the air base during the visit.
- (28) The visitors will have the opportunity to communicate with commanders and troops, including those of support/logistic units located at the air base. They will be provided with the opportunity to view all types of aircraft located at the air base.
- (29) At the close of the visit, the State arranging the visit will provide an opportunity for the visitors to meet together and also with State officials and senior air base personnel to discuss the course of the visit.

(30) *Programme of military contacts and co-operation*

*Military contacts*

- (30.1) To improve further their mutual relations in the interest of strengthening the process of confidence- and security-building, the participating States will, on a voluntary basis and as appropriate, promote and facilitate:
- (30.1.1) -exchanges and visits between members of the armed forces at all levels, especially those between junior officers and commanders;
- (30.1.2) -contacts between relevant military institutions, especially between military units;
- (30.1.3) -exchanges of visits of naval vessels and air force units;
- (30.1.4) -reservation of places in military academies and schools and on military training courses for members of the armed forces from the participating States;
- (30.1.5) -use of the language facilities of military training institutions for the foreign-language instruction of members of the armed forces from the participating States and the organization of language courses in military training institutions for military foreign-language instructors from the participating States;
- (30.1.6) -exchanges and contacts between academics and experts in military studies and related areas;
- (30.1.7) -participation and contribution by members of the armed forces of the participating States, as well as civil experts in security matters and defence policy, to academic conferences, seminars and symposia;

- (30.1.8) -issuing of joint academic publications on security and defence issues;
- (30.1.9) -sporting and cultural events between members of their armed forces.

*Military co-operation*

*Joint military exercises and training*

- (30.2) The participating States will conduct, on a voluntary basis and as appropriate, joint military training and exercises to work on tasks of mutual interest.

*Visits to military facilities, to military formations and observation of certain military activities*

- (30.3) In addition to the provisions of the Vienna Document 1994 regarding visits to air bases, each participating State will arrange for representatives of all other participating States to visit one of its military facilities or military formations, or to observe military activities below thresholds specified in Chapter V. These events will provide the visitors or observers with the opportunity to view activity of that military facility, observe the training of that military formation or observe the conduct of that military activity.
- (30.4) Each participating State will make every effort to arrange one such visit or observation in any five-year period.
- (30.5) In order to ensure maximum efficiency and cost-effectiveness, the participating States may conduct such visits or observations in conjunction with, inter alia, other visits and contacts organized in accordance with provisions of the Vienna Document 1994.
- (30.6) The modalities regarding visits to air bases specified in paragraphs (19) - (29) of the Vienna Document 1994 will, mutatis mutandis, be applied to the visits to military facilities and to military formations.

*Observation visits*

- (30.7) Participating States conducting military activities subject to prior notification according to Chapter IV of the Vienna Document 1994, but at levels lower than those specified in Chapter V of the Vienna Document 1994, are encouraged to invite observers from other participating States, especially neighbouring States, to observe such military activities.
- (30.8) Arrangements for such visits will be at the discretion of the host State.

*Provision of experts*

- (30.9) The participating States express their willingness to provide to any other participating State available experts to be consulted on matters of defence and security.
- (30.10) For that purpose participating States will designate a point of contact and will inform all other participating States accordingly. A list of such points will be kept available at the Conflict Prevention Centre.
- (30.11) At the discretion of participating States, communications between them on this subject may be transmitted through the CSCE communications network.
- (30.12) The modalities regarding provision of experts will be agreed directly between the participating States concerned.

*Seminars on co-operation in the military field*

- (30.13) Subject to the approval of the appropriate CSCE bodies, the Conflict Prevention Centre will organize seminars on co-operation between the armed forces of the participating States.
- (30.14) The agenda of the seminars will concentrate primarily on CSCE-oriented tasks, including the participation of the armed forces in peacekeeping operations, in disaster and emergency relief, in refugee crises and in providing humanitarian assistance.

*Exchange of information on agreements on military contacts and co-operation*

- (30.15) The participating States will exchange information on agreements on programmes of military contacts and co-operation concluded with other participating States within the scope of these provisions.

\*\*\*

- (30.16) The participating States have decided that the Programme of Military Contacts and Co-operation will be open to all CSCE participating States in respect of all their armed forces and territory. The implementation of this Programme will be assessed at annual implementation assessment meetings as foreseen in Chapter X.

*Demonstration of new types of major weapon and equipment systems*

- (31) The first participating State which deploys with its military forces in the zone of application a new type of major weapon and equipment system as specified in the provisions on Information on Military Forces will arrange at the earliest opportunity, but not later than one year after deployment has started, a demonstration for representatives of all other participating States<sup>12</sup>, which may coincide with other events stipulated in this document.
- (32) When the demonstration is carried out on the territory of another participating State, the invitation will be issued by the participating State on whose territory the demonstration is carried out (host State). In such cases, the responsibilities as host delegated by this State to the participating State arranging the demonstration will be specified in the invitation.
- (33) The State arranging the demonstration will determine the programme for the demonstration in co-ordination with the host State, if appropriate. The visitors will follow the instructions issued by the State arranging the demonstration in accordance with the provisions set out in this document.
- (34) The modalities regarding demonstration of new types of major weapon and equipment systems will conform to the provisions in Annex II.
- (35) The invited State may decide whether to send military and/or civilian visitors, including personnel accredited to the host State. Military visitors will normally wear their uniforms and insignia during the visit.

*IV. Prior notification of certain military activities*

- (36) The participating States will give notification in writing in

---

<sup>12</sup> This provision will not apply if another participating State has already arranged a demonstration of the same type of major weapon and equipment system.



accordance with the provisions of Chapter IX to all other participating States 42 days or more in advance of the start of notifiable<sup>13</sup> military activities in the zone of application for CSBMs.

- (37) Notification will be given by the participating State on whose territory the activity in question is planned to take place (host State) even if the forces of that State are not engaged in the activity or their strength is below the notifiable level. This will not relieve other participating States of their obligation to give notification, if their involvement in the planned military activity reaches the notifiable level.
- (38) Each of the following military activities in the field conducted as a single activity in the zone of application for CSBMs at or above the levels defined below will be notified:
  - (38.1) The engagement of formations of land forces<sup>14</sup> of the participating States in the same exercise activity conducted under a single operational command independently or in combination with any possible air or naval components.
    - (38.1.1) This military activity will be subject to notification whenever it involves at any time during the activity:
      - at least 9,000 troops, including support troops, or
      - at least 250 battle tanks, or
      - at least 500 ACVs, as defined in paragraph (12.2), or
      - at least 250 self-propelled and towed artillery pieces, mortars and multiple rocket-launchers (100 mm calibre and above)if organized into a divisional structure or at least two brigades/regiments, not necessarily subordinate to the same division.
    - (38.1.2) The participation of air forces of the participating States will be included in the notification if it is foreseen that in the course of the activity 200 or more sorties by aircraft, excluding helicopters, will be flown.
  - (38.2) The engagement of military forces in an amphibious landing<sup>15</sup>, heliborne landing or parachute assault in the zone of application for CSBMs.
    - (38.2.1) These military activities will be subject to notification whenever any of them involves at least 3,000 troops.
  - (38.3) The engagement of formations of land forces of the participating States in a transfer from outside the zone of

---

<sup>13</sup> In this document, the term notifiable means subject to notification.

<sup>14</sup> In this context, the term land forces includes amphibious, airmobile or heliborne forces and airborne forces.

<sup>15</sup> In this document, amphibious landing includes total troops launched from the sea by naval and landing forces embarked in ships or craft involving a landing on shore.

- application for CSBMs to arrival points in the zone, or from inside the zone of application for CSBMs to points of concentration in the zone, to participate in a notifiable exercise activity or to be concentrated.
- (38.3.1) The arrival or concentration of these forces will be subject to notification whenever it involves, at any time during the activity:
- at least 9,000 troops, including support troops, or
  - at least 250 battle tanks, or
  - at least 500 ACVs, as defined in paragraph (12.2), or
  - at least 250 self-propelled and towed artillery pieces, mortars and multiple rocket launchers (100 mm calibre and above)
- if organized into a divisional structure or at least two brigades/regiments, not necessarily subordinate to the same division.
- (38.3.2) Forces which have been transferred into the zone will be subject to all provisions of agreed CSBMs when they depart their arrival points to participate in a notifiable exercise or to be concentrated within the zone of application for CSBMs.
- (39) Notifiable military activities carried out without advance notice to the troops involved are exceptions to the requirement for prior notification to be made 42 days in advance.
- (39.1) Notification of such activities, above the agreed thresholds, will be given at the time the troops involved commence such activities.
- (40) Notification will be given in writing of each notifiable military activity in the following agreed form:
- (41) *A) General information*
- (41.1) The designation of the military activity;
  - (41.2) The general purpose of the military activity;
  - (41.3) The names of the States involved in the military activity;
  - (41.4) The level of command organizing and commanding the military activity;
  - (41.5) The start and end dates of the military activity.

- (42) *B) Information on different types of notifiable military activities*
- (42.1) The engagement of formations of land forces of the participating State in the same exercise activity conducted under a single operational command independently or in combination with any possible air or naval components:
- (42.1.1) The total number of troops taking part in the military activity (i.e. ground troops, amphibious troops, airmobile or heliborne and airborne troops) and the number of troops participating for each State involved, if applicable;
- (42.1.2) The designation, subordination, number and type of formations and units participating for each State down to and including brigade/regiment or equivalent level;
- (42.1.3) The total number of battle tanks for each State;
- (42.1.4) The total number of armoured combat vehicles for each State and the total number of anti-tank guided missile launchers mounted on armoured vehicles;
- (42.1.5) The total number of artillery pieces and multiple rocket launchers (100 mm calibre or above);
- (42.1.6) The total number of helicopters, by category;
- (42.1.7) Envisaged number of sorties by aircraft, excluding helicopters;
- (42.1.8) Purpose of air missions;
- (42.1.9) Categories of aircraft involved;
- (42.1.10) The level of command organizing and commanding the air force participation;
- (42.1.11) Naval ship-to-shore gunfire;
- (42.1.12) Indication of other naval ship-to-shore support;
- (42.1.13) The level of command organizing and commanding the naval force participation.
- (42.2) The engagement of military forces in an amphibious landing, heliborne landing or parachute assault in the zone of application for CSBMs:
- (42.2.1) The total number of amphibious troops involved in notifiable amphibious landings, and/or the total number of troops involved in notifiable parachute assaults or heliborne landings;
- (42.2.2) In the case of a notifiable landing, the point or points of embarkation, if in the zone of application for CSBMs.
- (42.3) The engagement of formations of land forces of the participating States in a transfer from outside the zone of application for CSBMs to arrival points in the zone, or from inside the zone of application for CSBMs to points of concentration in the zone, to participate in a notifiable exercise activity or to be concentrated:

- (42.3.1) The total number of troops transferred;
- (42.3.2) Number and type of formations participating in the transfer;
- (42.3.3) The total number of battle tanks participating in a notifiable arrival or concentration;
- (42.3.4) The total number of armoured combat vehicles participating in a notifiable arrival or concentration;
- (42.3.5) The total number of artillery pieces and multiple rocket launchers (100 mm calibre and above) participating in a notifiable arrival or concentration;
- (42.3.6) Geographical co-ordinates for the points of arrival and for the points of concentration.
  
- (43) *C) The envisaged area in the zone of application for CSBMs and timeframe of the activity*
  
- (43.1) The area of the military activity delimited by geographic features together with geographic co-ordinates, as appropriate;
- (43.2) Start and end dates of each phase of activity in the zone of application for CSBMs of participating formations (e.g., transfer, deployment, concentration of forces, active exercise, recovery);
- (43.3) Tactical purpose of each phase and corresponding geographical area delimited by geographic co-ordinates; and
- (43.4) Brief description of each phase.
  
- (44) *D) Other information*
  
- (44.1) Changes, if any, in relation to information provided in the annual calendar regarding the activity;
- (44.2) Relationship of the activity to other notifiable activities.

#### *V. Observation of certain military activities*

- (45) The participating States will invite observers from all other participating States to the following notifiable military activities:
- (45.1) -The engagement of formations of land forces<sup>16</sup> of the participating States in the same exercise activity conducted under a single operational command independently or in

---

<sup>16</sup> In this context, the term land forces includes amphibious, airmobile or heliborne forces and airborne forces.

- combination with any possible air or naval components.
- (45.2) - The engagement of military forces in an amphibious landing, heliborne landing or parachute assault in the zone of application for CSBMs.
- (45.3) - In the case of the engagement of formations of land forces of the participating States in a transfer from outside the zone of application for CSBMs to arrival points in the zone, or from inside the zone of application for CSBMs to points of concentration in the zone, to participate in a notifiable activity or to be concentrated, the concentration of these forces. Forces which have been transferred into the zone will be subject to all provisions of agreed confidence- and security-building measures when they depart their arrival points to participate in a notifiable exercise activity or to be concentrated within the zone of application for CSBMs.
- (45.4) The above-mentioned activities will be subject to observation whenever the number of troops engaged equals or exceeds 13,000 or where the number of battle tanks engaged equals or exceeds 300, or where the number of armoured combat vehicles engaged as defined in paragraph (12.2) equals or exceeds 500, or where the number of self-propelled and towed artillery pieces, mortars and multiple rocket launchers (100 mm calibre and above) engaged equals or exceeds 250. In the case of an amphibious landing, heliborne landing or parachute assault, the activity will be subject to observation whenever the number of troops engaged equals or exceeds 3,500.
- (46) The host State will be the participating State on whose territory the notified activity will take place.
- (47) The host State may delegate responsibilities as host to another participating State or States engaged in the military activity on the territory of the host State, which will be the delegated State. In such cases, the host State will specify the allocation of responsibilities in its invitation to observe the activity.
- (48) Each participating State may send up to two observers to the military activity to be observed. The invited State may decide whether to send military and/or civilian observers, including personnel accredited to the host State. Military observers will normally wear their uniforms and insignia while performing their tasks.
- (49) The modalities regarding observation of certain military activities will conform to the provisions in Annex II.
- (50) The host or delegated State will determine a duration of observation which permits the observers to observe a notifiable military activity from the time that agreed thresholds for

- observation are met or exceeded until, for the last time during the activity, the thresholds for observation are no longer met.
- (51) The observers may make requests with regard to the observation programme. The host or delegated State will, if possible, accede to them.
- (52) The observers will be granted, during their mission, the privileges and immunities accorded to diplomatic agents in the Vienna Convention on Diplomatic Relations.
- (53) The participating States will ensure that official personnel and troops taking part in an observed military activity, as well as other armed personnel located in the area of the military activity, are adequately informed regarding the presence, status and functions of observers.
- (54) The host or delegated State will not be required to permit observation of restricted locations, installations or defence sites.
- (55) In order to allow the observers to confirm that the notified activity is non-threatening in character and that it is carried out in conformity with the appropriate provisions of the notification, the host or delegated State will:
- (55.1) - at the commencement of the observation programme give a briefing on the purpose, the basic situation, the phases of the activity and possible changes as compared with the notification, and provide the observers with an observation programme containing a daily schedule;
- (55.2) - provide the observers with a map to a scale of one to not more than 250,000 depicting the area of the notified military activity and the initial tactical situation in this area. To depict the entire area of the notified military activity, smaller-scale maps may be additionally provided;
- (55.3) - provide the observers with appropriate observation equipment; in addition, the observers will be permitted to use their own binoculars, maps, photo and video cameras, dictaphones and hand-held passive night-vision devices. The above-mentioned equipment will be subject to examination and approval by the host or delegated State. It is understood that the host or delegated State may limit the use of certain equipment in restricted locations, installations or defence sites;
- (55.4) - be encouraged, whenever feasible and with due consideration for the security of the observers, to provide an aerial survey, preferably by helicopter, of the area of the military activity. If carried out, such a survey should provide the observers with the opportunity to observe from the air the disposition of

forces engaged in the activity in order to help them gain a general impression of its scope and scale. At least one observer from each participating State represented at the observation should be given the opportunity to participate in the survey. Helicopters and/or aircraft may be provided by the host State or by another participating State at the request of and in agreement with the host State;

- (55.5) - give the observers briefings, once daily at a minimum, with the help of maps on the various phases of the military activity and their development, and on the geographic location of the observers; in the case of a land force activity conducted in combination with air or naval components, briefings will be given by representatives of all forces involved;
- (55.6) - provide opportunities to observe directly forces of the State(s) engaged in the military activity so that the observers get an impression of the flow of the entire activity; to this end, the observers will be given the opportunity to observe combat and support units of all participating formations of a divisional or equivalent level and, whenever possible, to visit units below divisional or equivalent level and communicate with commanders and troops. Commanders and other senior personnel of the participating formations as well as of the visited units will inform the observers of the mission and disposition of their respective units;
- (55.7) - guide the observers in the area of the military activity; the observers will follow the instructions issued by the host or delegated State in accordance with the provisions set out in this document;
- (55.8) - provide the observers with opportunities for timely communication with their embassies or other official missions and consular posts; the host or delegated State is not obligated to cover the communication expenses of the observers;

- (55.9) - at the close of each observation, provide an opportunity for the observers to meet together and also with host State officials to discuss the course of the observed activity. Where States other than the host State have been engaged in the activity, military representatives of those States will also be invited to take part in this discussion.
- (56) The participating States need not invite observers to notifiable military activities which are carried out without advance notice to the troops involved unless these notifiable activities have a duration of more than 72 hours. The continuation of these activities beyond this time will be subject to observation while the agreed thresholds for observation are met or exceeded. The observation programme will follow as closely as practically possible all the provisions for observation set out in this document.
- (57) The participating States are encouraged to permit media representatives from all participating States to attend observed military activities in accordance with accreditation procedures set down by the host State. In such instances, media representatives from all participating States will be treated without discrimination and given equal access to those facets of the activity open to media representatives.
- (57.1) The presence of media representatives will not interfere with the observers carrying out their functions nor with the flow of the military activity.
- (58) The host or delegated State will provide the observers with transportation from a suitable location announced in the invitation to the area of the notified activity so that the observers are in position before the start of the observation programme. It will also provide the observers with appropriate means of transportation in the area of the military activity, and return the observers to another suitable location announced in the invitation at the conclusion of the observation programme.

#### *VI. Annual calendars*

- (59) Each participating State will exchange, with all other participating States, an annual calendar of its military activities subject to prior notification,<sup>17</sup> within the zone of application for CSBMs, forecast for the subsequent calendar year. A participating State which is to host military activities subject to

---

<sup>17</sup> As defined in the provisions on Prior Notification of Certain Military Activities.



prior notification conducted by any other participating State(s) will include these activities in its annual calendar. It will be transmitted every year in writing, in accordance with the provisions of Chapter IX, not later than 15 November for the following year.

- (60) If a participating State does not forecast any military activity subject to prior notification, it will so inform all other participating States in the same manner as prescribed for the exchange of annual calendars.
- (61) Each participating State will list the above-mentioned activities chronologically and will provide information on each activity in accordance with the following model:
  - (61.1) - number of military activities to be reported;
  - (61.2) - activity number;
  - (61.2.1) - type of military activity and its designation;
  - (61.2.2) - general characteristics and purpose of the military activity;
  - (61.2.3) - States involved in the military activity;
  - (61.2.4) - area of the military activity, indicated by geographic features, where appropriate, and defined by geographic co-ordinates;
  - (61.2.5) - planned duration of the military activity, indicated by envisaged start and end dates;
  - (61.2.6) - envisaged total number of troops<sup>18</sup> engaged in the military activity;
  - (61.2.7) - envisaged total number of troops for each State involved, if applicable. For activities involving more than one State, the host State will provide such information;
  - (61.2.8) - types of armed forces involved in the military activity;
  - (61.2.9) - envisaged level of the military activity and designation of the direct operational command under which this military activity will take place;
  - (61.2.10) - number and type of divisions whose participation in the military activity is envisaged;
  - (61.2.11) - any additional information concerning, inter alia, components of armed forces which the participating State planning the military activity considers relevant.
- (62) Should changes regarding the military activities in the annual calendar prove necessary, they will be communicated to all other participating States no later than in the appropriate notification.

---

<sup>18</sup> As defined in the provisions on Prior Notification of Certain Military Activities.

- (63) Should a participating State cancel a military activity included in its annual calendar or reduce it to a level below notification thresholds, that State will inform the other participating States immediately.
- (64) Information on military activities subject to prior notification not included in an annual calendar will be communicated to all participating States as soon as possible, in accordance with the model provided in the annual calendar.

#### *VII. Constraining provisions*

- (65) The following provisions will apply to military activities subject to prior notification:<sup>19</sup>
  - (65.1) No participating State will carry out within two calendar years more than one military activity subject to prior notification involving more than 40,000 troops or 900 battle tanks.
  - (65.2) No participating State will carry out within a calendar year more than six military activities subject to prior notification each one involving more than 13,000 troops or 300 battle tanks, but not more than 40,000 troops or 900 battle tanks.
    - (65.2.1) Of these six military activities, no participating State will carry out within a calendar year more than three military activities subject to prior notification, each one involving more than 25,000 troops or 400 battle tanks.
  - (65.3) No participating State will carry out simultaneously more than three military activities subject to prior notification each one involving more than 13,000 troops or 300 battle tanks.
- (66) Each participating State will communicate, in writing, in accordance with the provisions of Chapter IX, to all other participating States, by 15 November each year, information concerning military activities subject to prior notification involving more than 40,000 troops or 900 battle tanks, which it plans to carry out or host in the second subsequent calendar year. Such a communication will include preliminary information on the activity, as to its general purpose, timeframe and duration, area, size and States involved.
- (67) If a participating State does not forecast any such military activity, it will so inform all other participating States in the same manner as prescribed for the exchange of annual calendars.
- (68) No participating State will carry out a military activity subject

---

<sup>19</sup> As defined in the provisions on Prior Notification of Certain Military Activities.

- to prior notification involving more than 40,000 troops or 900 battle tanks, unless it has been the object of a communication as defined above and unless it has been included in the annual calendar, not later than 15 November each year.
- (69) If military activities subject to prior notification are carried out in addition to those contained in the annual calendar, they should be as few as possible.

#### *VIII. Compliance and verification*

- (70) According to the Madrid mandate, the confidence- and security-building measures to be agreed upon "will be provided with adequate forms of verification which correspond to their content".
- (71) The participating States recognize that national technical means can play a role in monitoring compliance with agreed confidence- and security-building measures.

#### *Inspection*

- (72) In accordance with the provisions contained in this document each participating State has the right to conduct inspections on the territory of any other participating State within the zone of application for CSBMs. The inspecting State may invite other participating States to participate in an inspection.
- (73) Any participating State will be allowed to address a request for inspection to another participating State within the zone of application for CSBMs.
- (74) No participating State will be obliged to accept on its territory within the zone of application for CSBMs more than three inspections per calendar year.
- (74.1) When a participating State has accepted three inspections in a calendar year, it will so inform all other participating States.
- (75) No participating State will be obliged to accept more than one inspection per calendar year from the same participating State.
- (76) An inspection will not be counted if, due to force majeure, it cannot be carried out.
- (77) The participating State which has received such a request will reply in the affirmative to the request within the agreed period of time, subject to the provisions contained in paragraphs (74) and (75).
- (78) The participating State which requests an inspection will be permitted to designate for inspection on the territory of another State within the zone of application for CSBMs, a specific

area. Such an area will be referred to as the "specified area". The specified area will comprise terrain where notifiable military activities are conducted or where another participating State believes a notifiable military activity is taking place. The specified area will be defined and limited by the scope and scale of notifiable military activities but will not exceed that required for an army level military activity.

- (79) In the specified area the inspection team accompanied by the representatives of the receiving State will be permitted access, entry and unobstructed survey, except for areas or sensitive points to which access is normally denied or restricted, military and other defence installations, as well as naval vessels, military vehicles and aircraft. The number and extent of the restricted areas should be as limited as possible. Areas where notifiable military activities can take place will not be declared restricted areas, except for certain permanent or temporary military installations which, in territorial terms, should be as small as possible, and consequently those areas will not be used to prevent inspection of notifiable military activities. Restricted areas will not be employed in a way inconsistent with the agreed provisions on inspection.
- (80) Within the specified area, the forces of participating States other than the receiving State will also be subject to the inspection.
- (81) Inspection will be permitted on the ground, from the air, or both.
- (82) The representatives of the receiving State will accompany the inspection team, including when it is in land vehicles and an aircraft from the time of their first employment until the time they are no longer in use for the purposes of inspection.
- (83) In its request, the inspecting State will notify the receiving State of:
- (83.1) - the location of the specified area defined by geographical co-ordinates;
  - (83.2) - the preferred point(s) of entry for the inspection team;
  - (83.3) - mode of transport to and from the point(s) of entry and, if applicable, to and from the specified area;
  - (83.4) - where in the specified area the inspection will begin;

- (83.5) - whether the inspection will be conducted from the ground, from the air, or both simultaneously;
- (83.6) - whether aerial inspection will be conducted using an airplane, a helicopter, or both;
- (83.7) - whether the inspection team will use land vehicles provided by the receiving State or, if mutually agreed, its own vehicles;
- (83.8) - other participating States participating in the inspection, if applicable;
- (83.9) - information for the issuance of diplomatic visas to inspectors entering the receiving State;
- (83.10) - the preferred CSCE working language(s) to be used during the inspection.
- (84) The reply to the request will be given in the shortest possible period of time, but within not more than twenty-four hours. Within thirty-six hours after the issuance of the request, the inspection team will be permitted to enter the territory of the receiving State.
- (85) Any request for inspection as well as the reply thereto will be communicated to all participating States without delay.
- (86) The receiving State should designate the point(s) of entry as close as possible to the specified area. The receiving State will ensure that the inspection team will be able to reach the specified area without delay from the point(s) of entry. The receiving State will, in its reply, indicate which of the six official working languages will be used during the inspection.
- (87) All participating States will facilitate the passage of the inspection teams through their territory.
- (88) Within 48 hours after the arrival of the inspection team at the specified area, the inspection will be terminated.
- (89) There will be no more than four inspectors in an inspection team. The inspecting State may invite other participating States to participate in an inspection. The inspection team will be headed by a national of the inspecting State, which will have at least as many inspectors in the team as any invited State. The inspection team will be under the responsibility of the inspecting State, against whose quota the inspection is counted. While conducting the inspection, the inspection team may divide into two subteams.
- (90) The inspectors and, if applicable, auxiliary personnel will be granted during their mission the privileges and immunities in

accordance with the Vienna Convention on Diplomatic Relations.

- (91) The participating States will ensure that troops, other armed personnel and officials in the specified area are adequately informed regarding the presence, status and functions of inspectors and, if applicable, auxiliary personnel. The receiving State will ensure that no action is taken by its representatives which could endanger inspectors and, if applicable, auxiliary personnel. In carrying out their duties, inspectors and, if applicable, auxiliary personnel will take into account safety concerns expressed by representatives of the receiving State.
- (92) The receiving State will provide the inspection team with appropriate board and lodging in a location suitable for carrying out the inspection, and, when necessary, medical care; however this does not exclude the use by the inspection team of its own tents and rations.
- (93) The inspection team will have use of its own maps and charts, photo and video cameras, binoculars, hand-held passive night vision devices and dictaphones. Upon arrival in the specified area the inspection team will show the equipment to the representatives of the receiving State. In addition, the receiving State may provide the inspection team with a map depicting the area specified for the inspection.
- (94) The inspection team will have access to appropriate telecommunications equipment of the receiving State for the purpose of communicating with the embassy or other official missions and consular posts of the inspecting State accredited to the receiving State.
- (95) The receiving State will provide the inspection team with access to appropriate telecommunications equipment for the purpose of continuous communication between the subteams.
- (96) Inspectors will be entitled to request and to receive briefings at agreed times by military representatives of the receiving State. At the inspectors' request, such briefings will be given by commanders of formations or units in the specified area. Suggestions of the receiving State as to the briefings will be taken into consideration.
- (97) The inspecting State will specify whether aerial inspection will be conducted using an airplane, a helicopter or both. Aircraft for inspection will be chosen by mutual agreement between the inspecting and receiving States. Aircraft will be chosen which provide the inspection team with a continuous view of the ground during the inspection.

- (98) After the flight plan, specifying, inter alia, the inspection team's choice of flight path, speed and altitude in the specified area, has been filed with the competent air traffic control authority the inspection aircraft will be permitted to enter the specified area without delay. Within the specified area, the inspection team will, at its request, be permitted to deviate from the approved flight plan to make specific observations provided such deviation is consistent with paragraph (79) as well as flight safety and air traffic requirements. Directions to the crew will be given through a representative of the receiving State on board the aircraft involved in the inspection.
- (99) One member of the inspection team will be permitted, if such a request is made, at any time to observe data on navigational equipment of the aircraft and to have access to maps and charts used by the flight crew for the purpose of determining the exact location of the aircraft during the inspection flight.
- (100) Aerial and ground inspectors may return to the specified area as often as desired within the 48-hour inspection period.
- (101) The receiving State will provide for inspection purposes land vehicles with cross-country capability. Whenever mutually agreed, taking into account the specific geography relating to the area to be inspected, the inspecting State will be permitted to use its own vehicles.
- (102) If land vehicles or aircraft are provided by the inspecting State, there will be one accompanying driver for each land vehicle, or accompanying aircraft crew.
- (103) The inspecting State will prepare a report of its inspection using a format to be agreed by the participating States and will provide a copy of that report to all participating States without delay.
- (104) The inspection expenses will be incurred by the receiving State except when the inspecting State uses its own aircraft and/or land vehicles. The inspecting State will be responsible for travel expenses to and from the point(s) of entry.

#### *Evaluation*

- (105) Information provided under the provisions on Information on Military Forces and on Information on Plans for the

- Deployment of Major Weapon and Equipment Systems will be subject to evaluation.
- (106) Subject to the provisions below each participating State will provide the opportunity to visit active formations and units in their normal peacetime locations as specified in points 2 and 3 of the provisions on Information on Military Forces to allow the other participating States to evaluate the information provided.
- (106.1) Non-active formations and combat units temporarily activated will be made available for evaluation during the period of temporary activation and in the area/location of activation indicated under paragraph (10.3.3). In such cases the provisions for the evaluation of active formations and units will be applicable, *mutatis mutandis*. Evaluation visits conducted under this provision will count against the quotas established under paragraph (107).
- (107) Each participating State will be obliged to accept a quota of one evaluation visit per calendar year for every sixty units, or portion thereof, reported under paragraph (10). However, no participating State will be obliged to accept more than fifteen visits per calendar year. No participating State will be obliged to accept more than one fifth of its quota of visits from the same participating State; a participating State with a quota of less than five visits will not be obliged to accept more than one visit from the same participating State during a calendar year. No formation or unit may be visited more than twice during a calendar year and more than once by the same participating State during a calendar year.
- (107.1) A participating State will inform all other participating States when, if applicable, its quota is filled.
- (108) No participating State will be obliged to accept more than one visit at any given time on its territory.
- (109) If a participating State has formations or units stationed on the territory of other participating States (host States) in the zone of application for CSBMs, the maximum number of evaluation visits permitted to its forces in each of the States concerned will be proportional to the number of its units in each State. The application of this provision will not alter the number of visits this participating State (stationing State) will have to accept under paragraph (107).
- (110) Requests for such visits will be submitted giving five days notice.
- (111) The request will specify:
- (111.1) - the formation or unit to be visited;



- (111.2) - the proposed date of the visit;
- (111.3) - the preferred point(s) of entry as well as the date and estimated time of arrival for the evaluation team;
- (111.4) - the mode of transport to and from the point(s) of entry and, if applicable, to and from the formation or unit to be visited;
- (111.5) - the names and ranks of the members of the team and, if applicable, information for the issue of diplomatic visas;
- (111.6) - the preferred CSCE working language(s) to be used during the visit.
- (112) If a formation or unit of a participating State is stationed on the territory of another participating State, the request will be addressed to the host State and sent simultaneously to the stationing State.
- (113) The reply to the request will be given within 48 hours after the receipt of the request.
- (114) In the case of formations or units of a participating State stationed on the territory of another participating State, the reply will be given by the host State in consultation with the stationing State. After consultation between the host State and the stationing State, the host State will specify in its reply any of its responsibilities which it agrees to delegate to the stationing State.
- (115) The reply will indicate whether the formation or unit will be available for evaluation at the proposed date at its normal peacetime location.
- (116) Formations or units may be in their normal peacetime location but be unavailable for evaluation. Each participating State will be entitled in such cases not to accept a visit; the reasons for the non-acceptance and the number of days that the formation or unit will be unavailable for evaluation will be stated in the reply. Each participating State will be entitled to invoke this provision up to a total of five times for an aggregate of no more than 30 days per calendar year.
- (117) If the formation or unit is absent from its normal peacetime location, the reply will indicate the reasons for and the duration of its absence. The requested State may offer the possibility of a visit to the formation or unit outside its normal peacetime location. If the requested State does not offer this possibility, the requesting State will be able to visit the normal

- peacetime location of the formation or unit. The requesting State may however refrain in either case from the visit.
- (118) Visits will not be counted against the quotas of receiving States, if they are not carried out. Likewise, if visits are not carried out, due to force majeure, they will not be counted.
- (119) The reply will designate the point(s) of entry and indicate, if applicable, the time and place of assembly of the team. The point(s) of entry and, if applicable, the place of assembly will be designated as close as possible to the formation or unit to be visited. The receiving State will ensure that the team will be able to reach the formation or unit without delay. The receiving State will, in its reply, indicate which of the six official working languages will be used during the evaluation visit.
- (120) The request and the reply will be communicated to all participating States without delay.
- (121) Participating States will facilitate the passage of teams through their territory.
- (122) The team will have no more than two members. It may be accompanied by an interpreter as auxiliary personnel.
- (123) The members of the team and, if applicable, auxiliary personnel will be granted during their mission the privileges and immunities in accordance with the Vienna Convention on Diplomatic Relations.
- (124) The visit will take place in the course of a single working day and last up to 12 hours.
- (125) The visit will begin with a briefing by the officer commanding the formation or unit, or his deputy, in the headquarters of the formation or unit, concerning the personnel as well as the major weapon and equipment systems reported under paragraph (10).
- (125.1) In the case of a visit to a formation, the receiving State may provide the possibility to see personnel and major weapon and equipment systems reported under paragraph (10) for that formation, but not for any of its formations or units, in their normal locations.
- (125.2) In the case of a visit to a unit, the receiving State will provide the possibility to see the personnel and the major weapon and equipment systems of the unit reported under paragraph (10) in their normal locations.
- (126) Access will not have to be granted to sensitive points, facilities and equipment.
- (127) The team will be accompanied at all times by representatives of the receiving State.

- (128) The receiving State will provide the team with appropriate transportation during the visit to the formation or unit.
- (129) The evaluation team will have use of its own maps and charts, photo and video cameras, personal binoculars and dictaphones. Upon arrival at the location of the formation or unit being visited the evaluation team will show the equipment to the representatives of the receiving State.
- (130) The visit will not interfere with activities of the formation or unit.
- (131) The participating States will ensure that troops, other armed personnel and officials in the formation or unit are adequately informed regarding the presence, status and functions of members of teams and, if applicable, auxiliary personnel. Participating States will also ensure that no action is taken by their representatives which could endanger the members of teams and, if applicable, auxiliary personnel. In carrying out their duties, members of teams and, if applicable, auxiliary personnel will take into account safety concerns expressed by representatives of the receiving State.
- (132) Travel expenses to and from the point(s) of entry, including expenses for refuelling, maintenance and parking of aircraft and/or land vehicles of the visiting State, will be borne by the visiting State according to existing practices established under the CSBM inspection provisions.
- (132.1) Expenses for evaluation visits incurred beyond the point(s) of entry will be borne by the receiving State, except when the visiting State uses its own aircraft and/or land vehicles in accordance with paragraph (111.4).
- (132.2) The receiving State will provide appropriate board and, when necessary, lodging in a location suitable for carrying out the evaluation as well as any urgent medical care which may be required.
- (132.3) In the case of visits to formations or units of a participating State stationed on the territory of another participating State, the stationing State will bear the costs for the discharge of those responsibilities which have been delegated to it by the host State under the terms of paragraph (114).
- (133) The visiting State will prepare a report of its visit using a format to be agreed by the participating States which will be communicated to all participating States expeditiously.
- (134) The communications concerning compliance and verification will be transmitted preferably through the CSBM communications network.
- (135) Each participating State will be entitled to request and obtain

clarification from any other participating State concerning the application of agreed confidence- and security-building measures. The requested participating State will provide promptly relevant clarification to the requesting participating State unless otherwise specified in this document. Communications in this context will, if appropriate, be transmitted to all other participating States.

\*\*\*

- (136) The participating States are encouraged to undertake, including on the basis of separate agreements, in a bilateral, multilateral or regional context, measures to increase transparency and confidence. Illustrative examples could be as follows:
- (136.1) -to provide their neighbouring participating States with information on certain military activities carried out below the thresholds for notification and close to borders between them;
- (136.2) -to invite representatives from other, especially neighbouring participating States to observe exercises other than those subject to the provisions of this document.
- (137) The participating States are encouraged to provide information on such measures to the CPC, which will distribute lists of received information and make it available upon request.

#### *IX. Communications*

##### *(138) The CSCE communications network*

The participating States have established a network of direct communications between their capitals for the transmission of messages relating, inter alia, to agreed measures contained in this document. The network will complement the existing use of diplomatic channels. Participating States undertake to use the network flexibly, efficiently and in a cost-effective way in communications between States concerning agreed CSBMs and other CSCE-related matters.

##### *(139) Financial arrangements*

The cost-sharing arrangements are set out in documents CSCE/WV/Dec.2 and CSCE/WV/Dec.4.

##### *(140) Points of contact*

Each participating State will designate a point of contact capable of transmitting and receiving messages from other participating States on a 24-hour-a-day basis and will notify in advance any change in this designation.

(141) *Six CSCE languages*

Communications may be in any one of the six working languages of the CSCE. Without prejudicing the future continued use of all six working languages of the CSCE, according to established rules and practice as set out in the Final Recommendations of the Helsinki Consultations, the participating States will:

- (141.1) -in order to facilitate an efficient use of the communications network, give due consideration to practical needs of rapid transmission of their messages and of immediate understandability. A translation into another CSCE working language will be added where needed to meet that principle;
- (141.2) -indicate at least two CSCE working languages in which they would prefer to receive the message or its translation.

(142) *Use of the network*

Participating States will, whenever possible, use the Standard Operating Procedures (S.O.P.) and enforce user discipline to maximize the efficiency and cost-effectiveness of the network.

- (142.1) Messages will always have headers as defined in the S.O.P.
- (142.2) Messages will, whenever possible, be transmitted in formats with headings in all six CSCE working languages. Such formats, agreed among the participating States with a view to making transmitted messages immediately understandable by reducing the language element to a minimum, are annexed to document CSCE/WV/Dec.4. The formats may be subject to agreed modifications as required.

- (142.3) Messages will be considered official communications of the sending State. If the content of a message is not related to an agreed measure, the receiving State has the right to reject it by so informing the other participating States.
- (142.4) Any narrative text, to the extent it is required in such formats, and messages that do not lend themselves to formatting will be transmitted in the CSCE working languages chosen by the transmitting State, in accordance with the provisions of paragraph (141).
- (142.5) Each participating State has the right to ask for clarification of messages in case of doubt.
- (143) *Additional use of the network*
- Participating States may agree among themselves to use the network for other purposes.
- (144) *The Communications Group*
- A Communications Group will be established, composed of representatives of the participating States and chaired, on behalf of the Chairman-in-Office, by a representative of the Secretary General of the CSCE.
- (144.1) The group will address questions relating to rules of procedure, working methods, formats and any other measures to enhance the viability and effectiveness of the communications network, including issues relating to use of modern information technologies for data exchange.
- (144.2) The group will meet two times per year for at least one day. Additional meetings may be convened as necessary.
- (144.3) The Chairman of the Group will report to the appropriate CSCE committee about the proceedings of the Communications Group and, if appropriate, present drafts for decisions to be taken as prepared by the Group.

*X. Annual implementation assessment meeting*

- (145) The participating States will hold each year a meeting to discuss the present and future implementation of agreed CSBMs. Discussion may extend to:
- (145.1) -clarification of questions arising from such implementation;
- (145.2) -operation of agreed measures, including the use of additional equipment during inspections and evaluation visits;

- (145.3) -implications of all information originating from the implementation of any agreed measures for the process of confidence- and security-building in the framework of the CSCE.
- (146) Before the conclusion of each year's meeting the participating States will normally agree upon the agenda and dates for the subsequent year's meeting. Lack of agreement will not constitute sufficient reason to extend a meeting, unless otherwise agreed. Agenda and dates may, if necessary, be agreed between meetings.
- (147) The Special Committee of the Forum for Security Co-operation will hold such meetings. It will consider, as required, suggestions made during the AIAM aiming at the improvement of the implementation of CSBMs.  
Within one month after the AIAM, the Conflict Prevention Centre will circulate a survey of such suggestions.
- (147.1) One month prior to the meeting, the Conflict Prevention Centre will circulate a survey of exchanged annual information and ask participating States to confirm or to correct applicable data.
- (147.2) Any participating State may request assistance in implementing the provisions of this document from any other participating State.
- (147.3) Participating States which, for whatever reason, have not exchanged annual information according to this document will during the meeting explain the reasons why and provide an expected date for their full compliance with this commitment.

\*\*\*

- (148) The participating States will implement this set of mutually complementary confidence- and security-building measures in order to promote security co-operation and to reduce the risk of military conflict.
- (149) In order to strengthen compliance with agreed confidence- and security-building measures and in addition to other relevant provisions of this document, the participating States will, as necessary, consider in appropriate CSCE bodies how to ensure full implementation of those measures.

- (150) The measures adopted in this document are politically binding and will come into force on 1 January 1995, unless specified otherwise.
- (151) The Secretary General of the CSCE is requested to transmit the present document to the Secretary-General of the United Nations and to the Governments of the non-participating Mediterranean States, observer State, Japan and the Republic of Korea.
- (152) The text of this document will be published in each participating State, which will disseminate it and make it known as widely as possible.
- (153) The representatives of the participating States express their profound gratitude to the Government and people of Austria for the excellent arrangements they have made for the negotiations within the framework of the FSC and the warm hospitality they have extended to the delegations which participated in the negotiations.

Vienna, 28 November 1994



## Annex I

Under the terms of the Madrid mandate, the zone of application for CSBMs is defined as follows:

On the basis of equality of rights, balance and reciprocity, equal respect for the security interests of all CSCE participating States, and of their respective obligations concerning confidence- and security-building measures and disarmament in Europe, these confidence- and security-building measures will cover the whole of Europe as well as the adjoining sea area<sup>20</sup> and air space. They will be of military significance and politically binding and will be provided with adequate forms of verification which correspond to their content.

As far as the adjoining sea area and air space is concerned, the measures will be applicable to the military activities of all the participating States taking place there whenever these activities affect security in Europe as well as constitute a part of activities taking place within the whole of Europe as referred to above, which they will agree to notify. Necessary specifications will be made through the negotiations on the confidence- and security-building measures at the Conference.

Nothing in the definition of the zone given above will diminish obligations already undertaken under the Final Act. The confidence- and security-building measures to be agreed upon at the Conference will also be applicable in all areas covered by any of the provisions in the Final Act relating to confidence-building measures and certain aspects of security and disarmament.

Wherever the term "the zone of application for CSBMs" is used in this document, the above definition will apply. The following understanding will apply as well:

The commitments undertaken in letters to the Chairman-in-Office of the CSCE Council by Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan on 29 January 1992 have the effect of extending the application of CSBMs in the Vienna Document 1992 to the territories of the above-mentioned States insofar as their territories were not covered already by the above.

---

<sup>20</sup> In this context, the notion of adjoining sea area is understood to refer also to ocean areas adjoining Europe.

## Annex II

The following provisions will apply in conformity with the events as set out in Chapters III and V:

- (1) Invitations  
Invitations will be extended in accordance with the provisions of Chapter IX to all participating States 42 days or more in advance of the event. The invitations will include the following information as applicable:
  - (1.1) the type of event, e.g. visits to air bases, military facilities or military formations, a demonstration of new types of major weapon and equipment systems or an observation of certain military activities;
  - (1.2) the location where the event will take place, including geographic co-ordinates in case of visits to air bases;
  - (1.3) State arranging the event and, if different, the host State;
  - (1.4) responsibilities delegated;
  - (1.5) whether the event is combined with other events;
  - (1.6) number of visitors or observers invited;
  - (1.7) date, time and place of assembly;
  - (1.8) planned duration of the event;
  - (1.9) anticipated date, time and place of departure at the end of the programme;
  - (1.10) arrangements for transportation;
  - (1.11) arrangements for board and lodging, including a point of contact for communications with visitors or observers;
  - (1.12) language(s) to be used during the programme;
  - (1.13) equipment to be issued by the State arranging the event;
  - (1.14) possible authorization by the host State and, if different, the State arranging the event, of the use of special equipment that the visitors or observers may bring with them;
  - (1.15) arrangements for special clothing to be issued;
  - (1.16) any other information including, if applicable, the designation/name of the air base, military facility or formation to be visited, the designation of the military activity to be observed and/or the type(s) of major weapon and equipment system(s) to be viewed.
- (2) Replies  
Replies, indicating whether or not the invitation is accepted, will be given in writing, in accordance with the provisions of

- Chapter IX, not later than 21 days before the event and will include the following information:
- (2.1) reference to invitation;
  - (2.2) name and rank of visitors or observers;
  - (2.3) date and place of birth;
  - (2.4) passport information (number, date and place of issue, expiration date);
  - (2.5) travel arrangements, including airline name and flight number, if applicable, and time and place of arrival.
- If the invitation is not accepted in time, it will be assumed that no visitors or observers will be sent.
- (3) Financial aspects
    - (3.1) The invited State will cover the travel expenses of its representative(s) to the place of assembly and from the place of departure, possibly the same as the place of assembly, as specified in the invitation;
    - (3.2) The State arranging the event will cover travel arrangements and expenses from the place of assembly and to the place of departure - possibly the same as the place of assembly - as well as appropriate civil or military board and lodging in a location suitable for carrying out the event.
  - (4) Other provisions
    - The participating State(s) will, in due co-operation with the visitors or observers, ensure that no action is taken which could be harmful to their safety.
    - Furthermore, the State arranging the event will:
      - (4.1) give equal treatment and offer equal opportunities to all visitors or observers to carry out their functions;
      - (4.2) restrict to the minimum necessary the time reserved for transfer and administrative activities during the event;
      - (4.3) provide any urgent medical care which may be required.

### **Annex III**

#### *Chairman's Statement*

It is understood that the implementation aspects of CSBMs in the case of contiguous areas of participating States specified in the understanding of Annex I which share frontiers with non-European non-participating States may be discussed at future Annual Implementation Assessment Meetings.

This statement will be an annex to the Vienna Document 1994 and will be published with it.

Vienna, 28 November 1994

#### **Annex IV**

##### *Chairman's Statement*

It is understood that the participating States will take into consideration practical problems which may arise at an initial stage in implementing CSBMs on the territories of newly independent States admitted to the CSCE. Those States will promptly inform all the participating States about such practical problems.

This statement will not constitute a precedent and will be subject to review in the light of the discussion at the Annual Implementation Assessment Meeting.

This statement will be an annex to the Vienna Document 1994 and will be published with it.

Vienna, 28 November 1994

#### **Annex V**

##### *Chairman's Statement*

In view of the task of the Conflict Prevention Centre to support the implementation of CSBMs assigned to it in the Charter of Paris the CPC should prepare, on a regular basis, a factual presentation of the information exchanged in accordance with this document between all participating States. At least initially, this should be done on the basis of existing resources.

This factual presentation should facilitate the analysis of this information by participating States and will not entail conclusions by the CPC.

This Chairman's Statement will be subject to review and may be amended, as appropriate, by the Special Committee of the FSC.

This statement will be an annex to the Vienna Document 1994 and will be published with it.

Vienna, 28 November 1994

# CSCE Forum for Security Co-operation

Budapest, 28 November 1994

The participating States, acting in accordance with paragraph 4 of the Programme for Immediate Action set out in the Helsinki Document 1992, have adopted the following measure:

## *Global Exchange of Military Information*

### (1) *General Provisions*

The participating States of the CSCE will exchange annually information on major weapon and equipment systems and personnel in their conventional armed forces, on their territory as well as worldwide, as specified below. The global exchange of military information will be separate from other information exchange regimes and will not be subject to limitations, constraints or verification. This information will be provided not later than 30 April of each year and it will reflect the situation as of 1 January of that year.

### (2) *Information on Command Structure and Personnel*

(2.1) Information will be provided for general or equivalent staff with regard to:

(2.1.1) location;

(2.1.2) peacetime authorized personnel strength.

(2.2) Information on the command organization of the forces referred to in paragraph (1) will be provided according to the provisions of paragraph (4.1), specifying for each formation:

(2.2.1) designation;

(2.2.2) first level of subordination;

(2.2.3) normal peacetime location of headquarters, specifying the exact geographic terms and/or co-ordinates.

(2.3) Information on personnel will be provided with regard to:

(2.3.1) peacetime authorized personnel strength for each formation or service according to the provisions of paragraph (4) of this document;

- (2.3.2) total authorized conscripts and total authorized professional officers/enlisted;
- (2.3.3) total officers/enlisted on active duty by rank;
- (2.3.4) total personnel in reserve status who have completed their initial military service or training and who have been called up or have reported voluntarily for military service or training since the last exchange of information;
- (2.3.5) total military personnel serving under the command of the United Nations or under a mandate of the CSCE.

(3) *Information on Holdings of Major Weapons and Equipment Systems*

Information on major weapon and equipment systems will be provided in the categories listed in paragraphs (3.1) to (3.9) with regard to total holdings and holdings according to the provisions of paragraph (4). This information excludes those major weapon and equipment systems undergoing testing or evaluation, provided that they have not yet entered into service.

- (3.1) Battle tanks
- (3.2) Armoured combat vehicles:
  - (3.2.1) armoured personnel carriers;
  - (3.2.2) armoured infantry fighting vehicles;
  - (3.2.3) heavy armament combat vehicles.
- (3.3) Armoured vehicle launched bridges
- (3.4) Anti-tank guided missile launchers permanently/integrally mounted on armoured vehicles
- (3.5) Self-propelled and towed artillery:
  - (3.5.1) guns, howitzers and artillery pieces combining the characteristics of guns and howitzers, 100 mm calibre or larger;
  - (3.5.2) mortars, 100 mm calibre or larger;
  - (3.5.3) multiple launch rocket systems, 100 mm calibre or larger.
- (3.6) Aircraft:
  - (3.6.1) combat aircraft, specifying total number of aircraft capable of operating from aircraft carriers;
  - (3.6.2) military transport aircraft;
  - (3.6.3) primary trainer aircraft.
- (3.7) Helicopters:
  - (3.7.1) attack helicopters;
  - (3.7.2) combat support helicopters;
  - (3.7.3) military transport helicopters.

- (3.8) Surface warships, greater than 400 tons fully loaded displacement
- (3.9) Submarines greater than 50 tons submerged

(4) *Levels of Disaggregation*

- (4.1) For the command organization, information in paragraph (2.2) will be provided according to the following levels of disaggregation:
  - for land forces down to division or equivalent or, if no such equivalent exists, the next higher level of command;
  - for other forces down to the level of army or equivalent or, if no such equivalent exists, down to the next lower level of command.
- (4.2) For all land forces stationed within the territory of the reporting State, the information in paragraphs (2.3.1) and (3) will be provided from the highest level down to and including the level of army or equivalent or, if no such equivalent exists, down to the next lower level of command.
- (4.3) For all other forces stationed within the territory of the reporting State, the information in paragraphs (2.3.1) and (3) will be disaggregated down to the level of service.
- (4.4) For all forces stationed beyond the territory of the reporting State, the information in paragraphs (2.3.1) and (3) will be disaggregated down to the level of service, specifying the numbers for each respective region in which such forces are stationed.

(5) *Technical Data and Photographs*

Each participating State will also provide the following information on each type or class of major weapon and equipment systems in the inventory of its armed forces for each category listed in paragraph (3):

- (5.1) Type;
  - (5.2) National nomenclature/Name;
  - (5.3) General descriptions of characteristics and capabilities.
- This information will be provided together with relevant photographs.
- If this information has not previously been reported to all other participating States, it will be exchanged once and amended as required in the next information exchange if new types or classes enter into service.

(6) *Weapon and Equipment Systems Newly Entered into Service*

Each participating State will provide to all other participating States the following information concerning its major weapon and equipment systems as specified in paragraph (3):

- (6.1) Total number of equipments by category entered into service in the previous calendar year through national production;
- (6.2) Total number of equipments by category entered into service in the previous calendar year through imports.

(7) *Clarification*

- (7.1) In addition to clarifications obtained at the Annual Implementation Assessment Meeting (AIAM), each participating State may ask for clarification from any other participating State concerning the application of this measure. Communications in this context will, if appropriate, be transmitted to all other participating States.
- (7.2) Each participating State, on the basis of its national practice, will make available a glossary of terms, acronyms and abbreviations used in the implementation of this measure, and any other explanation it deems necessary for the better understanding of the information provided.

(8) *Communications*

- (8.1) The information will be provided in an agreed format.
- (8.2) Communications will be made in accordance with the provisions of Chapter IX of the Vienna Document 1994 of the Negotiations on Confidence- and Security-Building Measures.
- (8.3) If information required under this measure has already been provided in another CSCE context, participating States may refer to the information under the respective format.

\*\*\*

The participating States have decided that the aforementioned measure is politically binding and will come into force on 1 January 1995.



## **Annual Report 1995 on OSCE Activities**

### Table of contents

I.	Introduction	485
II.	Activities of the OSCE	487
1.	Political Consultations and Negotiations	487
2.	Early Warning, Conflict Prevention and Crisis Management	487
2.1.	Missions	487
2.1.1.	Mission to Kosovo, Sandjak and Vojvodina	489
2.1.2.	Mission to Skopje	489
2.1.3.	Mission to Georgia	489
2.1.4.	Mission to Moldova	491
2.1.5.	Mission to Tajikistan	492
2.1.6.	Mission to Ukraine	492
2.1.7.	Mission to Sarajevo	493
2.1.8.	The OSCE Assistance Group to Chechnya	494
2.1.9.	Mission to Latvia	494
2.1.10.	The OSCE Representative to the Russian-Latvian Joint Commission on Military Pensioners	495
2.1.11.	The OSCE Representative to the Joint Committee on the Skrunda Radar Station	495
2.1.12.	Mission to Estonia	495
2.1.13.	The OSCE Representative on the Estonian Government Commission on Military Pensioners	496
2.2.	The Conflict in the Area Dealt with by the Minsk	
		483

	Conference	496
2.3.	Sanctions Coordinator and Sanctions Assistance Missions (SAMs)	497
2.4.	Other Conflict Prevention and Crisis Management Activities	498
3.	The High Commissioner on National Minorities (HCNM)	498
4.	The Human Dimension	501
4.1.	Democratic Institutions Building	501
4.2.	Election Monitoring	501
4.3.	Seminars, Symposia, Meetings	504
4.4.	Contact Point for Roma and Sinti Issues	505
5.	Security Cooperation	506
5.1.	New Measures in the Field of Arms Control and Confidence- and Security Building	506
5.2.	The Code of Conduct	506
5.3.	FSC Seminars	507
5.4.	The Annual Implementation Assessment Meeting (AIAM)	507
6.	Other Important Activities	508
6.1.	Integration of Recently Admitted Participating States	508
6.2.	The Economic Dimension	509
6.3.	Press and Public Information	509
III.	The Parliamentary Assembly (PA)	511
IV.	Relations with International Organizations and Institutions	512
V.	Relations with Non-Participating States (NPS)	513
VI.	Contacts with Non-Governmental Organizations (NGOs)	514
VII.	Administration and Finance	515
1.	Organizational and Personnel Matters	515
2.	Financial Matters	515

## *I. Introduction*

The difficulties encountered in 1995 in dealing with both new and old conflicts highlighted the risk of the transition period being further extended. The general atmosphere was marked by uncertainties about the potential and role of the UN and regional and subregional organizations. While the demands and needs for international involvement further increased, the limits to the availability of international support and the reluctance of States and international organizations to extend their involvement indicated unresolved structural problems. Against this background and under the leadership of the Hungarian Chair, the OSCE increased its contribution to conflict prevention and resolution, began developing new approaches to military aspects of security and started the discussion on a Security Model for the 21st century.

In the reporting period (November 1994 to October 1995) it became apparent that the decisions of the Budapest Summit, as reflected in its acceptance of the name "Organization for Security and Co-operation in Europe," had strengthened the OSCE structures and considerably increased its potential for political consultation and operational conflict management. Insisting on the implementation of basic OSCE commitments, Hungarian Foreign Minister Kovács was able to exercise the Chairman-in-Office's crucial lead function in initiating and managing OSCE support of efforts aimed at achieving peaceful solutions to the serious problems in Chechnya in the Russian Federation. With his rapidly increasing responsibility and workload, the Chairman-in-Office engaged the Troika (Hungary, Switzerland and Italy) at both the Ministerial and Permanent Representative level in Vienna. In the conflict dealt with by the Minsk Conference, the dynamic joint chairmanship of the Russian Federation and Finland considerably improved the chances of negotiating a settlement; the High-Level Planning Group advanced the planning for a first OSCE peacekeeping operation for this area to a stage allowing early action once the necessary financial and personnel requirements are met and the political conditions are fulfilled by the parties.

As the prospects of a negotiated settlement in Bosnia and Herzegovina improved, the OSCE's involvement in the post-conflict phase became more specific. The OSCE's operational capacities will be challenged by the demands of support and monitoring before, during and following elections, as well as preparations for regional security arrangements and continued support for the function of ombudsmen in the federative structures. At the same time, the OSCE is also getting involved in Human Dimension support activities in Croatia.

The new and increasingly central role of the Permanent Council in Vienna provided the OSCE with a permanently available body of OSCE participating States, strengthening both the consultative and operational functions of the Organization. This helped also to provide political support for the tasks of the eight operative OSCE Missions and the OSCE Assistance Group to

Chechnya. Work relating to these specific tasks and to a broad spectrum of current issues, consultations with the High Commissioner on National Minorities, regular briefings of the Director of the ODIHR, and also the work on the Security Model, all contributed to developing a culture of political consultation, where the concerns of participating States are discussed and their security interests heard.

After a consensus was finally reached to admit the former Yugoslav Republic of Macedonia as a participating State of the OSCE, the number of fully participating States rose to 53. The Federal Republic of Yugoslavia (Serbia and Montenegro) is still excluded from participation in OSCE activities; the status of this country vis-à-vis the OSCE is unclear.

Encountering the obstacles to an early resolution of conflict once the threshold of violence has been crossed, the conflict prevention capabilities of the High Commissioner on National Minorities and the ODIHR were further expanded and strengthened.

Taking account of the increasingly crucial role of economic and environmental factors in the transition process of Central and Eastern European as well as Central Asian OSCE States, the OSCE continued its efforts to provide a clearer direction and a higher profile to its activities in the economic dimension, including environmental issues.

The Forum for Security Co-operation improved its internal structures so that its consultative as well as negotiating tasks could be more easily carried out.

While taking great care to maintain its basically unbureaucratic character, the OSCE continued to consolidate its administrative infrastructure. But with the steadily increasing volume of its operational activities, the Organization can only preserve its administrative flexibility if its participating States are ready to provide a greater number of qualified personnel on a seconded basis.

In 1996 the OSCE will have to cope with a number of foreseeable challenges: the deployment of a first multinational OSCE peacekeeping force; an important OSCE role in Bosnia and Herzegovina; early results in negotiating and implementing regional security measures for Southeastern Europe; and the development of an imaginative and realistic concept for the Security Model for the 21st century. Decision-making, operational management and the readiness to provide rapidly the necessary personnel and financial resources might well prove a real test of OSCE's political will and operational capabilities.

As this is the last annual report of the first Secretary General of the OSCE, I would like to add that the performance of the OSCE's rapidly increasing tasks will entail taking full advantage of the Secretary General's mandate in

support of the Chairman-in-Office, so as to involve him more actively in all aspects of the management of the OSCE.

## *II. Activities of the OSCE*

### *1. Political Consultations and Negotiations*

The Budapest Summit decisions, by streamlining the structure and to some extent defining the tasks of the Ministerial (MC), Senior (SC) and Permanent (PC) Councils, enhanced the OSCE's capacity for consultation, negotiation and decision-making. The role and competence of the PC were strengthened, with almost all OSCE States now represented in Vienna, the seat of the PC, by a permanent OSCE Delegation. ("OSCE Ambassadors" also represent their countries in the Joint Consultative Group of the Treaty on Conventional Armed Forces in Europe and in the Open Skies Consultative Committee). The SC in Prague, meeting twice in 1995, attracted high-level participants from capitals and developed its function of assessing and guiding the work of the PC. The Forum for Security Co-operation agreed on a monthly rotating Chairmanship and better use of the "FSC Troika," providing clearer direction and greater continuity in this second permanent OSCE Vienna-based body.

### *2. Early Warning, Conflict Prevention and Crisis Management*

Preventive diplomacy and crisis management continued to be the main area of the OSCE's operative action. The increased authority of the CIO and greater involvement of the Troika facilitated OSCE action in the preparatory and implementation phases before and after adoption of consensus-based decisions by the Council. This helped narrow the traditional gap between early warning and early action, the most critical period in the initial phase of the crisis management process.

#### *2.1. Missions*

While the number of long-term missions remained unchanged compared with the preceding reporting period, the overall number of OSCE field operations has grown; the mandates of some missions were adjusted to meet political, military and humanitarian requirements in the field.

The carefully elaborated mandate of the OSCE Chechnya Assistance Group is a good example of the OSCE's - and OSCE States' - ability to adjust OSCE instruments to the specific circumstances of a given situation.

Great attention was given to fully exploiting the potential of the HCNM and the ODIHR in relation to the work of the Missions. Continuous efforts were made by the Missions, the CIO and the Secretariat to ensure close co-

ordination and co-operation between the Missions and other international organizations.

The annual meeting of all Heads of OSCE Mission (HOMs) and of other OSCE representatives was held in Vienna (20-22 June). The reports of the Heads of Mission showed the very broad spectrum of the Missions' mandates and the great variety of mandate-oriented activities. The reports also highlighted the importance of initiatives by the Heads of Mission and their teams for achieving progress. Addressing the problems presented by six-month rotation for Mission staff, the Heads of Mission pleaded for a greater continuity. Most Heads of Mission spoke in favour of more substantive support from OSCE institutions and more flexibility within the framework of their budgets so as to facilitate ad hoc measures such as round tables, seminars, etc.

The HOM's meeting also illustrated once again the extent to which the progress and success of a Mission depend on the quality of the HOM and his staff. It will be difficult to maintain the prevailing high standards if, more and more frequently, the choice of HOMs and Mission staff is limited to a single person.

For the first time, a Mission member lost his life in the performance of his duties. Mr. Antanas Nesavas from Lithuania was killed in Tbilisi in a fatal car accident.

As the work of a number of Missions is approaching the phase of conflict settlement, the OSCE is increasingly faced with a new question: What kind of "guarantees" can the OSCE provide for the implementation of a negotiated settlement by all concerned? While it is clear that the OSCE cannot give formal guarantees, it is also clear that the OSCE as such and OSCE States through the OSCE have at their disposal a fairly wide range of possibilities for fostering and "protecting" the implementation of peaceful settlements negotiated with OSCE involvement. This is another area where pragmatic development of OSCE instruments is needed.

Since its inception in April 1993, the Mission Support Section (MSS) of the CPC Department of the OSCE Secretariat has been responsible for daily support of OSCE field missions and other OSCE non-local activities. This includes logistics, procurement, transportation, inventory control, communications, personnel, insurance, and preparation of mission budgets, etc. As more missions are organized, deployed and/or expanded, the complexity and scope of the efforts of the MSS have also increased.

At the beginning of 1995, the MSS supported eight field missions. During the reporting period the Chechnya Assistance Group was added to the OSCE field operations, as well as three field offices of the Mission to Sarajevo, three field offices in Tajikistan, one in Moldova, the Skrunda Radar Station Representative, the Personal Representative of the Chairman-in-Office on the Conflict dealt with by the Minsk Conference, and the OSCE Liaison Office for Central Asia in Tashkent.

A total of 79 authorized seconded personnel are working in the field missions.

#### *2.1.1. Mission to Kosovo, Sandjak and Vojvodina*

The Mission continued to be non-operational. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) has made the Mission's readmission conditional on the Federal Republic of Yugoslavia's status as a fully participating State of the OSCE.

This Mission's reporting has been partly replaced by reports from OSCE States, in particular, those of the OSCE Troika. Information thus submitted to an ad hoc working group is reported weekly to the PC. The discussions in the PC serve to remind the OSCE of its specific commitments vis-à-vis the continuing problems in those regions of the Federal Republic of Yugoslavia which must not be excluded from the efforts to find negotiated solutions to conflicts in the territory of former Yugoslavia.

#### *2.1.2. Mission to Skopje*

The Spillover Monitoring Mission to Skopje has, within the framework of its mandate, shifted its priorities from monitoring the border situation to monitoring the internal situation, especially in the context of relations between the Government of the former Yugoslav Republic of Macedonia and the ethnic Albanian population and between different ethnic groups.

A major challenge for the Mission in 1995 was the February unrest in connection with attempts to establish a private Albanian university in Tetovo, which was regarded as illegal by The former Yugoslav Republic of Macedonia authorities. The Mission, with the support of the HCNM, was actively involved in defusing the situation.

Since the host State has been finally admitted as a participating State of the OSCE, the Mission's operation will be more straightforward.

#### *2.1.3. Mission to Georgia*

In 1995 the Mission intensified its activities in several areas of its broad mandate. It increased its efforts to foster and focus dialogue between Georgians and the authorities in the region of South Ossetia concerning a political solution to their conflict. In late 1994, after having drafted a status proposal for South Ossetia within Georgia, the Mission organized separate colloquia with officials from the Georgian and the South Ossetian sides to discuss the draft. The status proposal was finalized in December in the light of the comments received. Although there is still no agreement on the status question, the Mission's proposal helped to start the discussion of key issues that have to be addressed as part of a settlement process. In Georgia's

constitution, adopted on 29 August 1995, provisions on territorial structure have been left open, partly in order to leave room for negotiated solutions with the regions of South Ossetia (and Abkhazia).

On 1 March 1995 the Mission sponsored a round table discussion between leading Georgian and South Ossetian figures on the nature of the conflict and on possible ways of resolving it. There was agreement on the need to resolve the conflict by peaceful means only.

The Joint Control Commission (JCC), established to direct and control the Joint Peacekeeping Forces in South Ossetia, was revived in November 1994 with the participation of the OSCE Mission under a new mandate, giving it also the authority to deal with the political aspects of a settlement. However, a formal working group on political issues has not yet been established. After another six-month pause, the JCC met again in June 1995 in Moscow. The subsequent July meetings in Tbilisi and in Tskhinvali were significant in that they saw the first official visit by senior South Ossetian officials to Tbilisi since the beginning of the conflict in 1989. A joint declaration, agreed upon by the two sides, to move towards direct political talks on the future status of South Ossetia was a major achievement; a week later, however, South Ossetian representatives partially withdrew their delegation's approval of the declaration.

At the July session of the JCC, the Mission proposed a broader effort to foster economic reintegration of South Ossetia into the Georgian economy. The Mission continues to promote pragmatic co-operation between Georgian and South Ossetian officials on a local level.

The Mission has continued to monitor the Joint Peacekeeping Forces (JPKF) in South Ossetia, as mandated in March 1994.

Despite repeated efforts, it has still not been possible to obtain the formal consent of the South Ossetian authorities for the opening of a branch office in Tskhinvali. In April the Permanent Council approved an increase in the authorized strength of the Mission by two officers to 19, once the branch office has been established.

Closely co-operating with the Tbilisi authorities and with their support, the Mission has significantly stepped up its activities to promote human rights and political reform in Georgia as a whole. To improve awareness of its goals and mandate, the Mission has opened a human rights and public relations office with easy access for the public. It has carried out visits to detention facilities and attended a trial of alleged political prisoners.

The Mission has been working with the staff of Head of State Eduard Shevardnadze to flesh out the latter's proposal to establish a regional human rights court for the CIS countries. Together with the ODIHR, and with considerable support from the EU and a number of international organizations, the Mission assisted the authorities in the preparation of the parliamentary and presidential elections at the beginning of November and co-ordinated their international monitoring.



The Mission has also increased its presence in Abkhazia for monitoring the human rights situation there.

#### *2.1.4. Mission to Moldova*

The reporting year was marked by increased efforts by the Moldovan Government and the authorities of the Trans-Dniester region to search for a comprehensive political settlement to the conflict.

The meeting between President Snegur and the leader of the Trans-Dniester area, Smirnov, on 7 June gave new impetus to the comprehensive settlement process agreed upon at the April 1994 leadership meeting. Both sides have instructed their teams of experts to develop specific wording and provisions of a law on a special status that would gain common acceptance. The expert groups had several meetings chaired by the Head of the OSCE Mission and the Russian President's Personal Representative.

At a further leadership meeting on 5 July, an agreement on the non-use of military force and economic pressure - a significant confidence-building measure - was signed by the two sides. The agreement, which represents a major step forward, was also signed by the mediators, i.e. the Head of the OSCE Mission and the Russian Representative. Under an innovative provision, the OSCE Secretariat has been designated as depository of the agreement.

In spring 1995, the Mission opened a permanent office in Tiraspol in support of its activities in the Trans-Dniester area. As a result, the Mission is now better placed to explain to the people in the area conditions for a successful settlement.

The Mission maintained its active involvement in the Joint Control Commission (JCC), although revised principles of co-operation between the JCC and the Mission have yet to be formally concluded.

Based on the Budapest decisions, the Permanent Council discussed at a number of meetings the assistance which the OSCE could offer in the implementation of the agreement on the withdrawal of the Russian troops

(former 14th Army) from Moldova that was reached a year ago. No decision could be taken as yet.

#### *2.1.5. Mission to Tajikistan*

The parliamentary elections in Tajikistan held on 26 February were not monitored by the OSCE, as the Government of Tajikistan had not taken into account OSCE recommendations regarding the electoral law and the conduct of the elections. While the Permanent Council regretted this fact, it welcomed the declared intention of the Tajik authorities to take the recommendations into account at a later stage.

Co-operation between the Mission and the Government of Tajikistan has since improved substantially, particularly in the field of human rights. A project for a national human rights institution with ombudsman functions was worked out in co-operation with the Mission and with expert input from the ODIHR.

In an effort to promote awareness of OSCE principles, the Mission has established a discussion group which regularly brings together on the Mission's premises figures from various walks of life in Tajikistan.

As the UNHCR wanted to withdraw from certain areas of Tajikistan, the Permanent Council requested the Mission to follow the human rights situation of returning refugees and internally displaced persons in these areas of Tajikistan with a view to facilitating their reintegration into Tajik society. The Mission has taken over from UNHCR three branch offices in the south of the country, initially for a six-month period, its authorized strength was temporarily increased by three members. The Mission has co-operated closely with UNHCR and UNMOT in preparation for this new task.

The Mission continued to follow the inter-Tajik talks under UN chairmanship. The agreement signed on 17 August by President Emomali Rakhmonov and the leader of the Tajik opposition, Said Abdullo Nuri, to hold non-stop negotiations with the aim of concluding a general agreement on establishing peace and national accord in Tajikistan, has opened up new vistas in this process. But the agreement has yet to be implemented. Also, a series of security incidents in eastern Tajikistan and still worsening economic indicators underscore the complexity and difficulty of the overall situation.

#### *2.1.6. Mission to Ukraine*

From the outset the Mission has concentrated its work on the Crimean issue. The Mission had a specific role in the legislative and administrative disputes between the authorities of Kiev and Simferopol regarding the status of Crimea. At the initiative of the OSCE Mission and the HCNM, a Ukrainian Round Table was organized in Locarno, Switzerland in May in order to promote dialogue between the parties and discuss the future status of Crimea

as an autonomous part of Ukraine. The Round Table contributed considerably to improving joint discussions of the many outstanding problems. In the second half of the year, the Mission focussed on issues related to the Crimean Tatars. A Round Table on this particular issue was organized by the Mission and the HCNM in September in Yalta. All participants welcomed this possibility for review of and informal discussions on the many outstanding problems.

#### *2.1.7. Mission to Sarajevo*

The purpose of the mission is to assist the Ombudsmen of the Federation of Bosnia and Herzegovina, who are organs of the constitution of the Federation. The Mission was launched in October 1994. Initially it supported the process of selecting the Ombudsmen from among the representatives of the three ethnic groups concerned. On 20 January 1995 the three Ombudmen (from the Moslem, Croat and Serb communities) were officially sworn in.

In order to extend the scope of their activities beyond Sarajevo, the Ombudsmen and the competent authorities of the Federation decided to establish branch offices in Zenica and Mostar. In March and April the Ombudsmen nominated their deputies for these branch offices, which became operational in May.

The blockade of Sarajevo in spring 1995 seriously hampered the Mission's operations in support of the Ombudsmen, as Mission members and the Ombudsmen were unable to move in or out of Sarajevo. By June 1995, the Ombudsmen had registered over 400 cases, with cases from outside Sarajevo representing more than 30 per cent of the total, thus testifying to the increased importance of the branch offices. The majority of complaints concerned property rights and other problems related to the refugee situation. There were increasingly frequent cases of unlawful imprisonment and various manifestations of "silent ethnic cleansing" that required attention.

In August, in the wake of military operations in Croatia and in Bihac, the Ombudsmen were asked to assist in coping with the new waves of refugees. To support the Ombudsmen's operations in this area an office was opened in Tuzla, and the Ombudsmen also established their presence in Velika Kladusa.

The Mission maintains close contacts with the authorities of the Federation, with UNPROFOR as well as other foreign missions in Sarajevo.

#### *2.1.8. The OSCE Assistance Group to Chechnya*

After the outbreak of war-like fighting in Chechnya that put in jeopardy basic OSCE commitments, the Russian Federation accepted OSCE involvement in the efforts to find negotiated solutions.

Following reports by the Personal Representative of the Chairman-in-Office and other OSCE officials from their visits to the area, the Permanent Council decided on 11 April 1995 to establish an Assistance Group. Its mandate is to promote respect for human rights, to help foster the development of democratic institutions and processes, and to promote a peaceful resolution of the crisis in accordance with OSCE principles and the constitution of the Russian Federation. The Group, initially consisting of a team of six diplomats, began its work in Grozny on 26 April.

A month later, direct talks between the parties involved in the crisis began at the premises of the Assistance Group and the Group chaired them. The talks included representatives of the Executive Authorities of the Russian Federation, of the Committee of National Accord, and of representatives of the rebel Chechen leader Dzhokhar Dudayev. On 30 July an agreement to end hostilities was signed by Russian officials and representatives of Dudayev. The agreement provides for an immediate cessation of military hostilities, the liberation of all forcibly detained persons, the gradual withdrawal of troops, including the unconditional disarmament of illegal armed formations, and the cessation of military acts. A Special Observer Commission composed of representatives of all sides and of the OSCE was established to supervise the implementation of the agreement. As the implementation of the agreement met with serious difficulties, sporadic fighting and terrorist attacks on high-level Russian officials increased, the implementation and negotiating process was brought to a halt. In spite of a number of unfriendly acts from local Grozny authorities and a direct armed attack on the AG premises, the AG remained in Grozny, thus ensuring its availability at a particularly critical time.

#### *2.1.9. Mission to Latvia*

The Mission closely followed events leading to the adoption of the Law on Non-Citizens approved in April 1995. The Mission considers this to be a balanced piece of legislation and emphasizes at every opportunity the importance of adequate implementation. It is therefore following the implementation process closely and has established contacts with the competent authority, the Naturalization Board. The Mission observes the naturalization process as a whole and makes on-site evaluations of the tests that are part of the naturalization procedure.

The Mission followed events relating to the retired military personnel of the Russian Federation remaining in Latvia in violation of bilateral agreements.

#### *2.1.10. The OSCE Representative to the Russian-Latvian Joint Commission on Military Pensioners*

The Permanent Council established, on 23 February 1995, an OSCE Representative and Alternate Representative to the Joint Commission on Military Pensioners. The OSCE Representative is tasked, inter alia, to consider, at the request of either party, questions relating to the application of the provisions of the Agreement on the Social Welfare of Retired Military Personnel of the Russian Federation and their Family Members Residing on the Territory of the Republic of Latvia. The OSCE Representative will consider jointly with Latvian and Russian representatives appeals on matters involving the rights of persons to whom the Agreement applies and participate in the adoption of recommendations and decisions on the basis of consensus.

In June 1995, representatives of the parties as well as the OSCE Representative reached an agreement on the modalities of the work of the Joint Commission. In particular, the OSCE Representative focused on problems related to the pensioners' rights to housing and work permits, investigated individual cases and prepared reports containing recommendations for the Latvian side.

#### *2.1.11. The OSCE Representative to the Joint Committee on the Skrunda Radar Station*

In accordance with the Agreement between Latvia and the Russian Federation of 30 April 1994 on the Legal Status of the Skrunda Radar Station During its Temporary Operation and Dismantling, the CSCE in June 1994 had welcomed requests by Latvia and the Russian Federation for CSCE assistance in implementing the Agreement. On 23 February 1995 the Permanent Council took a decision on the Terms of Reference for an OSCE Inspection Regime. At the request of the Permanent Council, the OSCE Representative and Alternate Representative were appointed by the Chairman-in Office on 6 April 1995. Two periodic and two extraordinary inspections may be scheduled for each year. The first periodic inspection was carried out from 28 to 30 August in a businesslike and co-operative manner. The inspection served its confidence building purpose.

#### *2.1.12. Mission to Estonia*

The Mission closely followed developments related to citizenship issues, including the adoption of the Citizenship Law, as well as amendments made to the Law on Aliens, which came into force in early July 1995. The Citizenship Law, which the Mission has considered acceptable in general terms, was adopted in January 1995. The Mission is following the implementation of this law, as well as matters connected with the Law on Aliens.

The Mission continued its work on issues related to language training for russophone inhabitants, and has emphasized its importance as a means of close connections between Russian speakers and their Estonian environment. In April the OSCE Mission organized a seminar in north-eastern Estonia aimed at improving understanding between various communities in Estonia and exploring how their integration could best be pursued.

#### *2.1.13. The OSCE Representative on the Estonian Government Commission on Military Pensioners*

The OSCE Representative on the Estonian Government Commission on Military Pensioners, who was appointed by the CIO, took up his office on 16 November 1994. The said Commission will make recommendations on the issuance of residence permits.

#### *2.2. The Conflict in the Area Dealt with by the Minsk Conference*

On 6 January, the CIO named Mr. Jan Eliason of Sweden and Mr. Valentin Lozinsky of Russia as co-chairmen of the Minsk Conference. The Co-chairmanship, agreed upon at the December 1994 Budapest Summit, established a single coordinated effort of the OSCE Minsk Group and the Russian Federation within the OSCE framework. On 21 April, Finland took over the Co-chairmanship from Sweden; the CIO appointed Mr. Heikki Talvitie as the new Finnish Co-chairman.

Heads of State or Government decided at the Budapest Summit to deploy a multinational OSCE peacekeeping force subject to an appropriate resolution from the UN Security Council following the conclusion of a political agreement on the cessation of the armed conflict. To plan the establishment, composition and operations of such a force, a High-Level Planning Group (HLPG) was set up in Vienna, replacing the Initial Operations Planning Group.

In July, the HLPG submitted to the CIO its Concept for the OSCE Multinational Peacekeeping Mission for the Nagorno-Karabakh Conflict.

In August, the CIO appointed Amb. Stanisław Przygodzki of Poland as the Personal Representative of the Chairman-in-Office on the conflict dealt with by the Minsk Conference. The Personal Representative's main task is to facilitate the achievement of a political settlement of the conflict through a

continued presence in the area, including assisting in efforts to promote the continuation of the ceasefire.

### *2.3. Sanctions Coordinator and Sanctions Assistance Missions (SAMs)*

More than 200 customs officers and other experts continue their work in seven SAMs located in Albania, Bulgaria, Croatia, Hungary, the former Yugoslav Republic of Macedonia, Romania and Ukraine. The SAMs assist and advise the host countries in their implementation of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) in accordance with the relevant UN Security Council resolutions. SAMs operations are financed by the OSCE (except for personnel costs, which are borne by the sending States). Their mandate has been extended until 31 December 1995.

The operational headquarters of the SAMs, SAMCOMM, are located in Brussels. Financed and partly staffed by the EU, it has the function of facilitating the communications and co-ordination between the SAMs and the authorities of host countries, ensuring the follow-up of cases of suspected breaches of sanctions and bringing evaluation reports to the attention of the European Union, the OSCE Liaison Group and the UN Sanctions Committee. The OSCE/EU Sanctions Co-ordinator, co-located with SAMCOMM, is overseeing the entire operation, providing basic direction and co-ordination between all levels and participants involved in the enforcement of sanctions.

In February the Sanctions Coordinator visited Budapest and Tirana for talks with the OSCE Chairman-in-Office and other representatives of the Government, National Bank and Danube Commission in Hungary; and with the Government and authorities in Albania, where ways for the better application of the Oil Pre-Verification System (OPVS) designed to curb oil smuggling into FRY, were discussed.

In May he visited New York for talks with U.N. officials and certain delegations. He also addressed the Security Council (Arria Procedure) and participated in the 123rd meeting of the Sanctions Committee on Yugoslavia.

In June he visited Valetta (Malta) and Nicosia (Cyprus) for talks with government officials and the Governor of the Central Bank. The discussion focused on the extension of the OPVS between Greece/Albania and Italy/Albania, also between Cyprus/Albania and Malta/Albania. In Cyprus, the issue of off-shore companies controlled by persons or entities in FRY was also discussed.

In June he visited Skopje (the former Yugoslav Republic of Macedonia) for talks with the President of the Republic, President of the Chamber of Commerce, and other government officials. The discussions focused on the

need to reduce the level of sanctions violations with regard to rail and truck traffic into and out of FRY.

From 17 to 23 October 1995 he visited New York for talks with U.N. officials. He participated in the 131st meeting of the Sanctions Committee on Yugoslavia and was received by the President of the Security Council.

During the same period the Sanctions Coordinator's Staff undertook a series of missions to New York, the Balkan countries and other OSCE member States for talks with regard to a better implementation of sanctions. SAMCOMM members also undertook a number of sanctions related missions.

#### *2.4. Other Conflict Prevention and Crisis Management Activities*

In March a PC decision welcomed the *Pact on Stability in Europe* adopted on 21 March in Paris as a further step in enhancing stability in Europe. The decision reiterated that, in accordance with the Budapest Summit Declaration and the Budapest Decision on Strengthening the CSCE, the OSCE is the repository of the Pact and is entrusted with following its implementation. Further to the March PC decision, the 31st PC agreed on a practical follow-up to the Pact which specified steps the OSCE would take in its repository function. The upcoming Budapest Ministerial Council will be informed of the progress achieved and invited to endorse the general thrust of this work.

The Convention on Conciliation and Arbitration within the CSCE entered into force on 5 December 1994 after the deposit of the twelfth instrument of ratification on 5 October 1994. The first meeting of the members of the Court of Conciliation and Arbitration was held on 29 May in Geneva. The agenda of the meeting included, inter alia, adoption of the rules of procedure for the first election of the Bureau and the first appointment of a registrar, election of the President of the Court, election of two conciliators as members of the Court and of two alternates, adoption of the rules of the Court, etc. Mr. Robert Badinter was elected the President of the Court and Mr. Hans-Dietrich Genscher his Deputy.

#### *3. The High Commissioner on National Minorities (HCNM)*

Tensions involving minorities today are a major cause of instability and violence in the OSCE area. The OSCE High Commissioner on National Minorities, Mr. Max van der Stoep, who has held this post since 1993, further intensified his efforts to defuse minority-related problems at an early stage.



3.1. In his report after his October 1994 visit to *Albania*, the HCNM formulated a number of recommendations concerning the situation of the Greek minority in the south of the country. These related, in particular, to education in the Greek language, increasing opportunities available to the Greek minority for employment in public service, ways of promoting dialogue and building trust between the authorities and members of ethnic minorities, and relations between the State and the Orthodox Church of Albania. During his visit to Tirana in July 1995, the HCNM focused on relations between Albania and the former Yugoslav Republic of Macedonia. He also discussed the critical situation in Kosovo.

3.2. As in previous years, in 1995 the HCNM visited *Estonia*. He focused on the implementation of legislation relating to citizenship and aliens and on the question of language training and testing for persons seeking naturalization. The HCNM appealed to OSCE States to provide assistance for programmes in this field.

3.3. The HCNM paid several visits to *Hungary*, discussing the implementation of the law on national minorities and the situation of the Slovak minority in Hungary.

In 1993, the HCNM had recommended the establishment of a three-member team of experts to analyze the situation of the Hungarians in *Slovakia* and Slovaks in *Hungary* (see 3.10 below). During their fourth visit to Hungary, in June 1995, the experts were joined by the HCNM. They concentrated on the functioning of the local Slovak minority governments and the Slovak national self-governing body established earlier in the year. Issues discussed included the parliamentary representation of minorities, the establishment of a minority ombudsman, and education in the mother tongue.

3.4. In May 1995, the HCNM made his second visit to the Central Asian part of the OSCE area. In Almaty, *Kazakhstan*, he had extensive meetings both with leading state officials and with representatives of the Slavic and German communities in Kazakhstan. He paid particular attention to language and citizenship issues, as well as to ways of fostering dialogue between the authorities and ethnic minorities at national and local levels.

3.5. In May 1995 the HCNM visited Bishkek, *Kyrgyzstan*, for a two-day seminar on Interethnic Relations and Regional Co-operation organized by the HCNM in response to the interest expressed by the President of the Republic. The seminar focused on interethnic relations in Kyrgyzstan, and brought together government officials, representatives of Kyrgyzstan's ethnic

communities, representatives of the Governments of Kazakhstan, Russia and Tajikistan, and international experts on minority issues.

3.6. The HCNM continued to pay attention to developments in *Latvia*, in particular, to the implementation of the law on citizenship and a draft law on former USSR nationals (law on non-citizens), which took into account his comments. The HCNM also expressed his appreciation of the governmental draft programme for the setting up of a Human Rights Council authorized to give advice on human rights matters, receive individual complaints and engage in human rights education. Stressing the importance of training in the Latvian language, the HCNM appealed to OSCE States to provide assistance for programmes in this field.

3.7. The HCNM continued to take an active interest in the situation of the Albanian minority in the former Yugoslav Republic of *Macedonia*. During several visits to the country, he discussed ways of expanding educational opportunities at higher and secondary levels for young Albanians living in the former Yugoslav Republic of Macedonia and of improving their access to employment in the State administration. He suggested the creation of a Higher Educational Centre for Public Administration and Business. The HCNM, through interventions with officials at the highest levels and with leaders of the Albanian community, helped to defuse the tensions that had broken out after a group of Albanians started an Albanian University in Tetovo without governmental approval.

3.8. At the invitation of the Moldovan Government, the HCNM made his first visit to *Moldova* at the end of 1994. In Chisinau, he met with the President of the Republic and with leading government officials and parliamentarians. The HCNM visited the region inhabited by the Gagauz, an ethnically Turkic population of Christian faith, and examined the Law on Gagauz Autonomy then being debated by the Moldovan Parliament. He also visited the Trans-Dniester region in northeastern Moldova, which has a large Russian-speaking population.

3.9. The HCNM continued his involvement in *Romania*, paying special attention to legislation on minority education, and discussed the creation of an ombudsman. He recommended strong action to prevent discrimination against the Roma and to curb ethnic hostility and hatred.

3.10. The HCNM made a number of visits to *Slovakia*, dealing specifically with the situation of the Hungarian minority. In June 1995, he accompanied the team of experts on their fourth visit, during which they concentrated largely on education issues, including the Concept of the Ministry of Education for Education in the Ethnically Mixed Areas, the training of teachers for

state schools in those areas, and the creation of bilingual alternative education classes.

3.11. The HCNM made several visits to *Ukraine*, in the course of which the situation of the Crimean Tatars was discussed. Deported to Central Asia, the Tatars have recently been returning to Crimea in large numbers. However, they face serious problems in housing and education. The HCNM also dealt with the dispute between the Ukrainian Government and Parliament, on the one hand, and the Crimean Parliament, on the other, concerning the constitution adopted by the Crimean Parliament.

A three-member team of international experts on constitutional and economic matters visited Kiev and Simferopol on three fact-finding missions and submitted reports on their findings to the HCNM.

The HCNM and the Head of the OSCE Mission to Ukraine co-chaired a Round Table in Locarno, Switzerland. Comments and recommendations were subsequently sent to the Government of Ukraine with the request that they be passed on to the Ukrainian Parliament and to Crimea.

#### *4. The Human Dimension*

##### *4.1. Democratic Institutions Building*

During the reporting period the OSCE has been particularly active in providing assistance with democratic institution building.

The ODIHR assisted the OSCE mission to Sarajevo by arranging a training seminar for ombudsmen, bringing together ombudsmen of western and eastern Europe. A network of ombudsmen was established to provide the ombudsmen in Sarajevo with expertise. In Tajikistan the ODIHR advised the Tajik Government on an ombudsman office. Currently, the ODIHR is preparing a draft manual on national human rights institutions to assist OSCE participating States in the establishment of such institutions.

##### *4.2. Election Monitoring*

The Budapest Summit tasked the ODIHR with the preparation of a framework for the co-ordination of election monitoring. After consultations with relevant international organizations, a draft framework was presented to the Permanent Council in May. The implementation of the framework was successfully tested in Armenia on a joint OSCE/United Nations operation for the observation of the July parliamentary elections.

*Parliamentary Elections in Kyrgyzstan (5 and 19 February 1995).* The first democratic elections to the Parliament of Kyrgyzstan were monitored throughout the country by approximately 60 observers from OSCE States and NGOs. An ODIHR representative organized support activities for the

observers, including briefings, background materials, translation of laws and statistics, as well as liaising with the Kyrgyz authorities on a wide range of issues. The second round was monitored by a group of Swiss observers who shared their reports with the ODIHR. Observers had access to almost all polling sites and received all necessary information from polling officials. It was concluded that these elections could be considered as generally reflecting the will of the people.

*Parliamentary Elections in Estonia (5 March 1995).* These were the second parliamentary elections held in Estonia since it re-established its independence in September 1991. A group of 14 international observers from the participating States and NGOs, including one observer from a non-OSCE country monitored the elections. In general ODIHR considered these elections to have been conducted in accordance with the principles contained in the Electoral Law. There were some complaints from individuals that their applications for citizenship were being delayed, preventing them from voting and that some Estonian citizens were not included in the voting register. To prevent this from happening again ODIHR suggested that next time the registration of candidates should take place at an earlier stage of the electoral process.

*Local Referendum on the Inclusion of Certain Localities in Gagauzia, Republic of Moldova (5 March 1995).* The purpose of the referendum was to enable localities of Moldova having Gagauz population to decide whether they wished to be included in the autonomous territorial entity of Gagauzia. A group of twenty observers, including a Council of Europe delegation, monitored the referendum. ODIHR and the OSCE Mission to Moldova co-ordinated the activities of the observers. Some concerns were raised about the procedural integrity of the referendum. Results showed a strong vote in most localities in favour of inclusion in Gagauzia.

*Local Elections in Moldova (16 April 1995)* were the first local elections since Moldova proclaimed its independence in 1991. With the assistance of the OSCE Mission to Moldova, the ODIHR established an office in Chisinau shortly before the elections. It was noted that, at all levels, the electoral authorities implemented the electoral law in a competent and dedicated manner. In general, the polling stations functioned in a satisfactory manner and elections were well organized.

*Parliamentary Elections in the Republic of Belarus (14 and 18 May 1995)* were the first parliamentary elections held in the independent Republic of Belarus. Two ODIHR representatives co-ordinated the monitoring process. Delegations from several international organizations and parliamentary associations also observed the elections. The total number of accredited international observers was in excess of 200.

It was concluded that the electoral process fell short of the OSCE commitments with respect to political campaigning. Provisions dealing with secrecy of voting were not strictly enforced. Taking into account the deficiencies of

the electoral legislation, the voting itself was, despite some irregularities, conducted in a generally adequate manner.

The ODIHR made specific recommendations on the need to clarify the interpretation of certain provisions of the Election Law, and the fair allocation of broadcast time and newspaper space to political parties and candidates.

*Parliamentary Elections in Armenia (5 and 29 July 1995).* The election monitoring unit was established in early May and was the first joint OSCE/UN operation of election monitoring. The observers were drawn from 18 OSCE participating States and several non-governmental organizations.

The Armenian elections showed some encouraging signs in terms of democratic development. However there were a number of negative points. One political party was suspended prior to the elections, the composition of the Electoral Committees was unbalanced and changeable. The Law of Election was applied selectively and inconsistently. The secrecy of voting was not always strictly observed. Moreover, none of the court cases which were filed against the Central Electoral Committee had been resolved by the end of the elections. Nevertheless, the voting process itself went smoothly.

To improve the process in the future, it was recommended that the Central Electoral Committee should be a non-political body and the counting process should be made more transparent. Future election laws should also prohibit the presence of police or military persons in polling stations.

*Parliamentary Elections in Latvia (30 September and 1 October 1995).* These were the second democratic parliamentary elections to be held in the Republic of Latvia. The elections were observed by representatives of 11 OSCE States including a delegation from the OSCE Parliamentary Assembly. The electoral officials administering the polling stations showed a great level of professionalism.

There was still some concern on polling day concerning the guaranteed secret voting and the airing of political messages in the polling stations themselves. Concern arose over a part of the legislation governing the election to the Sixth Saeima which does not fully uphold the spirit of the OSCE commitments of the Copenhagen Document 1990. It contravenes Article 7.5 guaranteeing to "respect the rights of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination."

To ameliorate future elections, Latvia should develop a voting register. It was also felt that although the question of citizenship itself was not an issue, the fact that one third of the population was left out of the political life of the country remains a concern.

*Parliamentary Elections in Croatia (29 October 1995).* These were the first democratic elections to be held in Croatia. Observers came from 14 OSCE countries and several non-governmental organizations. Due to the late passage of the electoral legislation there was little time left for a meaningful political campaign. There was nevertheless a broad range of political parties

and candidates participating in the elections.

The recent displacement of a large number of Croatian citizens and the present political and social climate shortly after military operations raise concern about the ability to achieve universal and equal suffrage in an atmosphere conducive to strengthening democratic institutions. Concern remains also about the more fundamental questions of the extent of diaspora voting and how this was organised.

The absence of non-partisan domestic observers and the restrictive regulations governing party observers as well as delays in broadcasting opposition party campaigns by the State media were further points of criticism.

In the future, there should be more transparency towards amending the election legislation, the introduction of non-partisan observers and better, more equal access to the media. A general voter education programme might help to reduce the number of invalid ballots.

#### *4.3. Seminars, Symposia, Meetings*

During the reporting period the ODIHR organized and its experts participated in the following events:

##### *4.3.1 Rule of Law and Democratic Institution Building*

*Building Blocks for Civil Society: Freedom of Association and NGOs*, 4-7 April, Warsaw. The Seminar was attended by 286 participants, which is the highest number since CSCE seminars were initiated in 1992. One-half of the participants were representatives of 123 non-governmental organizations.

*International Seminar on the Constitution of Tajikistan*, 14-15 June, Dushanbe, for parliamentarians and jurists.

*Second Annual Warsaw Judicial Symposium*, 5-10 June, for lawyers from countries of the Commonwealth of Independent States and neighboring countries.

*Expert Seminar on the Changing Role of the Judiciary*, 29-30 May, Tbilisi, sponsored by the Supreme Court, Tbilisi, Georgia.

*Seminar on Tolerance*, 23-26 May, co-organized with the COE and UNESCO; Bucharest, Romania.

*Expert Seminar on the Changing Role of the Judiciary*, 3-4 April, Riga, sponsored by the Supreme Court, Riga, Latvia.

*OSCE Mission Seminar on Russian-Estonian Relations*, 6-8 April, Johvi, Estonia.

*Expert Consultation*, 15-20 January, organized by the President's Office, the Ministry of Foreign Affairs, Ministry of Justice, Constitutional Court, Moscow, Russian Federation;

*Expert Consultation*, 11-12 January, organized by the Supreme Court of Estonia and the OSCE Mission to Estonia, Tallinn and Tartu.

*Expert Consultation* organized by the Supreme Court and Parliament of Latvia, 10 January, Riga.

#### *4.3.2. Media*

*Seminar on Print Media Management*, Chisinau, Moldova, 11-13 May 1995, co-organized with the Independent Journalism Center in Moldova.

*Seminar on Print Media Management*, Bishkek, Kyrgyzstan, 11-13 September 1995, co-organized with UNESCO for the Central Asian States.

#### *4.3.3. Human Dimension Implementation Meeting, 2-19 October, Warsaw*

The meeting examined implementation of the OSCE human dimension commitments as well as reviewed practical functioning of existing mechanisms and procedures for monitoring compliance with existing commitments. Several recommendations for the future human dimension activities for the OSCE were made in the course of discussion.

#### *4.4. Contact Point for Roma and Sinti Issues*

The Contact Point for Roma and Sinti Issues (CPRSI) within the ODIHR was established by decision of the Budapest Summit.

After thorough consultation with the Office of the HCNM and several Romani associations, as well as with international organizations, in particular, the COE and the UNHCR, the following main objectives were identified for the activities of the Contact Point:

- focus on addressing discrimination and violence against Roma and Sinti;
- disseminate information on Roma and Sinti issues, including information on implementation of commitments pertaining to Roma and Sinti;

- encourage development of Roma and Sinti organizational capacity and assisting co-operation between Romani and Sinti associations and organizations.

Regular consultations on current activities of the CPRSI were organized on the occasion of OSCE seminars. A workshop on networking of contacts and co-operation with Romani and Sinti associations took place in October.

## 5. *Security Co-operation*

### 5.1. *New Measures in the Field of Arms Control and Confidence- and Security Building*

The Forum for Security Co-operation adopted in November/December 1994 the following documents:

- The Vienna Document 1994. It expands the provisions of the previous Vienna Documents on military information exchange and integrates in its framework measures previously adopted by the FSC in 1993, concerning
  - increased openness in defence planning and
  - a Programme for Military Contacts and Co-operation.
- The Document on the Global Exchange of Information, obligating participating States to exchange annually and without geographical limits information on major weapons and equipment systems and personnel in their conventional armed forces, as well as on the command structure of their forces.
- The Document on Principles Governing Non-Proliferation in the field of nuclear weapons, chemical and biological weapons, and the transfer of missiles capable of delivering weapons of mass destruction, and their components and technology. Measures include, inter alia, support for the existing international agreements in these fields, and, more specifically, the obligation to incorporate the existing commitments in national legislation.

### 5.2. *The Code of Conduct*

A major document finalized during the reporting period is the *Code of Conduct on Politico-Military Aspects of Security*, adopted at the Budapest Summit. It is a comprehensive document relating to the military and defence policies of participating States both in times of peace and of war. It commits States subscribing to it, inter alia, to co-operate in the field of security, to



establish and maintain democratic control over their armed forces, and to ensure respect for existing international obligations.

### *5.3. FSC Seminars*

The seminars offered an opportunity for brainstorming and discussing issues outside the framework of formal negotiations.

5.3.1. The Seminar on Principles Governing Conventional Arms Transfers (20-21 June). The Seminar offered an opportunity to exchange information and experience in various areas including export laws, control lists, licenses, enforcement practices and procedures, possibilities for better international co-operation in preventing undesirable or unauthorized transfers, increased transparency through international efforts, co-operation in the field of control agencies, and combating illegal conventional arms transfers. Follow-up action includes a questionnaire to be prepared by the CPC which will be circulated on an annual basis. The CPC will compile the information provided. The CPC will also receive national control lists and data of a designated national contact point and will make available on request the national control lists and a list of the contact points.

5.3.2. The Seminar on Regional Arms Control in the OSCE Area (10-12 July). Topics included the politico-military context for regional arms control, regional security, tailoring and applying arms control and CSBMs to regional concerns, regional security issues and further tasks of the FSC, and other regional issues.

5.3.3. A Seminar CSBMs and Arms Control: Application and Compliance, organized by the CPC, was held in Almaty, Kazakhstan (16-23 May). Its main objective was to strengthen the implementation of and compliance with arms control provisions in the OSCE framework. The Seminar aimed at providing officials from the Central Asian OSCE States who are responsible for compliance with arms control provisions in the participating States in the region with a better understanding of the CSBM and other arms control regimes in the OSCE framework.

### *5.4. The Annual Implementation Assessment Meeting (AIAM), 12-14 April*

Delegations agreed the AIAM has become a flexible tool, a useful vehicle for the development of new techniques and measures.

The AIAM tried to determine whether agreed measures still correspond to reality or whether they should be changed. The meeting gave its attention to questions such as the validity, practical implementation and improvement of existing measures, as well as their further development.

Working Group A (WGA), a subsidiary body of the FSC, mandated with implementation and monitoring of measures adopted by the FSC that prepared the AIAM was also instructed by the FSC Decision to ensure its appropriate follow-up and to prepare FSC debates on implementation. Pursuant to that decision, WGA devoted its every fourth meeting entirely to implementation.

## *6. Other Important Activities*

### *6.1. Integration of Recently Admitted Participating States*

The Budapest Summit requested the ODIHR and the Secretary General to arrange further meetings and seminars relating to the Programme of Co-ordinated Support.

6.1.1. In addition to seminars arranged by the ODIHR and CPC, a Seminar on Rehabilitating the Environment (10-14 October) was organized by the Department of Chairman-in-Office Support in Tashkent/Urgench, Uzbekistan. The Seminar provided an OSCE framework for environment-related discussion among the participating States of Central Asia and fostered their contacts with the rest of the OSCE community and international organizations.

6.1.2. At the request of the CIO, the Secretary General visited Tajikistan from 7 to 9 January. He conducted a series of talks with the President, the Acting President of Parliament, the Foreign Minister and the Minister of Justice. In his talks in Tajikistan the Secretary General focused on the need to improve the electoral law and process so as to bring them into line with OSCE standards and requirements.

6.1.3. Based on recommendations set in the Secretary General's report on his visit in 1994 to the OSCE participating States of Central Asia the Permanent Council decided on the establishment, for one year, of an OSCE Liaison Office for Central Asia. The Office became operational in July in Tashkent.

6.1.4. The Permanent Council established a Voluntary Fund for Fostering the Integration of Recently admitted Participating States.

## *6.2. The Economic Dimension*

The Third Meeting of the Economic Forum (7-9 June, Prague) considered various aspects of regional economic co-operation in the fields of trade, investment, infrastructure and, in particular, their relevance for security. A number of specific proposals on improved integration of the economic dimension into the work of the OSCE were made.

6.2.1. The role of tourism in promoting better understanding between different cultures was the subject of an OSCE seminar held in Bucharest (6-8 November) with the assistance of the Department of Chairman-in-Office Support. The seminar offered an opportunity to conduct an open and result-oriented dialogue on the main issues and prospects for the development of co-operation in this field.

6.2.2. The Government of Bulgaria hosted in Sofia an OSCE Seminar on the Role of Trans-European Infrastructure for Stability and Co-operation in the Black Sea Region (15-17 November) organized with the assistance of the Department of Chairman-in-Office Support. The seminar analysed the need for developing and upgrading transport, telecommunications and energy infrastructure in the Black Sea Region with a view to contributing to an accelerated European integration process.

## *6.3. Press and Public Information*

Any institution in a civil society needs public support for its development. The Secretariat has undertaken a number of efforts to spread information about the OSCE, but the results have been very limited. Combined and indeed enhanced efforts on the part of the Chair, the OSCE States and the Secretariat as well as other OSCE institutions will be needed to make OSCE activities better known.

### *6.3.1. Press Relations*

The Secretariat (Department for Chairman-in-Office Support) has made an effort to improve access to and quality of information as well as to develop contacts with the press and the public. The Secretary General and OSCE officials have made more frequent public appearances and have improved their contacts with the media.

In order to inform the public of the work of OSCE Missions, journalists were invited to accompany the Secretary General on his visit to the OSCE Mission to Georgia in June.

### 6.3.2 *Publications Issued by the Institutions Increase Public Knowledge of the OSCE*

The DCIOS continued to publish the monthly OSCE Newsletter and distribute it to the OSCE States and about 1,000 outside subscribers.

The first issue of the OSCE Handbook prepared by the DCIOS provided comprehensive and factual information on the institutions, activities and mechanisms of the OSCE.

The Secretariat prepared a reference manual on CSCE/OSCE decisions and supported compilation projects conducted by private institutions.

As in previous years, the ODIHR has produced four issues of the OSCE ODIHR Bulletin.

On the occasion of the 20th Anniversary of the signing of the Helsinki Final Act the ODIHR published two books: Human Rights and the Judiciary - a Collection of Documents and OSCE Human Dimension Documents.

In addition to publishing the English version of the OSCE Human Dimension Documents in book form, the ODIHR co-ordinated the translation of several key OSCE Documents into non-OSCE languages (Latvian and Estonian). Projects are currently underway for translations into Tajik and Georgian.

In August the Contact Point for Roma and Sinti Issues started producing a bi-monthly CPRSI Newsletter which, inter alia, lists the reports received by the ODIHR on the implementation of OSCE Commitments related to Roma.

The OSCE Secretariat has extended various forms of support and co-operation to other publications reporting on OSCE, in particular, the Helsinki Monitor.

6.3.3. A highlight of OSCE activities in 1995 were the events held to mark the *20th Anniversary of the Helsinki Final Act*.

In Vienna the Austrian Ministry of Foreign Affairs and the OSCE Secretary General jointly organized a ceremony with the participation of the Federal President of Austria on 30 June.

More than three hundred participants, representing governments of the OSCE States, parliaments, international organizations, research institutes and NGOs, attended in July the Seminar "Twenty Years of the Helsinki Act Towards a New Security Model" organized by the Russian Foreign Ministry in Moscow.

The Finnish Ministry of Foreign Affairs held a conference commemorating the Twentieth Anniversary of the Signing of the Final Act on 1 August. The conference took place in Helsinki and was attended by eminent persons who had played a key role at the beginning of the CSCE process.

On 8 September, an international Symposium entitled "20 Years After Helsinki: The OSCE and the European Security Policy in Transition", organized by the Institute for Peace Research and Security Policy, was held in Hamburg, Germany. The event also served as an occasion for launching the OSCE Yearbook.

The upcoming Swiss Chairmanship marked the twentieth anniversary of the Final Act with a meeting held on 20 October in Geneva. Diplomats, scholars, journalists and NGOs discussed the OSCE contribution to the historic change in Europe in 1989 and also focused on the current and future role of the OSCE in confronting new challenges.

A Seminar on the OSCE: Assessment and Future Prospects, organized by the Prague-based Open-Media Research Institute, was held in Prague on 28 October, inaugurated by the CIO and attended by senior representatives from OSCE participating States, as well as academics.

6.3.4. A study from a Public Relations Agency "OSCE Communication Strategy" provided a basis for setting priorities for strengthening and improving the OSCE's press and public information effort.

### *III. The Parliamentary Assembly (PA)*

The 4th Annual Session of the PA was held in Ottawa, Canada, from 4 to 8 July 1995.

The Ottawa decision document contains three resolutions that track the three "baskets" of the Helsinki Final Act. The first resolution on Political Affairs and Security emphasizes, inter alia, strengthening the OSCE and the importance of the progress being made in OSCE activities in the Causasus and reiterates concern over the continuing military conflict in the former Yugoslavia. The resolution also calls on the OSCE to actively explore decision-making procedures based on an approximate consensus.

The Resolution on Economic Affairs, Science, Technology and Environment, underlines the importance of the role economic stabilization plays in the security dimension.

The Resolution on Democracy, Human Rights and Humanitarian Questions, states, inter alia, the need to establish an international criminal law and court covering war crimes.

In addition, the PA Standing Committee agreed to the setting up of an ad hoc Committee on a Code of Conduct on Democracy and Human Rights which PA President Swaelen will appoint at a later date.

Mr. Frank Swaelen was re-elected President of the Parliamentary Assembly by acclamation. Five Vice-Presidents were also elected for three-year terms: Steny Hoyer, an opposition leader in the U.S. Congress; Mrs. Helle Degn, former Minister and Chairman of the Foreign Policy Committee of the

Danish Parliament; and Mr. Andras Barsony, Deputy Chairman of Foreign Affairs of the Hungarian National Assembly. Mr. Erkin Khalilov, Speaker of the Uzbekistan Parliament, and Mr. Kazys Bobelis, Chairman of the Foreign Affairs Committee of the Lithuanian Parliament, were both elected to one-year terms.

#### *IV. Relations with International Organizations and Institutions*

The ongoing inter-institutional dialogue on a political level was complemented by increased co-operation on specific topics like election monitoring, mission activities and humanitarian assistance.

Co-operation between the CSCE and the UN was again on the agenda of the forty-ninth session of the UN General Assembly that, on 11 November 1994, adopted a resolution on the co-operation between the UN and the CSCE.

While welcoming the increased co-operation between the two organizations, the resolution (49/20) requests the UN Secretary-General to explore with the CSCE Chairman-in-Office further improvements in this regard.

The resolution also "supports the activities of the CSCE to contribute to stability and the maintenance of peace within its area."

Most significantly, the resolution "encourages the participating States of the CSCE to make every effort to achieve pacific settlement of disputes in the Conference area, through conflict prevention and crisis management by the Conference, including peacekeeping."

In April, a Representative of the CIO met UN Representatives in New York and discussed ways and means of possible UN assistance in the preparation of the OSCE peacekeeping operation in Nagorno-Karabakh.

In February, the CIO convened a meeting in Budapest to discuss co-operation and co-ordination in humanitarian causes with other international organizations. Attending the meeting were representatives from the OSCE, the Council of Europe, the United Nations Office in Geneva, the United Nations High Commissioner for Refugees and the International Committee of the Red Cross. The OSCE was represented by Senior Officials from the Troika countries, the HCNM, the Director of the ODIHR and the Director of the CPC.

In Geneva Representatives of the CIO, the OSCE Troika, Directors of the ODIHR and the Conflict Prevention Centre had talks with the Representatives of the United Nations High Commissioner for Refugees, United Nations High Commissioner for Human Rights, International Committee of

Red Cross and the Council of Europe on operations for channelling humanitarian assistance to Chechnya.

In June, Heads of Mission met with Representatives of the Council of Europe, the ICRC and UNHCR, who gave presentations on the activities of their organizations in OSCE mission areas. This helped identify more specifically areas for practical co-operation in the field and contributed to a better understanding of the complementary elements of the respective mandates.

Close contacts and co-operation between the COE and OSCE continued. Two meetings between the respective Chairmen and the Secretary General were held and will be continued.

In October, the second high-level ("two+two") meeting between the OSCE and the COE was held in Prague. Attended by the CIO, the Secretary General, the HCNM, the Director of the ODIHR and the COE represented by the Czech Foreign Minister and COE Secretary General, the meeting focused on cooperation in former Yugoslavia, exchange of experiences in the field of compliance monitoring, cooperation in election monitoring, CBMS, information exchange, combating racism, aggressive nationalism, xenophobia, anti-semitism, situation of ethnic minorities in Europe, etc.

Working-level contacts and information exchange continued with the UN, UNDP, WEU, NATO, CBSS, CIS, etc.

#### *V. Relations with Non-Participating States (NPS)*

The OSCE continued its co-operation and interaction with the NPS Japan and Republic of Korea and also with the non-participating Mediterranean States (NPMS) Algeria, Egypt, Israel, Morocco, Tunisia.

Pursuant to the Budapest decisions an informal open-ended contact group was established within the PC framework to enhance dialogue with NPMS.

In July, the Troika held ministerial-level consultations with NPMS Foreign Ministers or their Representatives. The participants stressed the global character and the indivisibility of security and agreed on the importance of a comprehensive approach to security and on the growing significance of non-military aspects of security. They stressed the interdependence between security in the OSCE and Mediterranean areas and the common interest of the OSCE and the Mediterranean States in resolving the crises there.

The NPMS suggested that the CIO submit proposals to the upcoming OSCE Ministerial Council in Budapest on the enhancement of the relationship and status of these States vis-à-vis the OSCE and the extension of its scope to Jordan and Mauritania.

The NPMS expressed their interest in the OSCE's experience and its rules and principles and also its structures and institutions with a view to benefiting from them in their future co-operation. The Troika invited high-level officials from these States for an information visit to the OSCE in Vienna.

In the context of fostering links with NPMS a seminar on the OSCE Experience in the Field of Confidence Building was held in Cairo, Egypt in September organized by the Department for Chairman-in-Office Support and the host Country. Attended by prominent experts, the seminar was an important landmark in OSCE-NPMS rapprochement and offered the NPMS an opportunity to draw upon relevant OSCE expertise.

In November, senior officials from these States attended a special briefing programme at the OSCE Secretariat in Vienna.

#### *VI. Contacts with Non-Governmental Organizations (NGOs)*

The Budapest Summit of 1994 requested the Secretary General to make a study of how participation of NGOs can be further enhanced. OSCE Participating States and over 600 NGOs were requested to submit their views and proposals.

Based on ideas generated during the exploratory phase, the Secretary General submitted in September the requested study containing a number of specific proposals aimed at enhancing NGO participation in OSCE activities and calling, inter alia, for full compliance by participating States with their commitments vis-à-vis NGO involvement in OSCE activities; holding annual Meetings to be arranged by the PC Chairman with NGO participation; organizing briefings for NGOs prior to major OSCE events; convening informal meetings with NGOs on specific topics in Vienna; and appointing a Vienna-based NGO Liaison Officer in the Secretariat.

Traditionally, the ODIHR has played a key role in liaising with NGOs.

In June, a training workshop was organised by the ODIHR in Vilnius, Lithuania on Capacity Building and Communication for NGO Leadership, the purpose of the workshop being to impart to human rights-oriented NGOs in the Baltics professional, organizational, communication and administrative skills, along with a basic understanding of the OSCE and the role played in it by NGOs. Further workshops of this nature are planned and the next training will possibly take place in Tbilisi. Skopje and Ljubljana are also prospective sites for workshops.

Continuing the process launched by the 1994 Stadtschlaining Seminar, the CPC assisted the Institute for Research and Security Studies (IRSS) by organizing the Seminar on Exchanging Knowledge and Conflict Management, which was part of an ongoing expert consultation co-ordinated by the CPC and the IRSS. The purpose of the seminar was to examine methods of com-



munication and information management with the aim of improving conflict management.

## *VII. Administration and Finance*

Activities in this area were aimed at further developing the administrative and financial structures and procedures of the OSCE with a view to enhancing the effectiveness of related support services for the benefit of OSCE operations. Special attention was given to the preparation of comprehensive Staff Regulations and Rules, as well as Financial Regulations.

### *1. Organizational and Personnel Matters*

A new office was established in Tashkent effective 1 July 1995. The staffing of the Prague Office was gradually reduced. The High-Level Planning Group (HLPG) was established in January.

The total number of OSCE staff continued to increase in 1995. Currently some 155 persons, including interpreters, translators and conference typists, are employed by the three OSCE institutions. Around 120 of these work at the Secretariat (114 in Vienna and 6 in Prague), 25 at the ODIHR in Warsaw and 10 at the Office of the High Commissioner in The Hague.

New Staff Regulations and Staff Rules were elaborated and presented to the Permanent Council in April.

A Provident Fund was established effective 1 July for staff whose security upon retirement is not provided through affiliation with the national social security system at their respective duty station.

An in-depth analysis and a job classification exercise covering all OSCE posts were carried out with the help of an external expert on the UN job classification system. Based on the results of this study, the Secretary General presented a report in September on the implementation of the OSCE salary structure, which had been adopted by the Permanent Committee on 21 July 1994.

A system for periodic evaluation of staff members' performance was established in April.

### *2. Financial Matters*

A unified budget for 1995 was initially adopted in November 1994 by the Committee of Senior Officials. This budget was revised during the first months of 1995 to take account of the outcome of the Budapest Summit and a revised budget was adopted by the Permanent Council on 6 April. This budget was again reviewed in July. Thus, the budget currently in force was adopted by the Permanent Council on 25 July and totals 321.4 million

Austrian Schillings, equivalent to some 30.6 million US Dollars.

The unified audited financial statements for 1994, including the report of the External Auditors, were submitted to the Permanent Council on 19 September. The Auditors attached to their report an unqualified audit opinion.

New Financial Regulations were elaborated and submitted to the Permanent Council in April.

A Voluntary Fund to Foster the Integration of Recently Admitted Participating States was created in March and a formalized administrative and financial procedure for the management of all voluntary contributions was established in August.

## Forms and Fora of Cooperation in the OSCE Area

North Atlantic Treaty Organization (NATO)  
North Atlantic Cooperation Council (NACC)  
NACC Observer  
Partnership for Peace (PfP)

European Union (EU)  
EU Association Agreement

Western European Union (WEU)  
Associate Member of the WEU  
Associate Partner of the WEU  
WEU Observer  
Eurocorps

Commonwealth of Independent States (CIS)  
Council of Europe  
European Free Trade Area (EFTA)  
North American Free Trade Area (NAFTA)

Group of Seven (G-7)  
Organization for Economic Cooperation and Development (OECD)  
Baltic Defense Council  
Council of the Baltic Sea States  
Nordic Council  
Visegrád Group  
Black Sea Economic Cooperation



# The 55 OSCE Participating States - Facts and Figures\*

## 1. Albania

*Date of Accession:* June 1991

*Scale of Distribution:* 0.19 %

*Area:* 28,748 km<sup>2</sup> (OSCE Ranking: 45)

*Population:* 3,389,000 (OSCE Ranking: 42)

*GNP per Capita:* 340 \$ (OSCE Ranking: 53)

*Armed Forces (Active):* 73,000 (OSCE Ranking: 21)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, Council of Europe, Black Sea Economic Cooperation

## 2. Andorra

*Date of Accession:* April 1996

*Scale of Distribution:* was not fixed at time of printing

*Area:* 467.76 km<sup>2</sup> (50)

*Population:* 61,000 (51)

*GNP per Capita:* 21,150 \$ (13)

*Armed Forces:* None

*Memberships and Forms of Cooperation:* Council of Europe

## 3. Armenia

*Date of Accession:* January 1992

*Scale of Distribution:* 0.185 %

*Area:* 29,800 km<sup>2</sup> (44)

*Population:* 3,731,000 (39)

*GNP per Capita:* 660 \$ (49)

*Armed Forces:* 60,000 (25)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, CIS, Black Sea Economic Cooperation

## 4. Austria

*Date of Accession:* November 1972

*Scale of Distribution:* 2.05 %

*Area:* 83,858 km<sup>2</sup> (29)

*Population:* 7,862,000 (25)

*GNP per Capita:* 23,510 \$ (10)

*Armed Forces:* 55,750 (26)

*Memberships and Forms of Cooperation:* EU, Partnership for Peace, NACC

---

\* drawn up by Matthias Z. Karádi

Observer, Council of Europe, OECD, WEU Observer

### **5. Azerbaijan**

*Date of Accession:* January 1992

*Scale of Distribution:* 0.185 %

*Area:* 86,600 km<sup>2</sup> (28)

*Population:* 7,384,000 (26)

*GNP per Capita:* 730 \$ (47)

*Armed Forces:* 86,700 (18)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, CIS, Black Sea Economic Cooperation

### **6. Belarus**

*Date of Accession:* January 1992

*Scale of Distribution:* 0.7 %

*Area:* 207,595 km<sup>2</sup> (19)

*Population:* 10,188,000 (20)

*GNP per Capita:* 2,870 \$ (21)

*Armed Forces:* 98,400 (17)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace

### **7. Belgium**

*Date of Accession:* November 1972

*Scale of Distribution:* 3.55 %

*Area:* 30,528 km<sup>2</sup> (43)

*Population:* 10,048,000 (21)

*GNP per Capita:* 21,650 \$ (12)

*Armed Forces:* 47,200 (28)

*Memberships and Forms of Cooperation:* EU, NATO, North Atlantic Cooperation Council, WEU, Eurocorps, Council of Europe, OECD

### **8. Bosnia-Herzegovina**

*Date of Accession:* April 1992

*Scale of Distribution:* 0.19 %

*Area:* 51,129 km<sup>2</sup> (36)

*Population:* 3,776,000 (38)

*GNP per Capita:* less than 695 \$ (48)

*Armed Forces:* 132,000 (Muslim-Croat Federation) (13); 75,000 ("Serb Republic");

*Memberships and Forms of Cooperation:* -

### **9. Bulgaria**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.55 %

*Area:* 110,994 km<sup>2</sup> (23)

*Population:* 8,887,000 (23)

*GNP per Capita:* 1,140 \$ (41)

*Armed Forces:* 101,900 (16)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, EU Association Agreement, Associate partner of the WEU, Black Sea Economic Cooperation, Council of Europe

#### **10. Canada**

*Date of Accession:* November 1972

*Scale of Distribution:* 5.45 %

*Area:* 9,958,319 km<sup>2</sup> (2)

*Population:* 27,782,000 (11)

*GNP per Capita:* 19,970 \$ (15)

*Armed Forces:* 70,500 (22)

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, NAFTA, G-7, OECD

#### **11. Croatia**

*Date of Accession:* March 1992

*Scale of Distribution:* 0.19 %

*Area:* 56,538 km<sup>2</sup> (35)

*Population:* 4,511,000 (34)

*GNP per Capita:* 1,900 \$ (37)

*Armed Forces:* 105,000 (15)

*Memberships and Forms of Cooperation:* Council of Europe

#### **12. Cyprus**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.19 %

*Area:* 9,251 km<sup>2</sup> (48)

*Population:* 726,000 (47)

*GNP per Capita:* 10,380 \$ (22)

*Armed Forces:* 10,000 (39)

*Memberships and Forms of Cooperation:* Council of Europe

#### **13. Czech Republic\***

*Date of Accession:* January 1993

*Scale of Distribution:* 0.67 %

*Area:* 78,864 km<sup>2</sup> (30)

*Population:* 10,296,000 (18)

*GNP per Capita:* 2,710 \$ (31)

*Armed Forces:* 86,400 (19)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, Associate partner of the WEU, EU Association Agreement, Council of Europe, Visegrád Group

\*After the disintegration of Czechoslovakia, the Czech Republic and Slovakia became Participating States of the OSCE in January 1993.

#### **14. Denmark**

*Date of Accession:* November 1972

*Scale of Distribution:* 2.05 %

*Area:* 43,094 km<sup>2</sup> (39)

*Population:* 5,165,000 (31)

*GNP per Capita:* 26,730 \$ (4)

*Armed Forces:* 33,100 (31)

*Memberships and Forms of Cooperation:* EU, NATO, North Atlantic Cooperation Council, Council of Europe, WEU Observer, Nordic Council, Council of the Baltic Sea States, OECD

#### **15. Estonia**

*Date of Accession:* September 1991

*Scale of Distribution:* 0.19 %

*Area:* 45,227 km<sup>2</sup> (38)

*Population:* 1,552,000 (46)

*GNP per Capita:* 3,080 \$ (28)

*Armed Forces:* 3,500 (45)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, EU Association Agreement, Council of Europe, Associate partner of the WEU, Baltic Defense Council, Council of the Baltic Sea States

#### **16. Finland**

*Date of Accession:* November 1972

*Scale of Distribution:* 2.05 %

*Area:* 338,139 km<sup>2</sup> (13)

*Population:* 5,058,000 (32)

*GNP per Capita:* 19,300 \$ (17)

*Armed Forces:* 31,100 (32)

*Memberships and Forms of Cooperation:* EU, Partnership for Peace, NACC Observer, Nordic Council, EFTA, WEU Observer, Council of Europe, OECD, Council of the Baltic Sea States



**17. France**

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %

*Area:* 543,965 km<sup>2</sup> (7)

*Population:* 57,472,000 (6)

*GNP per Capita:* 22,490 \$ (11)

*Armed Forces:* 409,000 (5)

*Memberships and Forms of Cooperation:* EU, WEU, NATO, North Atlantic Cooperation Council, Eurocorps, G-7, Council of Europe, OECD

**18. Georgia**

*Date of Accession:* March 1992

*Scale of Distribution:* 0.185 %

*Area:* 69,700 km<sup>2</sup> (32)

*Population:* 5,446,000 (29)

*GNP per Capita:* 580 \$ (50)

*Armed Forces:* 9,000 (40)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace, Black Sea Economic Cooperation

**19. Germany**

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %

*Area:* 356,854 km<sup>2</sup> (12)

*Population:* 81,338,093 (3)

*GNP per Capita:* 23,560 \$ (9)

*Armed Forces:* 339,900 (6)

*Memberships and Forms of Cooperation:* EU, NATO, North Atlantic Cooperation Council, WEU, Eurocorps, G-7, Council of the Baltic Sea States, Council of Europe, OECD

**20. Greece**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.7 %

*Area:* 131,957 km<sup>2</sup> (22)

*Population:* 10,365,000 (17)

*GNP per Capita:* 7,390 \$ (25)

*Armed Forces:* 171,300 (12)

*Memberships and Forms of Cooperation:* EU, WEU, NATO, North Atlantic Cooperation Council, Council of Europe, OECD, Black Sea Economic Cooperation

**21. The Holy See**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.15 %

*Area:* 0.44 km<sup>2</sup> (55)

*Population:* 802 (55)

*GNP per Capita:* not available

*Armed Forces:* None

*Memberships and Forms of Cooperation:* -

**22. Hungary**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.7 %

*Area:* 93,030 km<sup>2</sup> (26)

*Population:* 10,210,000 (19)

*GNP per Capita:* 3,350 \$ (27)

*Armed Forces:* 70,500 (23)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, Associate partner of the WEU, EU Association Agreement, Council of Europe, Visegrád Group

**23. Iceland**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.19 %

*Area:* 103,000 km<sup>2</sup> (24)

*Population:* 263,000 (50)

*GNP per Capita:* 24,950 \$ (6)

*Armed Forces:* None

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, Nordic Council, Associate member of the WEU, OECD, Council of Europe

**24. Ireland**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.55 %

*Area:* 70,283 km<sup>2</sup> (31)

*Population:* 3,533,000 (41)

*GNP per Capita:* 13,000 \$ (21)

*Armed Forces:* 12,900 (35)

*Memberships and Forms of Cooperation:* EU, WEU Observer, Council of Europe, OECD

**25. Italy**

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %  
*Area:* 301,302 km<sup>2</sup> (16)  
*Population:* 57,121,000 (7)  
*GNP per Capita:* 19,840 \$ (16)  
*Armed Forces:* 328,700 (7)  
*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, EU, WEU, G7, Council of Europe, OECD

## **26. Kazakhstan**

*Date of Accession:* January 1992  
*Scale of Distribution:* 0.55 %  
*Area:* 2,717,300 km<sup>2</sup> (4)  
*Population:* 16,952,000 (14)  
*GNP per Capita:* 1,560 \$ (38)  
*Armed Forces:* 40,000 (30)  
*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace

## **27. Kyrgyzstan**

*Date of Accession:* January 1992  
*Scale of Distribution:* 0.185 %  
*Area:* 198,500 km<sup>2</sup> (20)  
*Population:* 4,590,000 (33)  
*GNP per Capita:* 850 \$ (45)  
*Armed Forces:* 7,000 (43)  
*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace

## **28. Latvia**

*Date of Accession:* September 1991  
*Scale of Distribution:* 0.19 %  
*Area:* 64,589 km<sup>2</sup> (34)  
*Population:* 2,611,000 (43)  
*GNP per Capita:* 2,010 \$ (35)  
*Armed Forces:* 6,950 (44)  
*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, EU Association Agreement, Council of Europe, Associate partner of the WEU, Baltic Defense Council, Council of the Baltic Sea States

## **29. Liechtenstein**

*Date of Accession:* November 1972  
*Scale of Distribution:* 0.15 %

*Area:* 160 km<sup>2</sup> (52)  
*Population:* 29,868 (52)  
*GNP per Capita:* 30,270 \$ (3)  
*Armed Forces:* None  
*Memberships and Forms of Cooperation:* Since 1923 Community of Law, Economy and Currency with Switzerland (Cf. Switzerland), Council of Europe

### **30. Lithuania**

*Date of Accession:* September 1991  
*Scale of Distribution:* 0.19 %  
*Area:* 65,300 km<sup>2</sup> (33)  
*Population:* 3,712,000 (40)  
*GNP per Capita:* 1,320 \$ (40)  
*Armed Forces:* 8,900 (41)  
*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, EU Association Agreement, Baltic Defense Council, Associate partner of the WEU, Council of Europe, Council of the Baltic Sea States

### **31. Luxembourg**

*Date of Accession:* November 1972  
*Scale of Distribution:* 0.55 %  
*Area:* 2,586 km<sup>2</sup> (49)  
*Population:* 396,000 (48)  
*GNP per Capita:* 37,320 \$ (1)  
*Armed Forces:* 800 (49)  
*Memberships and Forms of Cooperation:* NATO, NATO-Cooperation Council, WEU, EU, Eurocorps, Council of Europe, OECD

### **32. Macedonia, former Yugoslav Republic of**

*Date of Accession:* October 1995  
*Scale of Distribution:* 0.19 %  
*Area:* 25,713 km<sup>2</sup> (46)  
*Population:* 2,075,000 (44)  
*GNP per Capita:* 820 \$ (46)  
*Armed Forces:* 10,400 (38)  
*Memberships and Forms of Cooperation:* Partnership for Peace, NACC Observer, Council of Europe

### **33. Malta**

*Date of Accession:* November 1972  
*Scale of Distribution:* 0.15 %

*Area:* 315.6 km<sup>2</sup> (51)  
*Population:* 361,000 (49)  
*GNP per Capita:* 7,970 \$ (24)  
*Armed Forces:* 1,850 (48)  
*Memberships and Forms of Cooperation:* EU Association Agreement, Council of Europe, Partnership for Peace, NACC Observer

#### **34. Moldova**

*Date of Accession:* January 1992  
*Scale of Distribution:* 0.19 %  
*Area:* 33,700 km<sup>2</sup> (42)  
*Population:* 4,408,000 (35)  
*GNP per Capita:* 1,060 \$ (43)  
*Armed Forces:* 11,850 (36)  
*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace, Black Sea Economic Cooperation, Council of Europe

#### **35. Monaco**

*Date of Accession:* November 1972  
*Scale of Distribution:* 0.15 %  
*Area:* 1.95 km<sup>2</sup> (54)  
*Population:* 29,876 (53)  
*GNP per Capita:* not available  
*Armed Forces:* None  
*Memberships and Forms of Cooperation:* -

#### **36. Netherlands**

*Date of Accession:* November 1972  
*Scale of Distribution:* 3.55 %  
*Area:* 41,864 km<sup>2</sup> (40)  
*Population:* 15,280,000 (15)  
*GNP per Capita:* 20,950 \$ (14)  
*Armed Forces:* 74,400 (20)  
*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, WEU, EU, OECD, Council of Europe, OECD

#### **37. Norway**

*Date of Accession:* November 1972  
*Scale of Distribution:* 2.05 %  
*Area:* 323,877 km<sup>2</sup> (14)  
*Population:* 4,298,000 (36)  
*GNP per Capita:* 25,970 \$ (5)

*Armed Forces:* 30,000 (33)

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, EFTA, Associate member of the WEU, Council of Europe, OECD, Nordic Council, Council of the Baltic Sea States

### **38. Poland**

*Date of Accession:* November 1972

*Scale of Distribution:* 1.4 %

*Area:* 312,685 km<sup>2</sup> (15)

*Population:* 38,303,000 (10)

*GNP per Capita:* 2,260 \$ (33)

*Armed Forces:* 278,600 (8)

*Memberships and Forms of Cooperation:* Visegrád Group, North Atlantic Cooperation Council, Partnership for Peace, Associate partner of the WEU, Council of Europe, EU Association Agreement, Council of the Baltic Sea States

### **39. Portugal**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.55 %

*Area:* 92,389 km<sup>2</sup> (27)

*Population:* 9,841,000 (22)

*GNP per Capita:* 9,130 \$ (23)

*Armed Forces:* 54,200 (27)

*Memberships and Forms of Cooperation:* EU, NATO, North Atlantic Cooperation Council, WEU, OECD, Council of Europe

### **40. Romania**

*Date of Accession:* November 1972

*Scale of Distribution:* 0.7 %

*Area:* 237,500 km<sup>2</sup> (18)

*Population:* 22,761,000 (12)

*GNP per Capita:* 1,140 \$ (42)

*Armed Forces:* 217,400 (10)

*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, Associate partner of the WEU, EU Association Agreement, Council of Europe, Black Sea Economic Cooperation

### **41. Russian Federation\*\***

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %

*Area:* 17,075,400 km<sup>2</sup> (1)

*Population:* 148,700,000 (2)  
*GNP per Capita:* 2,340 \$ (32)  
*Armed Forces:* 1,520,000 (2)  
*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace, Black Sea Economic Cooperation, Council of the Baltic Sea States, Council of Europe

\*\* Russia is the legal successor of the USSR in the OSCE

#### **42. San Marino**

*Date of Accession:* November 1972  
*Scale of Distribution:* 0.15 %  
*Area:* 60.57 km<sup>2</sup> (53)  
*Population:* 24,000 (54)  
*GNP per Capita:* 14,400 \$ (19)  
*Armed Forces:* None  
*Memberships and Forms of Cooperation:* Council of Europe

#### **43. Slovakia\*\*\***

*Date of Accession:* January 1993  
*Scale of Distribution:* 0.33 %  
*Area:* 49,035 km<sup>2</sup> (36)  
*Population:* 5,313,000 (30)  
*GNP per Capita:* 1,950 \$ (36)  
*Armed Forces:* 47,000 (29)  
*Memberships and Forms of Cooperation:* North Atlantic Cooperation Council, Partnership for Peace, EU Association Agreement, Associate partner of the WEU, Visegrád Group, Council of Europe

\*\*\*After the disintegration of Czechoslovakia, the Czech Republic and Slovakia became Participating States of the OSCE in January 1993.

#### **44. Slovenia**

*Date of Accession:* March 1992  
*Scale of Distribution:* 0.19 %  
*Area:* 20,254 km<sup>2</sup> (47)  
*Population:* 1,937,000 (45)  
*GNP per Capita:* 6,490 \$ (26)  
*Armed Forces:* 8,400 (42)  
*Memberships and Forms of Cooperation:* Partnership for Peace, NACC Observer, Council of Europe, EU Association Agreement, Associate partner of the WEU

**45. Spain**

*Date of Accession:* November 1972

*Scale of Distribution:* 3.65 %

*Area:* 504,782 km<sup>2</sup> (8)

*Population:* 39,481,000 (9)

*GNP per Capita:* 13,590 \$ (20)

*Armed Forces:* 206,000 (11)

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, EU, WEU, Eurocorps, OECD, Council of Europe

**46. Sweden**

*Date of Accession:* November 1972

*Scale of Distribution:* 3.55 %

*Area:* 449,964 km<sup>2</sup> (10)

*Population:* 8,691,000 (24)

*GNP per Capita:* 24,740 \$ (7)

*Armed Forces:* 64,000 (24)

*Memberships and Forms of Cooperation:* EU, WEU Observer, OECD, Partnership for Peace, NACC Observer, Council of Europe, Council of the Baltic Sea States, Nordic Council

**47. Switzerland**

*Date of Accession:* November 1972

*Scale of Distribution:* 2.3 %

*Area:* 41,284 km<sup>2</sup> (41)

*Population:* 6,968,600 (27)

*GNP per Capita:* 35,760 \$ (2)

*Armed Forces:* 3,400 (46)

*Memberships and Forms of Cooperation:* OECD, Council of Europe



**48. Tajikistan**

*Date of Accession:* January 1992

*Scale of Distribution:* 0.185 %

*Area:* 143,100 km<sup>2</sup> (21)

*Population:* 5,767,000 (28)

*GNP per Capita:* 470 \$ (52)

*Armed Forces:* 2,000 - 3,000 (47)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council

**49. Turkey**

*Date of Accession:* November 1972

*Scale of Distribution:* 1.0 %

*Area:* 779,452 km<sup>2</sup> (5)

*Population:* 59,597,000 (4)

*GNP per Capita:* 2,970 \$ (29)

*Armed Forces:* 507,800 (3)

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, OECD, Associate member of the WEU, Black Sea Economic Cooperation, Council of Europe

**50. Turkmenistan**

*Date of Accession:* January 1992

*Scale of Distribution:* 0.185 %

*Area:* 488,100 km<sup>2</sup> (9)

*Population:* 3,921,000 (37)

*GNP per Capita:* 1,390 \$ (39)

*Armed Forces:* 11,000 (37)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace

**51. Ukraine**

*Date of Accession:* January 1992

*Scale of Distribution:* 1.75 %

*Area:* 603,700 km<sup>2</sup> (6)

*Population:* 51,551,000 (8)

*GNP per Capita:* 2,210 \$ (34)

*Armed Forces:* 452,500 (4)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace, Black Sea Economic Cooperation, Council of Europe

**52. United Kingdom**

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %

*Area:* 242,429 km<sup>2</sup> (17)

*Population:* 57,918,000 (5)

*GNP per Capita:* 18,060 \$ (18)

*Armed Forces:* 236,900 (9)

*Memberships and Forms of Cooperation:* EU, WEU, NATO, North Atlantic Cooperation Council, Council of Europe, Commonwealth, G-7, OECD

### **53. USA**

*Date of Accession:* November 1972

*Scale of Distribution:* 9.0 %

*Area:* 9,372,614 km<sup>2</sup> (3)

*Population:* 257,800,000 (1)

*GNP per Capita:* 24,740 \$ (8)

*Armed Forces:* 1,547,300 (1)

*Memberships and Forms of Cooperation:* NATO, North Atlantic Cooperation Council, NAFTA, G-7, OECD

### **54. Uzbekistan**

*Date of Accession:* January 1992

*Scale of Distribution:* 0.55 %

*Area:* 447,400 km<sup>2</sup> (11)

*Population:* 21,860,000 (13)

*GNP per Capita:* 970 \$ (44)

*Armed Forces:* 25,000 (34)

*Memberships and Forms of Cooperation:* CIS, North Atlantic Cooperation Council, Partnership for Peace

### **55. Yugoslavia\*\*\*\***

*Date of Accession:* November 1972

*Scale of Distribution:* 0.55 %

*Area:* 102,173 km<sup>2</sup> (25)

*Population:* 10,566,000 (16)

*GNP per Capita:* 500 \$ (51)

*Armed Forces:* 126,500 (14)

*Memberships and Forms of Cooperation:* -

\*\*\*\* On 8 July 1992 the CSCE decided to suspend the participation of Yugoslavia in the CSCE.

*Sources:* Fischer Weltalmanach '96. Zahlen Daten Fakten, Frankfurt/M. 1995; International Institute for Strategic Studies, The Military Balance

1995-1996, London 1995; Uwe Andersen/Wichard Woyke (Eds.), Handwörterbuch Internationale Organisationen, Opladen 1995; Hans-Joachim Gießmann/Ursel Schlichting (Eds.), Handbuch Sicherheit. Militär und Sicherheit in Mittel- und Osteuropa, Baden-Baden 1995; OSCE Handbook 1996, Vienna 1996.



## OSCE Chronology

1995

20/21 March	Final Conference on the Pact on Stability in Europe, Paris.
3/4 April	Expert Seminar on the Changing Role of the Judiciary, Riga.
4-7 April	Seminar on Building Blocks for Civil Society: Freedom of Association and NGOs, Warsaw.
6-8 April	OSCE Mission Seminar on Russian-Estonian Relations, Johvi (Estonia).
12-14 April	Annual Implementation Assessment Meeting, FSC, Vienna.
11-13 May	Seminar on Print Media Management, Chisinau (Moldova).
16-23 May	Seminar CSBMs and Arms Control, Almaty (Kazakhstan).
23-26 May	Seminar on Tolerance, Bucharest.
29 May	First Meeting of the Members of the Court of Conciliation and Arbitration, Geneva.
29/30 May	Expert Seminar on the Changing Role of the Judiciary, Tbilisi.
5-10 June	Second Annual Judicial Symposium, Warsaw.
7-9 June	Meeting of the Economic Forum, Prague.
14/15 June	International Seminar on the Constitution of Tajikistan, Dushanbe.
20/21 June	Seminar on Principles Governing Conventional Arms Transfers, Vienna.
30 June	Celebration on the Occasion of the 20th Anniversary of the Helsinki Final Act, Vienna.
1 July	Opening of the OSCE Liaison Office in Central Asia in Tashkent (Uzbekistan).
4-8 July	Annual Session of the Parliamentary Assembly of the OSCE, Ottawa.
10-12 July	Seminar on Regional Arms Control in the OSCE Area, Vienna.
1 August	Conference commemorating the 20th Anniversary of the Signing of the Helsinki Final Act, Helsinki.
8 September	International Symposium of the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH): "20 Years After Helsinki: The

11-13 September	OSCE and European Security Policy in Transition." Presentation of the OSCE Yearbook 1995, Hamburg. Seminar on Print Media Management, Bishkek (Kyrgyzstan).
2-19 October	Human Dimension Implementation Meeting, Warsaw.
10-14 October	Seminar on Rehabilitating the Environment, Tashkent (Uzbekistan).
26/27 October	Meeting of the Senior Council, Prague.
28 October	Seminar on the OSCE: Assessment and Future Prospects, Prague.
6-8 November	Seminar on the Role of Tourism in Promoting Better Understanding Between Different Cultures, Bucharest.
15-17 November	Seminar on the Role of Trans-European Infrastructure for Stability and Cooperation in the Black Sea Region, Sofia.
21 November	The OSCE obtains the overall charge to carry through the civil regulations implemented in the Dayton Agreement for Peace in Bosnia and Herzegovina.
28 Nov.-1 Dec.	Seminar on the Rule of Law, Warsaw.
7/8 December	Meeting of the Ministerial Council, Budapest.
<i>1996</i>	
1 January	The Swiss Foreign Minister Flavio Cotti replaces the Hungarian Foreign Minister László Kovács as Chairman-in-Office (CiO).
10 January	Expert Consultation on the Rule of Law and Democratic Institution Building, Riga.
11/12 January	Expert Consultation on the Rule of Law and Democratic Institution Building, Tallinn and Tartu.
15-20 January	Expert Consultation on the Rule of Law and Democratic Institution Building, Moscow.
22-23 January	Economic Dimension Implementation Review Meeting, Geneva.
28/29 February	Seminar on Building Harmonious Inter-Ethnic Relations in the Newly Independent States, Almaty (Kazakhstan).
4-6 March	Annual Implementation Assessment Meeting, FSC, Vienna.
21/22 March	Meeting of the Senior Council, Prague.
27-29 March	Meeting of the Economic Forum of the OSCE, Prague.
16-19 April	Seminar on Constitutional, Legal and Administrative

24-26 April	Aspects of the Freedom of Religion, Warsaw. Seminar on Confidence Building and the Human Dimension, Dushanbe (Tajikistan).
6-10 May	Seminar on the Code of Conduct on Politico-Military Aspects of Security and Democratic Control of the Armed Forces, Vienna.
3/4 June	Mediterranean Seminar on the OSCE as a Platform for Dialogue, Tel Aviv.
3-7 June	Seminar on Regional Security, Ashgabad (Turkmenistan).
10-12 June	Seminar on Drugs and Crime: New Challenges, Bishkek (Kyrgyzstan).
14 June	Under the patronage of the OSCE an extensive "Agreement on Sub-Regional Arms Control" for Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) is signed.
15 June	Giancarlo Aragona takes up office as Secretary General of the OSCE for three years.
5-7 July	Annual Session of the Parliamentary Assembly of the OSCE, Stockholm.
9/10 July	Seminar on the Security Model for the 21st Century, Vienna.
25-27 September	Seminar on the Human Dimension, Warsaw.
2/3 December	OSCE Lisbon Summit Meeting.





## OSCE Selected Bibliography

- Maria Amor/Martin Estébanez*, The OSCE Implementation Meeting on Human Dimension Issues, in: Helsinki Monitor 1/1996, pp. 5-26.
- Egon Bahr/Dieter S. Lutz (Ed.)*, Unsere Gemeinsame Zukunft - Die Europäische Sicherheitsgemeinschaft, Baden-Baden 1995.
- Egon Bahr/Dieter S. Lutz (Ed.)*, Unsere Gemeinsame Zukunft - Globale Herausforderungen, Baden-Baden 1995.
- Sebastian Bartsch*, Minderheitenschutz in der internationalen Politik. Völkerbund und KSZE/OSZE in neuer Perspektive, Opladen 1995.
- Werner Bauwens/Bruno Colson/Wim de Haar et al.*, Die KSZE und die sich verändernde Rolle der NATO und der Europäischen Union, in: NATO-Brief, June 1994, pp. 21-25.
- Detlov von Berg*, Das Forum für Sicherheitskooperation in Wien, in: Erhard Forndran/Hans-Dieter Lemke, (Ed.), Sicherheitspolitik für Europa zwischen Konsens und Konflikt, Baden-Baden 1995, pp. 305-310.
- Ole Berthelsen (Ed.)*, Conflicts in the OSCE Area, Oslo 1995.
- Stephen Blank*, The OSCE, Russia, and Security in the Caucasus, in: Helsinki Monitor 3/1995, pp. 65-80.
- Arie Bloed*, The OSCE and the Bosnian Peace Arrangement, in: Helsinki Monitor 1/1996, pp. 73-85.
- Arie Bloed*, Active OSCE Mediation in Chechnya Crisis, in: Helsinki Monitor 3/1995, pp. 81-86.
- Arie Bloed*, The Human Dimension of the OSCE: More Words than Deeds?, in: Helsinki Monitor 4/1995, pp. 23-30.
- J. D. Bindenagel*, NATO versus OSZE - Welche Organisation kann einen größeren Beitrag für die Sicherheit Europas leisten?, in: Amerika Dienst, 5 July 1995, pp. 1-3.
- John Borawski*, Forging the NATO-CSCE Partnership, in: Helsinki Monitor 2/1994, pp. 39-47.
- John Borawski*, The Budapest Summit Meeting, in: Helsinki Monitor 1/1995, pp. 5-17.
- Heiko Borchert*, Friedenssicherung im Rahmen der OSZE? Eine Antwort in acht Postulaten, in: ASMZ 1/1996, pp. 10-12.
- Sam W. Brown*, Die OSZE und ihre Rolle für die Sicherheit in Europa, in: Amerika Dienst, 3 May 1995, pp. 1-5.
- Thomas Buchsbaum*, The 1994 Session of the CSCE Parliamentary Assembly, in: Helsinki Monitor 1/1995, pp. 32-37.

- Klemens Büscher*, Möglichkeiten und Grenzen des OSZE-Konfliktmanagements in Moldova, in: *Ethnos - Nation* 2/1995, pp. 71-72.
- Fraser Cameron*, The European Union and the OSCE: Future Roles and Challenges, in: *Helsinki Monitor* 2/1995, pp. 21-31.
- Rolf Clement*, Die OSZE und die europäische Sicherheit, in: *Europäische Sicherheit* 8/1996, pp. 36-37.
- Ernst-Otto Czempel*, NATO erweitern oder OSZE stärken?, HSKF-Standpunkte 4/1995, Frankfurt/M. 1995.
- Anne M. Dixon/Thomas J. Hirschfeld*, Adapting the CSCE to Modern Problems: Limits and Opportunities, in: Bernhard von Plate (Ed.), *Europa auf dem Weg zur kollektiven Sicherheit?*, Baden-Baden 1994, pp. 219-248.
- Alan W. Doyd*, Reconsidering the CSCE, Hudson Briefing Paper, No. 173, February 1995.
- Hans-Jürgen Ebert*, Brauchen wir die KSZE?, Berlin 1993.
- Hans-Georg Ehrhart*, EU, OSZE und der Stabilitätspakt für Europa, in: *Integration* 1/1996, pp. 37-48.
- Helmut W. Ganser*, Nach dem Gipfel von Budapest. Die Organisation für Sicherheit und Zusammenarbeit in Europa, OSZE, in: *Informationen für die Truppe* 2/1995, pp. 48-55.
- Helmut W. Ganser*, Die OSZE nach dem Gipfel von Budapest, in: *Europäische Sicherheit* 4/1995, pp. 22-24.
- Hans-Joachim Gießmann*, Europäische Sicherheit am Scheideweg - Chancen und Perspektiven der OSZE, *Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik*, Hamburg, March 1996.
- Audrey Glover*, The Human Dimension of the OSCE: From Standard-Setting to Implementation, in: *Helsinki Monitor* 3/1995, pp. 31-39.
- Paula Gutlove/Gordon Thompson*, The Potential for Cooperation by the OSCE and Non-Governmental Actors on Conflict Management, in: *Helsinki Monitor* 3/1995, pp. 52-64.
- Helga Haftendorn*, Der Beitrag regionaler Ansätze zur internationalen Ordnung nach dem Ende des Ost-West-Konflikts, in: Karl Kaiser/Hans-Peter Schwarz (Eds.), *Die neue Weltpolitik*, Bonn 1995, pp. 447-463.
- Peter van Ham*, Can Institutions Hold Europe Together?, in: Hugh Miall (Ed.), *Redefining Europe. New Patterns of Conflict and Cooperation*, London 1994, pp. 186-205.
- Martin Harris*, Human Rights Monitoring and the CSCE: A Perspective from Budapest, in: *Helsinki Monitor* 1/1995, pp. 18-21.
- Rüdiger Hecht*, Von der KSZE zur OSZE. Sicherheit für oder vor Europa, oder mehr?, in: *WeltTrends* 9/1995, pp. 146-157.

- Michel Hess*, European Security as a Legal-political Principle, University of Delaware, Newark 1995.
- Wilhelm Höynck*, Der Platz der OSZE in einem neuen Sicherheitsgefüge, in: Wiener Blätter zur Friedensforschung 2/1996, pp. 18-28.
- Wilhelm Höynck*, New Challenges on the OSCE Conflict Resolution Agenda, in: OSCE/ODIHR, Bulletin 3/1995, p. 1.
- Wilhelm Höynck*, CSCE Contribution to Early Warning, Conflict Prevention and Crisis Management, in: International Defense Review - Defense '95, pp. 30-35.
- Wilhelm Höynck*, From the CSCE to the OSCE: The Challenges of Building New Stability, in: Helsinki Monitor 3/1995, pp. 11-22.
- Herbert Honsowitz*, "OSZE zuerst". Die Neugestaltung des Verhältnisses zwischen UN und OSZE, in: Vereinte Nationen 2/1995, pp. 49-54.
- Heather Hurlburt*, Russia, the OSCE and European Security Architecture, in: Helsinki Monitor 2/1995, pp. 5-20.
- Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg (Ed.)*, OSZE-Jahrbuch 1995, Baden-Baden 1995.
- Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg (Ed.)*, Die Europäische Sicherheitsgemeinschaft. Das Sicherheitsmodell für das 21. Jahrhundert, Stiftung Entwicklung und Frieden, Texte Eine Welt 15, Bonn 1995.
- Matthias Z. Karádi*, Tschetschenien und Bosnien-Herzegowina: Neue Aufgabenfelder für die OSZE?, in: Das Parlament 16-17/1996, p. 17.
- Catherine McArdle Kelleher*, Cooperative Security in Europe, in: Janne E. Nolan (Ed.), Global Engagement. Cooperation and Security in the 21st Century, Washington D.C. 1994, pp. 293-352.
- Walter Kemp*, The OSCE and the UN: A Closer Relationship, in: Helsinki Monitor 1/1995, pp. 22-31.
- Hartmut Körbs*, Ist die OSZE eine regionale Abmachung oder Einrichtung im Sinne des Kapitel VIII der UN-Charta?, in: Archiv des Völkerrechts 4/1995, pp. 459-478.
- Peter Kooijmans*, The OSCE: A Problem Child with Growth Disorders, in: Helsinki Monitor 4/1995, pp. 13-18.
- Friedrich Korkisch*, Die OSZE als neue "Europäische Sicherheitsorganisation"?, in: Österreichische Militärische Zeitschrift 2/1995, pp. 194-198.
- László Kovács*, The OSCE: Present and Future Challenges, in: Helsinki Monitor 3/1995, pp. 7-10.
- Stephan Kux*, OSZE-Vorsitz als Herausforderung für die Schweiz, in: ASMZ 1/1996, p. 14.
- Hans-Dieter Lemke*, Zur Rolle der OSZE nach Dayton: Die militärisch-sicherheitspolitische Dimension, in: Stiftung Wissenschaft und Politik,

- Dayton: Perspektiven Europäischer Sicherheit, Ebenhausen, February 1996, pp. 40-46.
- Werner Link, Ordnungsentwürfe für Europa, in: Karl Kaiser/Hans-Peter Schwarz (Eds.), Die neue Weltpolitik, Bonn 1995, pp. 471-485.
- Eckhard Lübckemeier/Oliver Thränert, NATO, OSZE und Europäische Sicherheit, Bonn 1995.
- Michael R. Lucas, The War in Chechnya and the OSCE Code of Conduct, in: Helsinki Monitor 2/1995, pp. 32-42.
- Michael R. Lucas, Der Verhaltenskodex der OSZE und seine Bedeutung im heutigen Europa, in: Außenpolitik 3/1996, pp. 223-235.
- Dieter S. Lutz, Eine neue Sicherheitsarchitektur in und für Europa. Plädoyer für die Schaffung eines regionalen Systems kollektiver Sicherheit, in: Erhard Forndran/Hans-Dieter Lemke (Eds.), Sicherheitspolitik für Europa zwischen Konsens und Konflikt, Baden-Baden 1995, pp. 239-256.
- Dieter S. Lutz/Adam D. Rotfeld, Security for Europe. Two Views, Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik, Hamburg 87/1994.
- Dieter S. Lutz/Andrei Zagorski, "Arbitration Court" and "Security Model". Two Aspects of the OSCE-Discussion, Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik, Hamburg 99/1996.
- John J. Maresca, Why an OSCE Role in the Caucasus?, in: Security Dialogue 1/1996, pp. 87-90.
- Berthold Meyer (Ed.), Konfliktsteuerung durch Vereinte Nationen und KSZE, Frankfurt/M. 1994.
- Eimert van Middelkoop, The OSCE: An Inadequate Community of Values, in: Helsinki Monitor 4/1995, pp. 30-35.
- Hans van Mierlo, The Significance of the OSCE in the European Security Structure, in: Helsinki Monitor 4/1995, pp. 6-12.
- Oliver Mietzsch, Die KSZE/OSZE und die gewaltfreie Lösung von Konflikten. Lehren der Vergangenheit und Perspektiven für die Zukunft, in: antimilitarismus information 12/1995, pp. 44-47.
- Robert Spencer Oliver, The OSCE Parliamentary Assembly, in: Helsinki Monitor 1/1996, pp. 42-57.
- Ingo Peters, Europäische Sicherheitsinstitutionen: Arbeitsteilung oder Konkurrenz?, in: Erhard Forndran/Hans-Dieter Lemke (Eds.), Sicherheitspolitik für Europa zwischen Konsens und Konflikt, Baden-Baden 1995, pp. 277-304.
- Ingo Peters, Normen- und Institutionenbildung der KSZE im Widerstreit politischer Interessen: Die Durchsetzung des Gewaltverzichts als Prüfstein für die KSZE, in: Bernhard von Plate (Ed.), Europa auf dem Weg zur kollektiven Sicherheit?, Baden-Baden 1994, pp. 155-186.

- Bernhard von Plate*, Bosnien - Bewährungsprobe der OSZE für die künftige Sicherheitsordnung in Europa, in: Stiftung Wissenschaft und Politik, Dayton: Perspektiven Europäischer Sicherheit, Ebenhausen, February 1996, pp. 53-59.
- Bernhard von Plate*, Ein gemeinsames und umfassendes Sicherheitsmodell für Europa im 21. Jahrhundert. Diskussion einer Nebensache?, Stiftung Wissenschaft und Politik, Ebenhausen, December 1995.
- Bernhard von Plate (Ed.)*, Europa auf dem Weg zur kollektiven Sicherheit?, Baden-Baden 1994.
- Bernhard von Plate*, Die innerstaatliche Funktion der KSZE, in: Bernhard von Plate (Ed.), Europa auf dem Weg zur kollektiven Sicherheit?, Baden-Baden 1994, pp. 209-218.
- Hartmut Pohlman*, Leistungsfähigkeit und -grenzen bisheriger sicherheitspolitischer Organisationsformen, möglicher Modifikationen und neuer Ansätze, in: Thomas Hoppe (Ed.), Auf dem Weg zu einer Europäischen Friedensordnung. Perspektiven und Probleme nach dem Ende des Kalten Krieges, Mainz 1994, pp. 139-162.
- Presse- und Informationsamt der Bundesregierung (Ed.)*, Zu den sicherheitspolitischen Aspekten der OSZE, Teil I, und Teil II, Bonn, December 1994.
- Henriette Riegler*, Normenbildung und Konfliktvermeidung der KSZE und ihre Bemühungen zum Schutz nationaler Minderheiten, PFK-Texte 31, Kiel 1995.
- Jan-Geert Siccama*, The OSCE: What Will the Adult Look Like?, in: Helsinki Monitor 4/1995, pp. 19-22.
- Peter Schlotter*, Die OSZE auf dem Abstellgleis?, in: Reinhard Mutz/Bruno Schoch/Friedhelm Solms (Eds.), Friedensgutachten 1995, Münster 1995, pp. 103-115.
- Peter Schlotter*, Zivilisierungsprojekt Europa? Mechanismen friedlicher Konfliktregelung im Rahmen der KSZE/OSZE, in: Norbert Ropers/Tobias Debiel (Eds.), Friedliche Konfliktbearbeitung in der Staaten- und Gesellschaftswelt, Stiftung Entwicklung und Frieden, Texte Eine Welt 13, Bonn 1995, pp. 152-170.
- Peter Schlotter*, Die Mühen der stillen Diplomatie. Konfliktprävention und Krisenmanagement durch die OSZE, in: Aus Politik und Zeitgeschichte 5/1996, pp. 27-31.
- Peter Schlotter*, Von der KSZE zur OSZE: Marginalisierung oder neue Aufgaben?, in: Jahrbuch Frieden 1996, München 1995, pp. 111-122.
- Heinrich Schneider*, Die Europapolitik in anderen europäischen Organisationen und Staaten. Die KSZE/OSZE und die gesamteuropäische Kooperation, in: Jahrbuch der europäischen Integration 1994/95, Bonn 1995, pp. 375-384.
- Heinrich Schneider*, Zwischen Helsinki und Budapest - Der KSZE-Prozeß

- als Interaktionsfeld der Europäischen Union, in: *Integration* 3/1995, pp. 144-156.
- Ansgar Sonntag*, Die Konferenz über Sicherheit und Zusammenarbeit. Versuch einer Gesamtdarstellung, München 1994.
- Max van der Stoep*, The Role of the CSCE High Commissioner on National Minorities in CSCE Preventive Diplomacy, in: Swedish Ministry of Foreign Affairs (Ed.), *The Challenge of Preventive Diplomacy. The Experience of the CSCE*, Stockholm 1994, pp. 33 ff.
- Max van der Stoep*, The Heart of the Matter: The Human Dimension of the OSCE, in: *Helsinki Monitor* 3/1995, pp. 23-30.
- Trevor Taylor*, Security for Europe, in: Hugh Miall (Ed.), *Redefining Europe. New Patterns of Conflict and Cooperation*, London 1994, pp. 166-185.
- Rienk Terpstra*, The OSCE Code of Conduct: Setting New Standards in the Politico-Military Field?, in: *Helsinki Monitor* 1/1996, pp. 27-41.
- Themenschwerpunkt*: 20 Jahre nach Helsinki: Die OSZE und die europäische Sicherheitspolitik im Umbruch, *Vierteljahresschrift für Sicherheit und Frieden (S+F)* 4/1995.
- Themenschwerpunkt*: Von der KSZE zur OSZE: Die Organisation für Sicherheit und Zusammenarbeit in Europa, in: *IAP-Dienst Sicherheitspolitik* 5/1995.
- Oliver Thränert*, OSZE und Konfliktregelung im GUS-Raum, in: *Europäische Sicherheit* 8/1996, pp. 37-39.
- Stefan Troebst*, Frühwarnung, präventive Diplomatie und Krisenmanagement der KSZE/OSZE in Osteuropa, in: *Politische Studien* 3/1995, pp. 132-148.
- Stefan Troebst*, Die Langzeitmissionen der KSZE/OSZE in Mazedonien und Moldova aus der Binnensicht, in: Magarditsch A. Hatschikjan/Peter R. Weilemann (Eds.), *Nationalismen im Umbruch*, Köln 1995, pp. 232-248.
- Benedikt von Tscharnner*, Die OSZE-Präsidentschaft als Herausforderung für die Außenpolitik der Schweiz, in: *Wiener Blätter zur Friedensforschung* 2/1996, pp. 28-38.
- Boris Tsilevich*, High Commissioner and Permanent Mission: The OSCE at Work in the Latvian(-Russian) Conflict on Citizenship and Human Rights, PFK-Texte 34, Kiel, May 1995.
- Heinz Vetschera*, Die Rolle der KSZE als Einrichtung kooperativer Sicherheit im Rahmen des "interlocking institutions"-Konzepts, in: Bernhard von Plate (Ed.), *Europa auf dem Weg zur kollektiven Sicherheit?*, Baden-Baden 1994, pp. 95-154.
- Rob Zaagman*, Focus on the Future: A Contribution to Discussions on a new OSCE, in: *Helsinki Monitor* 3/1995, pp. 40-51.

## Acronyms

CEE	Central and Eastern Europe
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CFE	Conventional Armed Forces in Europe
CFE 1A	Concluding Act of the Negotiation on Personnel Strength of Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CiO	Chairman-in-Office
CIS	Commonwealth of Independent States
CPC	Conflict Prevention Centre
CSBM	Confidence- and Security-Building Measures
CSCE	Conference on Security and Cooperation in Europe (since 1 Jan. 1995 OSCE)
CSO	Committee of Senior Officials (since 1 Jan. 1995 Senior Council)
DAP	Democratic Assistance Programme (of the PA)
EBRD	European Bank for Reconstruction and Development
ECE	Economic Commission for Europe
ECHR	European Convention for the Protection of Human Rights and the Fundamental Freedoms
ECMM	European Community Monitor Mission
ECU	European Currency Unit
EPC	European Political Cooperation
EU	European Union
FSC	Forum for Security Cooperation
G-7	Group of Seven (Canada, FRG, France, Italy, Japan, United Kingdom, USA)
HCNM	High Commissioner on National Minorities
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IFC	Informal Financial Committee
IFOR	Implementation Force
IHF	International Helsinki Federation
IMF	International Monetary Fund
IPTF	International Police Task Force
MPC	Mediterranean Partners for Cooperation
NACC	North Atlantic Cooperation Council
NATO	North Atlantic Treaty Organization
NGOs	Non-Governmental Organizations
NPT	Non-Proliferation Treaty

ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Cooperation and Development
OSCE	Organization for Security and Cooperation in Europe
PA	Parliamentary Assembly
PC	Permanent Council
PfP	Partnership for Peace
PHARE	Poland and Hungary Assistance for the Reconstruction of the Economy
SAM	Sanctions Assistance Mission
SAMCOMM	Sanctions Assistance Missions Communication Centre
SC	Senior Council
TACIS	Technical Assistance for the CIS
TLE	Treaty Limited Equipment (CFE-Treaty)
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commissioner for Human Rights
UNDCP	United Nations Drug Control Programme
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNPROFOR	United Nations Protection Force
UNTS	United Nations Treaty Series
VD 90, 92, 94	Vienna Document on Confidence- and Security-Building Measures (1990, 1992, 1994)
WEU	Western European Union
WTO	Warsaw Treaty Organization



## Contributors

- Dr Régis de Belenet*, Director for Strategic Affairs, Security and Disarmament, Foreign Ministry of France, Paris
- Dr Linus von Castelmur*, Deputy Head of the OSCE Section, Federal Department of Foreign Affairs, Bern
- Flavio Cotti*, Federal Councillor, Foreign Minister of Switzerland, Chairman-in-Office of the OSCE 1996
- Dr Andrew Cottey*, Lecturer in the Department of Peace Studies at Bradford University
- Prof. Dr Jonathan Dean*, Ambassador ret., Adviser on International Security Issues, Union of Concerned Scientists, Washington, D.C.
- Prof. Dr Pál Dunay*, Deputy Director, Hungarian Institute of International Affairs, Budapest
- The Rt. Hon. Sir Peter Emery*, Member of Parliament, Treasurer to the Parliamentary Assembly of the OSCE, London
- Prof. Dr Ulrich Fastenrath*, Faculty of Law, Technological University, Dresden
- Robert H. Frowick*, Ambassador, Head of the OSCE Mission to Bosnia and Herzegovina
- Dr Michael Fuchs*, Ministerial Councillor in the Administration of the German *Bundestag*, Head of the Division of Interparliamentary Affairs, Secretary of the German Delegation to the Parliamentary Assembly of the OSCE, Bonn
- Hans-Dietrich Genscher*, former Foreign Minister of the Federal Republic of Germany, Chairman-in-Office of the CSCE 1991, Bonn
- Dr Dr Hans-Joachim Gießmann*, Senior Research Fellow at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH)
- István Gyarmati*, Hungarian Ambassador to the CSCE/OSCE 1990-96, Chairman of the Senior Council 1994-95, Personal Representative of the Chairman-in-Office i.a. in Georgia, Chechnya and Bosnia and Herzegovina, Budapest
- Dr Rüdiger Hartmann*, Ambassador and Government Commissioner for Disarmament and Arms Control, Bonn
- Ortwin Hennig*, Minister Counselor, Deputy Head of the Permanent Mission of the Federal Republic of Germany to the OSCE, Vienna
- Prof. Dr Hans-Hermann Höhmann*, Federal Institute for Russian, East European and International Studies, Cologne
- Dr Wilhelm Höynck*, Ambassador, Secretary General of the CSCE/OSCE (until June 1996), German Representative to the International Organizations, Geneva
- Heather F. Hurlburt*, B.A., Director of the Face-to-Face Program, Carnegie

Endowment for International Peace, Washington, D.C.

*László Kovács*, Foreign Minister of Hungary, Chairman-in-Office of the OSCE 1995, Budapest

*Márton Krasznai*, Ambassador, Head of the Hungarian Mission to the OSCE, Vienna

*Dr Dr Dieter S. Lutz*, Director of the IFSH, Hamburg

*Gerald Mitchell*, Election Adviser, ODIHR, Warsaw

*Michael Niemeier*, Subject Specialist in the Working Group on Organized Crime and Drug Trafficking, Federal Ministry of the Interior, Bonn

*Dr Jerzy M. Nowak*, Ambassador, Permanent Representative of the Republic of Poland to the OSCE, Vienna

*Dr Jan Pecháček*, Ministry of Foreign Affairs of the Czech Republic, Directorate-General of Multilateral Affairs, Prague

*Angelika Pendzich-von Winter*, LL.M., Political Adviser in the Administration of the German *Bundestag*, Division of Interparliamentary Affairs, Bonn

*Dr Ingo Peters*, Faculty of Political Science, FU Berlin

*Alois Reznik*, Ambassador, Head of the OSCE Liaison Office in Central Asia, Tashkent

*Dr Aaron Rhodes*, Executive Director, International Helsinki Federation for Human Rights, Vienna

*Prof. Dr Kurt Schelter*, Secretary of State in the Federal Ministry of the Interior, Honorary Professor at the University of Munich, Bonn

*Mario Sica*, Ambassador, Head of the Italian Delegation to the OSCE, Vienna

*Dr Omar A. Sultanov*, Permanent Representative of Kyrgyzstan to the OSCE, Ambassador of Kyrgyzstan to the Federal Republic of Germany, Bonn

*Dr Piotr Switalski*, Head of the Department for CiO Support, Vienna

*Frans Timmermans*, Adviser to the HCNM, assigned by the Foreign Ministry of the Netherlands, The Hague

*Dr Benedikt von Tscharner*, Ambassador, Permanent Representative of Switzerland to the OSCE, Vienna

*Prof. Dr Kurt P. Tudyka*, Nijmegen

*Joanna van Vliet*, First Secretary of the Permanent Mission of the Netherlands to the OSCE, Vienna

*Dr Jörg Wallner*, Research Fellow at the IFSH, Hamburg

*Dr Wolfgang Zellner*, Research Fellow at the IFSH, Hamburg